
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

INTELLECTUAL PROPERTY RIGHTS IN PHARMA INDUSTRY- Rajat Sharma¹

The pharma industry is the evergreen developing field in the modern high paced world. While India is still a developing nation but stands amongst the developed nations and competing against them. The emerging Indian pharma industry is the proof of this statement. It is the 3rd largest in terms of volume and 14th in terms of value. In the recent times India has emerged as the largest producer after. Indian generic market accounts for 20 percent of global exports in terms of value. Indian pharmaceutical sector supplies over 50% of global demand of various drugs, 40% of the generic demand in the US and 25% of all medicines in the UK.

The pharmaceutical industry has registered an enormous growth in the past few decades. Most of the economically well-developed countries spending huge amount of money in the field of medicine, in the research and the discovery of the vaccines of the newly hatched diseases and improving the health infrastructure. Whether the world is on the growth period or in the recession period, diseases like COVID-19, EBOLA, H1N5 and other deadly viruses will grow irrespective of the human development and create deadly nuisance for the human species. Therefore, it won't be wrong to say that the pharmaceutical industry is the prime source of medical innovation.

The pharma industry will grow organically and inorganically through alliances, mergers and acquisitions. The focus is on improving efficiency and productive through visionary ideas and unorthodox business models.

Market size

According to the government data the Indian pharmaceutical domestic market has reached to 1.4 lakh crore which is equivalent to \$20 billion in 2019. Experts says that it will reach around US\$100 billion while the medical device market will grow US\$25 billion in the next five years. As of 2020 October, India exported pharmaceuticals worth US\$13.87 billion in FY21.

¹ Student at Amity University, Noida

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Pharmaceutical export from India stood at US\$16.28 billion in FY20. The government is taking steps to reduce healthcare cost which lead to the speedy launch of generic drugs and shifting the benefits to the domestic firms.

Originality of ideas has a dramatic impact on the pharma industry. The higher the rewards of success of innovation, the risk of the failures can jeopardize the company's basic survival. The pharma companies have to keep pace with the innovation of modern problems, the world is facing and create something that can make an impact on the million lives and also enhance the company's fortune.

Managing innovation in the pharma industry helps the countries to broaden their drug discovery and generate higher returns on investment. In a biotech company intellectual property (IP) is the most valuable resource which significantly ensures the safety and success of the company. IP is the base on which the innovations of the new medications and cure can survive. Without the intellectual property protection, the researchers are not able to find new ideas for medical innovation and uncover the discovery of the dangerous diseases.

Growth IPR in the pharma industry

Intellectual property rights can be defined as the ideas, inventions and the creative expressions based on which there is a public willingness to grant the status of property. IPR actually provides the exclusive rights to the creators or inventors of that innovation in order to enable them to secure maximum profit from the inventions or creations. Basically, there are various types of Intellectual Property Right protection are available like Patent, Copyright, Trademark etc.

Developing a medicine costs billion dollars and requires huge investment in research and development. The return on effective innovation are huge—thus helping the creator or inventors to gain a more recognised position in the market. Innovation is synonymous to drug discovery, approval and effective results.

IPR is an effectively tool to protect time, investment, effort, confidence of investor and encourages healthy competitions among competitors and promoting industrial and economic growth.

The IPR protection works in various ways—

1. Protect pharma companies against infringers.
2. Provides strong tools for the defending infringed patents.
3. Provide fair incentive for research and development.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

IPR has a significant impact in the pharma industry dealing with various issues ranging from discovering, developing to pricing, competition mapping, distribution, and availability. With the more advanced IPR technology protection available in the developed countries, their economic growth rate rises rapidly so as the growth of pharma industry. On the other side, developing countries are against the patent system because it creates monopoly in the market which leads to higher prices of drugs.

Patent rights

Patent rights are available to those medicines or drugs which are new useful for the general public. The drug must be unambiguous when compared to the previously discovered drug. That is the same of drug must not exist and it must have a purpose. Drug patent grant the inventor companies to market exclusivity for a term period of 20 years from the date of filling the application.

Challenges faced by the pharma industry

1. Newer diseases: The last year had placed a proper evidence in front of us. The novel coronavirus has a deadly impact on the entire globe and create chaos all over the world. As of now, it's almost a year had passed but we are still waiting for the proper cure of the virus. This is the example of the challenges faced by the pharma industry. The market has reacted positively in the hope of the vaccine.
2. Medical infrastructure: hospitals, medical colleges, labs, medicines, pharmacies, that are used in the procedure of manufacturing of the vaccines are in place. Maintaining the quality and infrastructure is also a challenge for the pharma industry.
3. Foreign regulations: Many regulations receive a lot of revenues from medical exports. Trade restrictions, import and export regulations, customs and other international and national taxes which comes into the picture

Importance of IP in the pharmaceutical industry-

Intellectual property is essential for the continued discovery of the medicines, because it guarantees the utmost protection to the inventors and encourage them to do their work without any worry. There are few points mentioned below of their importance.

1. Protection to medical innovation

The newly discovered medicine should be protected either by filling a patent application for it or by keeping it a trade-secret. But however, in case of trade-secret the drug can be engineered again, leading to innovation getting stolen whereas patent offers more tighter security and

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

safety.

2. Enhances economic growth and competitiveness

Intellectual property rights enhance economic growth of the pharmaceutical company by awarding with the huge profits to the sole intellectual property rights owner for the discovery of medication or treatment. It creates competitiveness amongst the other creators and encourages positive or healthy competition in the market. IP rights gives sole rights to the creator to sell or to license the innovation.

3. Protection of consumers and families

In the pharma industry, the main interest of the intellectual property rights are lies in the consumer protection and give them a reliable product by ensuring the standard quality check of the product which shows great results on public infrastructure.

4. Solution to the world's challenges

It encourages and gives protection to the investors or creators a full protection of their product. So, that they can invest their resources and time to meet the current demands of the world. As of now, world is facing a pandemic and many pharmaceutical companies are making the possible vaccine which gives relief and protection from this deadly corona virus (covid-19) in this situation pharma industries are backed by the IPR's.

They also provide incentives to the innovating ideas which in future can develop into a medication.

5. Protection against the infringers

As from the huge success there comes a great risk of product getting stolen and also a responsibility towards the consumers. Intellectual property rights protect the product from the potential infringers and also give rights to the companies to take legal action against the counterfeit drugs. If these rights are not available, then it would be very difficult for the companies to safeguard their product.

Conclusion -

Intellectual property rights are now covered a vast area. It is an emerging field. These rights are actually a kind of favour for the inventors or creators. Now it is necessary for the pharma industries to set out a budget for research and development and invent something that will provide maximum returns by utilizing the patent rights and data exclusivity. With the help of the intellectual property tools, pharma companies can avoid litigation which might lead to financial loss. The more we are interfering with the nature, the more we are facing the bigger

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

problems that cause severe impact on the lives of the human beings. Pandemics like covid-19, Spanish flu, plague ended many human lives. That is why the growth of the pharmaceutical company is must, because we don't know what is in future await for the human species.

In developing countries government and the industrialists should also take responsibility to enhance the scope of the IP rights and do something to protect the future innovations that will gradually help in the rise of the economy. Therefore, enforcement of IP rights is the essential to ensure that the intellectual property is protected in the market.

References -

1. <https://www.ibef.org/industry/pharmaceutical-india.aspx>
2. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6044128/>



For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>