

Union Minister defends flexibilities in Indian IP regime

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Close on the heels of the landmark judgment in the Novartis Glivec case, the Indian government has come out in support of an IP regime that considers socio-economic factors as well. Addressing a high level policy dialogue at the World Intellectual Property Organisation (WIPO) headquarters in Geneva today, the union minister for Commerce, Industry and Textiles, Mr. Sharma pointed out that the countries of the South which bear a disproportionate burden of poverty, hunger and disease for historical reasons have an aspiration to provide affordable healthcare solutions for their citizens. It is here that political leadership is faced with an ethical dilemma and tries to find creative solutions which would strike the right balance.

Mr. Anand Sharma defended flexibilities for developing nations in honouring their international Intellectual Property (IP) commitment to meet their social challenges. He said, "It is my belief that while all countries are obligated to honour their international commitments, inherent flexibilities must be provided to developing countries to address these pressing social challenges,"

The Minister, who was speaking on "Innovation and Development: The Indian Experience" outlined the values that inform the Intellectual Property (IP) regime in India. The Minister maintained that the legislative regime in India which circumscribes the IP rights is a robust one and strikes a balance between the interests of the IP creators and the larger interests of the IP users. "It fosters technological innovation by providing inherent incentives through exclusive private Intellectual Property Rights, but also recognizes the need to protect the interest of users' rights," said the minister.

This comes at a time when pharma MNCs are crying foul at the judgement for 'stifling innovation' with many voices in the industry stating that it will hurt R&D investments in India.

The minister recounted the debate in 2005 that surrounded the harmonization of Indian IP with the TRIPS obligations. He talked of the divide on the two ends of spectrum especially in the pharmaceutical sector. On the one hand of the spectrum are companies who have invested billions in research, in developing new molecules, in new drug discoveries and in research.

On the other hand is the compelling social need of providing affordable healthcare for all.

Mr. Sharma strongly raised the issue of the intellectual property associated with genetic resources, traditional knowledge and folklore such as curative aspects of neem and haldi etc. Mentioning India's initiative of creating a unique digital library of traditional knowledge which has over 250,000 entries highlighting the source and the efficacy of each product, Shri Sharma expressed concern about the fact that at times there is extensive bio-piracy through patents being awarded for traditional knowledge. "India has been at the forefront for bringing this agenda on the negotiating table and for the last one decade, we have been trying to build a consensus for a binding treaty on traditional knowledge. I hope that WIPO shall be able to bring these negotiations to culmination," said the Minister.

Another important development was Mr. Sharma handing over the instrument of Accession to the Madrid Protocol. This is a significant step in the evolution of India's Intellectual Property Regime which has seen a gradual progression in line with international agreements over the years. This instrumentality will provide an opportunity for Indian companies, who are increasing their global footprint, enabling them to register trademarks in member countries of the protocol through a single application, while also allowing foreign companies a similar disposition in India. This will considerably help in simplification and easing the process of trade mark registrations in India.