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### RESEARCH ARTICLE

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### IMPACT OF PATENT LAW ON ECONOMIC GROWTH OF INDIA : A STUDY

Ramesh Moturi<sup>1</sup> and J. Madan Mohan<sup>2</sup>

1. Dept. of Commerce and Management Studies AKN University, Rajamahendravaram.
2. Department of Commerce, Sir C R Reddy College, Eluru.

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#### Abstract

Technology and knowledge have played a crucial role in the economic growth of world developed economies as well as emerging ones. Intellectual Property despite being clearly identified in most countries has not yet been recognized as an economic asset for most of the developing countries. Intellectual Property Rights protection has the ability to encourage innovation and the formation of a well functioning market system in developing countries, which leads to economic growth. In India, pharmaceutical patents were not granted prior to 1995, which changed after the TRIPS agreement came into effect and brought the amendment of 1995 in the Patent Act, 1970. Section-5 of the Patent Act, 1970 which stated that patent is granted only for methods or processes and not for products was repealed after the amendment of 2005. Today, patent is not only granted for methods or processes but also for pharmaceutical products which has a very huge impact on the growth of the economy. In the present paper examines on impact of Patent Law on economic development in India especially in pharmaceutical company.

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#### Introduction:-

Intellectual property refers to the protection of innovations of mind. Through a legal framework, owners of such property receive specific rights, which may be used for recognition or financial gain. The mechanisms by which intellectual property is protected which includes copyrights, patents, trademarks, industrial designs, and geographic indications. IPR protection has the ability to encourage innovation and the formation of a well functioning market system in developing countries which leads to economic growth. Protection of intellectual property is playing a very important role in India. In the past two or three decades, a number of changes have been taken place in IP policy and regulation in India to increase the protection of intellectual property i.e. patent, trademark, copyright, design and geographical indication. India signed the TRIPS agreement in the year 1994 which came into effect from 1<sup>st</sup> January, 1995. In India, pharmaceutical patents were not granted prior to 1995, which changed after the TRIPS agreement came into effect and brought the amendment of 1995 in the Patent Act, 1970. Section-5 of the Patent Act, 1970 which stated that patent is granted only for methods or processes and not for products was repealed after the

**Corresponding Author:- Dr. Ramesh Moturi**

Address:- Dept. of Commerce and Management Studies AKN University, Rajamahendravaram.

amendment of 2005 and hence, today, patent is not only granted for methods or processes but also for pharmaceutical products which had a very huge impact on the growth of the economy. A patent is one of the most effective of the intellectual properties for achieving economic development. The number of Indian patent applications has increased in recent days as compared to previous years and as a result, it leads to the growth in economy. At present the well-established multinational companies in India has clearly proven the effect of intellectual property for the growth of economy in the world.

### India's Patent Policy In Pre-Trips

India has a long history of patent policy which was framed after enormous study. India's approaches to various patents which differ from industrialized countries and sees the patents as a tool of public policy. India's policy is being challenged by the demand to reform IPR laws to conform to TRIPs. India viewed patents as a tool for economic development and restricted the scope and term of patents. The sentiment in India on the issue of patents, especially on pharmaceuticals, is illustrated by an oft-quoted statement made by Indira Gandhi at the World Health Assembly in 1982: "The idea of a better-ordered world is one in which medical discoveries will be free of patents and there will be no profiteering from life and death". The philosophy of India's Patents Act of 1970 varies enormously from the framework being established under TRIPs. There are several knowledge and information areas which considers non-patentable in India. India has a large community of scientists and researchers among whom publication rather than gaining patents has been a concern. G.V. Ramakrishna, Chairman of the Disinvestment Commission points out that in India, "We (Indians) are accustomed to the notion that knowledge is free. Our whole orientation has to change from one that stresses intellectual attainment to one that protects intellectual property." Industrialized nations conceive of patents as a fundamental right comparable to the right of physical property, whereas developing nations view it as "fundamentally as an economic policy question." From the perspective of developed countries, intellectual property is a private right that should be protected as any other tangible property, but for developing nations, intellectual property is a public good that should be used to promote economic development. India has always believed in the Principle of Dharma and wanted that this Principle be envisaged in the Laws that it enacts. On this basis Patents Law was legislated so that the fruits of innovation be reached to the least person and no person is deprived of it as India was against the commercialization of one's own intellect

### Patent Law After Trips Agreement

The TRIPS Agreement which came into effect on 1 January 1995 is to date the most comprehensive multilateral agreement on intellectual property. The areas of intellectual property covers are copyright and related rights i.e., trademarks; geographical indications; industrial designs; patents, including the protection of new varieties of plants; and undisclosed information including trade secrets. The basic objectives which include to the reduction and impediments to international trade, promotion of effective and adequate protection of intellectual property rights, and ensuring that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade. Intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. In 1994 India signed the TRIPS agreement and hence Patent Laws of India were further amended according to the TRIPS agreement. Earlier patent was granted only for method or process in India which was amended in compliance with the TRIPS agreement in the year 2005. After that patents are not just granted for method or process but also for products. Advantage of this amendment is taken by various companies and individuals. The number of Indian patent applications has increased after this amendment. Recently, various national and multinational companies started their research and development process and investing in India as the implementation of IP laws in India are better, as compared to earlier patent system in India and various provisions relating to infringement of patent law is defined in Patent Act, 1970.

Year	1999-2000	2001-2002	2004-2005	2005-2006	2009-2010	2012-2013	2015-2016	2016-2017
No. of patent application filed in India	4824	10,592	17,466	24,505	34,287	43,674	46,904	45,444

A survey was conducted on the filing of patent application in India from the year 1999 to 2017. The survey clearly shows that rise in the number of patent applications from year to year after the signing of the TRIPS agreement by India and also shows a very high rise in the number of patent application after the years 2004-2005 as per Section-5 of Patent Act, 1970 was repealed in the year 2005.

### **Trips Agreement And India's Pharmaceutical Patent System**

India was an early signatory to the General Agreement on Tariffs and Trade (GATT). However, it is evident that GATT was more inclined toward developed countries than developing ones. Some developing countries, especially Brazil and India, have proposed during the Uruguay Round negotiations that GATT has no business dealing with the issues of intellectual property protection, which should be discussed at the World Intellectual Property Organization (WIPO); the United Nations Educational, Scientific, and Cultural Organization (UNESCO); and the United Nations Conference on Trade and Development (UNCTAD). During the negotiations, notwithstanding pointing out that countries at different levels of development should have their own right to decide whether to grant patent right to certain products,<sup>2</sup> India decided to join the nascent World Trade Organization (WTO).

On January 1, 1995, the TRIPS Agreement went into force, which meant that India as a member of the WTO was required to abandon some of its long held position in the intellectual property field to comply with the provisions of the TRIPS Agreement. As a developing country, India obtained a 5-year transition period and an additional 5 years to amend patent laws on patent protection of pharmaceuticals. The following analysis is based on the amendments to the Indian Patent Law of 1999, 2002, and 2005 and delineates the impact of the TRIPS Agreement on India's pharmaceutical patent system.

### **Impact Of Patent On Economic Growth Of India**

Intellectual property is a 'power tool' for economic development and wealth creation that has not yet being used to optimal effect in all countries, particularly in the developing world. Within every regime, building IPR protection systems through laws, mainly consider two reasons. One is to promote investments in knowledge creation and innovation by establishing exclusive rights to use and sell newly developed technologies, goods, and services; for knowledge is a kind of non-rival merchandise, which is easy to be obtained by the public. Without protection from the laws, the imitators can easily reproduce the advanced technology without paying any cost for the research work. The imitators can easily offer a more competitive price and gain more profit than the innovators, with a lower cost. Hence, they would be less willing to invest on the research and innovation process in the under protection situation. Protection of intellectual property rights (IPRs) serves a dual role in economic development. While it promotes innovation by providing legal protection of inventions, it may retard catch-up and learning by restricting the diffusion of innovations. The Patent system in India indirectly affects the economic growth of India. Now that India has proper laws in place for the protection of intellectual property and their implementation is good enough to place trust on the same, a number of multinational companies have started their research and development process in India which has indirectly increased the economic growth of the country with the increase in payment of taxes and providing employment to the people of India. Ranbaxy is multinational company founded in the year 1961 and headquartered in India, is an integrated, research based, international pharmaceutical company, producing a wide range of quality, affordable generic medicines, trusted by healthcare professionals and patients across geographies. It is ranked amongst the top ten generic companies worldwide. In this company 1,700 people were employed in the year 2005, and the number of employees increased to 10,983 in the year 2012. It is observed that the high rise in the number of employees indirectly increases the economic development of India. Dr. Reddy's is India's third largest multinational company offering a range of generic and branded drugs and active pharmaceutical ingredients. Most of Dr. Reddy's sales are of branded drugs reversed engineered versions of drugs patented in the West. This company founded in 1984 and 7,525 people were employed in 2006 and in the year of 2018, the number of employees increased to 23,524 as it can be clearly seen that more than 200% growth in the number of employees in a company was made possible in 12 years which resulted in increase in the economic growth of the country. The total revenue generated by intellectual property offices of India was Rs. 608.31 crore in the year 2016-17 while total expenditure was only Rs. 129.8 crore. Total revenue generated by patent office was Rs. 410.03 crore and the remaining were generated by other intellectual property like Trademark, Geographical Indication, Design and Copyright.

In 2002, over 20,000 registered drug manufacturers in India sold \$9 billion worth of formulations and bulk drugs. Eighty-five percent of these formulations were sold in India while over 60% of the bulk drugs were exported, mostly to the United States and Russia. Most of the players in the market were small-to-medium enterprises; 250 of the largest companies control 70% of the Indian market. Thanks to the 1970 Patent Act, multinationals represent only 35% of the market, down from 70%, 30 years ago. In terms of the global market, India currently holds a modest 1 - 2% share, but it has been growing at approximately 10% per year. India gained its foothold on the global scene with its innovatively-engineered generic drugs and active pharmaceutical ingredients (API), and it is now seeking to become a major player in outsourced clinical research as well as contract manufacturing and research. There are 74

U.S. FDA-approved manufacturing facilities in India, more than in any other country outside the U.S. Pharmaceutical companies of India are the third largest in the world owing to the production of generic drugs at very cheap rates and exporting these drugs to many countries like Africa, Latin America and other Asian countries because the cost of production in India is very low as compared to USA and Europe. According to the report of WIPO (World Intellectual Property Organization) pharmaceutical patent application is the second largest subject matter in India and this was jumped after the year 2005 when India enacted the law that allowed product patents. Pharmaceutical industry of India has grown from 6 billion US Dollar in 2005 to 30 billion US dollar in 2015 and it is expected to go up to 55 billion US Dollar by 2020.

### **Conclusion:-**

Indian Patent Law was amended in compliance with the TRIPS agreement after India became a signatory to the TRIPS agreement. TRIPS may prove to be the most significant provision concerning economic development, derived from international economic law. As a result, many Multinational Companies started investing in India. MNCs also started their Research & Development process in India which has indirectly increased the economic growth of India and has provided employment to Indian people. At present India needs to invite more Multinational Companies for investing and starting their Research & Development process in India. This way, the economy of India will increase. In promoting the development of the domestic pharmaceutical industry, India's experience in legislation and judicial practice deserves serious attention and using TRIPS's flexibility to facilitate access to medicines, implementing compulsory licensing to create more chance for voluntary licensing negotiation, and updating the guidelines for examining pharmaceutical applications to prevent ever greening of pharmaceutical patents. Pharmaceutical Industry of India has grown from 6 billion US Dollar to 30 billion US dollar over last ten years, this is because many Pharmaceutical Multinational Companies have invested and started their research and development process in India after the year 2005.

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