Role of Intellectual Property Rights in the Technological Upgradation*

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In the last decade of this millennium and the 50th year of Independence, the subject of IPR acquires an urgent significance for our country, specifically for our industry. In the post-independence era, we concentrated on creating the infrastructure for certain key industries which were responsible for producing commodities such as steel, cement, and fertilizers. Our attitude then was to build massive infrastructure in those basic industries, in the belief that a Soviet style industrial base was important, if were to escape from our dependence on other countries for our basic needs.

In the process, we neglected those sectors of our industry which have become pre-eminent in today's context, that is, the knowledge-based industries. The steel and cement plant use technology that is mature. In contrast, for example, take the manufacturing facility for a new generation of computer processors, which can become obsolete within five years. For knowledge-based industries, factors such as labour cost and manufacturing location become less important. What is of vital importance is the ability to generate and protect intellectual property.

Indian industry is well-recognized for its manufacturing excellence. Take, for example, the automobile industry. Forty years back the Indian made cars were described as the state-of-the-art. Since then, the car manufacturers were quite content to fiddle with the shape of the tail light and the material of the dashboard, as a feeble substitute for the creativity necessary for designing a new car. The result was that the Indian automobile industry slid inexorably into the abyss of antiquity.

However, creativity blossomed in India in the most unlikely of places. Let us take a look at our defence industry. The same belief in

self-sufficiency that led to our building steel and cement plants led to our relatively massive investments in the defence industry infrastructure. Fortunately for us, unlike in cement and steel, where the Americans and Russians were over-eager to sell us their out-dated technology, in defence we were on our own, except for a little help from the USSR.

The policy makers, realising the folly of being dependent wholly on the USSR, took the brave step of developing local skills in building launch vehicles, satellites, advanced composite materials, making software and massively parallel computing. As a result, in these areas, there is very little separating us from the cutting edge technology practised anywhere else in the world. Is there a lesson for us in this modest success story? I believe that in today’s context there is.

Ideas do not come free. Under the rules of WTO there will be a heavy price to pay for those who continue to live on borrowed ideas. We have to prepare to move more systematically to a more knowledge-intensive industrial sector. To some extent, we have accomplished this in software. We have also made a very modest beginning in pharmaceuticals which, along with software, is one of the areas in which our country has a net trade surplus.

When the new WTO rules will suddenly raise the stakes a little higher, it is more important than ever, that we become recognized, not merely as producers but as inventors, designers and creators of products. We have to urgently pay our attention to balancing our strength in manufacturing with complementary strength in product innovation.

In the changed circumstances, a lot has to be done to first educate the people and the government for the need to comply with the requirements of the IPR regime on one side and develop infrastructure for implementing the regime, like improvement and strengthening of the patent office, etc. It is in this context that the Institute for Intellectual Property Development was established.

At this point, I would like to highlight one of the great victories that India achieved recently by the invalidation of the patents for turmeric issued to the University of Mississippi Medical Centre. This verdict conveys a clear message to the anti-TRIPS lobby and helps to clear wide-spread confusion on the subject of patents. It shows that in the multilateral regime, patents are contestable, that anything that is not novel invention or application cannot be patented and that the developed countries cannot appropriate the traditional know-how of the third world.

It is incorrect to term patents as an instrument of western intellectual imperialism. Patents were created to ensure that the original inventors or innovators get reward and the imitators are punished. Thus, the developing world has a very good reason to adopt the modern patent regime that benefits its industry and scientific institutions. Winning the technology race on the same terms with the rest of the world should be the only way to banish the twin spectres of bio-piracy and unfair IPR regimes for all times.

In the end, I would only stress the point that technology self-reliance is the order of the day and unless the large Indian companies make a sincere effort to achieve that objective, they will lose the race even before they have begun. Thus, we ought to turn the intellectual property protection to our own advantage and develop the domestic industry by pumping in resources for R&D, to create new technologies and seek intellectual property protection further.