

INDIA Speaker: Dr. Sanjaykumar Patel

※番号は、質問者を表し、同一質問者は同一番号になっています。

Q1: Thank you. Thank you for the detailed update on the national IP policy. I am impressed with the explained campaign, and I have a question about it. It is on pages 12-14, there are a number of institutions listed as the drivers to this campaign. My question is who will be organizing each individual sector's campaign? Because each institution might have their own discretions and they might be independent in forming their missions. Who will be controlling the overall patterns and who will be coordinating?

A1: From all these organization, I have listed just a few. Those are conducting all these courses, there are some courses that are basic without restrictions to technological domains, and there are some specifically targeting pharma and IT sectors etc. This is based on the clusters they have already established on different courses, and these particular courses are not treated different, they are overseen in a general way.

Q2: Japanese companies care Section 3 (d), do you think it's TRIPs complaint?

A2: TRIPS says that countries can implement flexibilities considering the countries' national policy. There is no discrimination in Section 3. It is not saying that they will not give you patent. It says that if you want to get patent, you need to show that there is significant improvement in efficiency. If that specific compound is already existent and I am just combining with another IPA, then we are sorry – you will not receive such right -. And I don't think it's not TRIPS compliant.

Q3: Regarding the open source discovery. Is it compulsory?

A3: No. It is not compulsory. There is a link there and you can't get more information there.

Q4: Thank you very much in a very comprehensive presentation. I have one question; you commentated about the number of applications until 2015. However, what do you think about the Indian domestic number of applications for the future; do you think that in the near future there will be an explosive number of applications that will be filed in India? Your country enjoys a very remarkable economic growth; maybe in a near future

you will see such a phenomenon.

A4: Frankly, I do not think that in the near future it will explode. First there is the issue IP awareness. The people are not yet familiarized with the importance of IP. In the current patent filings, compared to Thai or Indonesia, Indian domestic applications are only about 20 or 25% and they are only from the large companies. Still, individual inventors and universities researchers and all this, they are not yet filing many patents. Of course, I think eventually it is going to increase, but I think it will take time. Because, the ranking of innovation we have is very low and raising it is a very difficult task.

Q5: You mention the specialized IP commercial courts.

A5: We do not have. We want to have in the near future.

Q5: Any discussion on how it is going to be set up?

A5: Not yet, but we should support it to enhance the speed of litigation. Now the outcome will be out only after 5 years or 10 years, we need a specialized IP court to speed up patent litigation.

Q6: When you say that you have different patent offices, does it mean that you can file in different places at the same time?

A6: If is territorial. But if you are outsider, it will be based on your attorney.

Q6: But it will be a single patent?

A6: Physically they are separate, but the system is the same.

Q6: But let's say that I have an invention filed in one place and it is accepted and a similar one in another place is denied.

A6: That would not happen, because it is well harmonized.

Q7: My question is about patent agents. The problem of having patents agents trained and assigned to inventors and to examination. In Japan, if you work in JPO for a period

of time, you can leave the office and become a patent agent. In other countries, they have used the training program in order to create a whole profession to help people get patents issued. One of the main problems is lack of people who can draft patent applications. I know you have a proposal for CSE (Centralized Access to WIPO database). I am trying to connect to points, one is a direct problem – having people who can draft - ; the other is a policy program – how you keep a sovereignty problem.

A7: We are not outsourcing. We have examiners in the PTO that examines everything. There was a proposal of outsourcing examination, but it was highly opposed. There is the issue of secrecy; there is bias; and now every step is done by the patent examiner only. The patent agents they have to be qualified in exam before the PTO, and to apply for the exam they need to have a scientific degree.

Q8: Again, about the list of IP laws in your country. You have a law for plant varieties and farmers' right. Sometimes people think that those are two different things. In Indonesia, local varieties cannot be protected. How you managed to manage those polarities. Also, you mentioned about confidential information, do you have any specific regulation.

A8: We don't have any specific regulation on confidential information. Also, I am not a specialist on plant varieties.

Q8: Do you have a trade secret law?

A8: No.