

Progress Report & Revised Budget Plan (2008-09)
for MHRD Intellectual Property Right Chair at
National Law University, Jodhpur under
Intellectual Property Education, Research and
Public Outreach Scheme
(April to September, 2008)

Submitted to
Ministry of Human Resource Development
Department of Higher Education
New Delhi

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Submitted by
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Under the scheme of Intellectual Property Education, Research and public outreach (IPERPO), Ministry of Human Resource agreed for setting up of MHRDIPR chair at National law University, Jodhpur.

A number of IPR research and learning initiatives including IPR awareness programs, formulation and conduction of various undergraduate and postgraduate IPR Courses, creation of Traditional Knowledge Digital Database for western Rajasthan, research and suggestions on IPR Law Reforms and IPR Policies are the core functional areas with in the scope of IPR Chair.

Ministry of Human Resource and Development vide sanction letter no. 17-23/2007-IC(Pt.) dated 5th March, 2008 released an amount of Rs. 10.0 Lakhs for setting up of MHRDIPR chair at National law University, Jodhpur, which was received on March 31,2008.

The IPR Chair has become functional w.e.f. April, 2008.

Administrative structure to regulate IPR Chair:

Chairman : Hon'ble Vice Chancellor Justice N.N.Mathur
Executive Director : Prof. (Dr.) Amar Singh
Co-Executive Director: Prof. (Dr.) K.K. Banerji

Members:

1. Dr. A.P. Singh [Folklore of Rajasthan]
2. Dr. M.S. Rajpurohit [Traditional Knowledge & Folklore of Rajasthan]
3. Mr. Atul Pandey [Copyright, Trademarks, Geographical Indication]
4. Mrs. K. Syamala [Copyright, Trademarks, Geographical Indication]
5. Dr.(Mrs.) Manmeeta – Member Secretary

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Appraisal report for the last 6 months (April-2008 to September,2008) is as follows:

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(1) Establishment of IPR Chair Office:

Initial two months were dedicated to establish good infrastructure facilities for IPR Chair office in term of equipping it with computer, printer and communication network. We have also purchased and installed multimedia facilities such as LCD Projectors, screens. laptop etc. such that presentations & lectures regarding IPR sensitization & literacy program can be conducted efficiently using audio-visual techniques.

Contact details for IPR Chair office is as follows:

IPR Chair Office

Academic Block

National Law University

NH-65, Nagaur Road

Mandore, Jodhpur-342304

Rajasthan

Email: iprchair@nlujodhpur.ac.in

(2) Keynote address delivered by Professor Amar Singh on implementing IPR Stratagem and perfecting IPR held at Nanhu campus of Zhongnan University of Economics and Law during April 19 and 20, 2008 :

Executive Director of IPR Chair, Prof. (Dr.) Amar Singh delivered the keynote address on Implementing IPR Stratagem and perfecting IPR during an International Conference at Nanhu campus of Zhongnan University of Economics and Law during April 19 and 20, 2008. Professor Amar Singh also held discussion with senior academicians for mutual academic cooperation in this field.

(3) Workshop on the theme "STEM CELL Social, Ethical and Legal Implications with special reference to IPR issues"

With the specific objective of IPR awareness, we organized a one day workshop on the theme: "STEM CELL Social, Ethical and Legal Implications with special reference to IPR issues" in the Conference Hall, National Law University on April 19, 2008 with the following schedule:

Inaugural Session (10:00 a.m.- 11:30 p.m.)

Inaugural Address : Dr.P.P.S. Mathur

Vice Chancellor, Rajasthan University of Health Sciences, Jaipur

Keynote Address : Dr. Mrinalini Chaturvedi

Director, Cord Blood Bank, Gurgaon

Session – II (12:00 p.m. -1.30 p.m.)

Stem Cell - Guideline of Indian Council of Medical Research: Dr. Anjana Vyas, faculty member, NLU, Jodhpur

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Stem Cell – European Union Guidelines on Stem Cell Patent : Ms. Parika Ganeriwal, Student VIII Semester, NLU, Jodhpur

Stem Cell – Legal Implications: Ms. Vinati Gupta, Student, V Semester, NLU, Jodhpur

Panel Discussion:

1. Dr. Kanta Tiwari, Former Professor (Gynecology), Medical College, Jodhpur
2. Prof. Kiran Kucheria, Former Professor and Dean, AIIMS, Delhi
3. Dr. Sanjay Pandey, Faculty member NLU, Jodhpur
4. Dr. Mrinalini Chaturvedi, Director, Cord Blood Bank, Gurgaon
5. Dr. Anjana Vyas, Faculty member NLU, Jodhpur
6. Dr. Ratan Vyas, Jodhpur

Report of this workshop is as follows:

The workshop on stem-cell patenting involved a panel discussion involving eminent authorities of the field including Dr. Mrinalini Chaturvedi, Dr. Kucheria and Dr. P. S. Mathur. The workshop begun with the inaugural address by Dr. N. R. Kalla, Dean, Faculty of Science, National Law University; introducing the subject and the eminent guests.

Dr. Mrinalini Chaturvedi was pleased to discuss the basics of stem-cell research. Through her discussion she delineated the history of the development of stem cell research, followed by the various arenas wherein stem cell technology provided optimum utilization, including use of stem cell technology for the purposes of treating cardiac, neural and ortho issues. Through several examples, she presented before the audience the benefits of using stem cell technology in the treatment of the diseased. Thereafter she discussed the methods of harvesting stem cells. Taking the audience through the various types of stem cells, namely totipotent, plueripotent and multipotent, she discussed the methods through which stem cells can be created for the pharmacological and pathological use. While mentioning that stem cells can be harvested from the bone marrow etc, it was mentioned that the best and richest source of the same was cord blood, which was disposed off after child's birth. The speaker pointed out that this source of stem-cells leads to ethical questions as to the harvesting and use of stem cells, since incidents of harvesting of stem cells from aborted foetus, and also from cord blood, without the permission of the concerned parties have been reported, raising

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questions as to the morality of the research being carried out in this sphere. Issues as to the ethics and morality of the stem cell research have also arisen in view of the religious questions regarding gene cloning. The speaker had concluded the speech emphasizing that stem-cell therapy, by far, represents very advanced techniques of treatment, much of which has not been achieved yet. While the technique does present a very optimistic picture of the future, she mentioned that, it would not be proper to harbour unrealistic ambitions as to the efficacy of the same.

Prior to the panel discussion, Dr. Anjana Vyas, Lecturer, National Law University and Ms. Parika Ganeriwal and Ms. Vinati Gupta, Students, National Law University presented their papers relating to the ethical and moral issues in stem cell patenting. Through a very simple and informative presentation, Dr. Vyas gave a general overview of the subject for the benefit of the audience, taking them through the nature and types of stem cells, and the differences in their functionality, and how the latter was influenced by the process of harvesting. She touched upon the guidelines that regulated the use of stem cells for scientific and medicinal purposes, which were deliberated upon by the other speakers, while deliberating upon the related ethical issues. She also informed the audience about cord blood banks, a concept that has developed for the purposes of preserving the cord blood of the new born, for use later in life.

Ms. Vinati Gupta presented the ICMR Guidelines on Stem Cell Research, 2000, as amended in 2006. She informed the audience about the permitted, prohibited and restricted areas of research, including the specie specific degree of manipulation allowed. Much of her discussion revolved around the Human Embryonic Stem Cells i.e. hES cells, and the use of cord blood cells to develop cell lines of hES cells, and regulation thereof. She also discussed the consequences and regulations regarding research using fetal stem cells and the placenta.

Ms. Parika Ganeriwal restricted her discussions to the issues arising out of EPO guidelines on stem cell patenting. Starting off with the history behind and development of the guidelines, the speaker led us through the general provisions regarding patentability under the EPO, pointing out that, while the human body in its natural state is not patentable, elements isolated from the human body may constitute a patentable invention provided they satisfy the patenting criteria of novelty, inventive step and industrial application. Referring to

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Article 5(1) she led the audience through the ambiguity of the provision and concluded that there is no clarity whether the same was intended to apply to both the human embryo in its natural state and the human embryo in vitro, while however exclusion extends to supernumerary embryos originally created for the purpose of assisting procreation through IVF. Furthermore, qua elements isolated from the human body by means of technical process, pluripotent hESC fulfill the patentability criteria under Article 5(2). She reflected that the moral consensus captured by the prohibition relates to inventions in which the human embryo is used directly as a raw material in a repetitive chemical, mechanical or technical process, or alternatively inventions which involve trade in human embryos. On this basis, Article 6(2)(c) does not preclude the granting of patents on pluripotent stem hESC or processes for their derivation, unless the claims fall within the terms of the exclusion.

During the panel discussion, the prime issues were cord blood banking, harvesting of stem cells from cord blood, and the related legal and ethical issues. The speakers took a practical approach with reference to the Indian scenario and discussed how the research in this field could progress. In course of their deliberation, the panel discussed the costs of preservation of cord blood. The speakers reflected that given the educational and religious inhibitions that a rather large cross-section of the society in India suffers from, it is difficult, as on date, to have large-scale cord-blood banking, given also the advanced technical requirements for the same, which are not available in the remote areas of the country. It was pointed out that the permission and consent of the mother is of prime importance, before the cord blood can be preserved for the purposes of harvesting stem cells. It was emphatically pointed out that, only the mother and not any other member of the family, was entitled to permit the preservation of the cord blood, and such permission has to be taken prior to the delivery of the child, and has to be informed consent of the party concerned. The panel discussed the need for a strict regulatory mechanism for harvesting cord blood cells since the same is the richest source of stem cells, and research in this regard being one that raises numerous moral and ethical issues. The Indian regulatory mechanism, under the aegis of ICMR was also discussed.

The workshop was concluded through the vote of thanks by Dr. K. K. Banerji, Dean, Students Welfare of National Law University.

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(4) Workshop on Patent Law:

We organized a "two-day workshop on patent Laws" for the undergraduate and postgraduate students of the university with the objective to provide jurisprudence and functionalities of patent laws and related subject matters by means of case laws.

Mr. Badrinarayan, Senior Associate of the renowned IPR firm Laxmikumar & Sridharan was invited as resource person to conduct this workshop on 24th –25th July, 2008.

This workshop was a highly interactive session wherein the basics of patent law were discussed.

On the first day of the workshop, Mr. Badrinarayan discussed certain basic aspects of patent law with emphasis on the requirements of patentability. Initially, he discussed the nature of rights granted under a patent referring to the distinct rights exclusively granted to the patentee. Further, the workshop provided an insight into concepts such as novelty and prior art.

Mr. Badrinarayan further introduced the students to the concept of enablement (another requirement for patentability) and the finer aspects of an enabling disclosure under patent law were discussed. He further explained the fine distinction between enablement and utility in response to certain queries raised by the students.

The second day of the workshop focused on the non – obviousness requirement for patentability especially various aspects of combination patents. The discussion was initiated by the students and related to the distinction between novelty and non – obviousness.

The workshop further dealt with the development of the law relating to non – obviousness in the United States with emphasis on the case law. Cases such as *Hotchkiss v. Greenwood*, *Graham v. John Deere and Co.* and the Graham tests of non - obviousness were introduced to the student. Further, the concept of "person skilled in the art" was emphasized upon.

Further, the recent development in United States patent law such as the decision by the United States Supreme Court in *KSR International v. Teleflex*, in *Ebay's* case and in *SanDisk v. ST Micro* were discussed, with such discussion providing an insight to the students into the jurisprudence behind the non – obviousness requirement and the changing attitude of Courts in the United States towards granting of patents. The same was linked to the changing world economic situation introducing the students to new ideas and concepts as to how economic changes often affect the approach of Courts towards framing the law.

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In addition to the above, the scope of patent law in India was emphasized upon and the growth of the patent industry in India was dealt with during the workshop.

In conclusion, it may be stated that the workshop was extremely beneficial to the students in as much as they were exposed to certain basic ideas and concepts relating to patent law as well as certain finer aspects of the same which are often not possible to discuss in a classroom environment.

(5) Identification of Target Groups for IPR Sensitization & Literacy program:

A Survey was carried out in order to identify research institutes located at Jodhpur (Rajasthan) where short-term IPR sensitization & Literacy program can be conducted. We have identified various research institutes as target group for conducting such programs, which includes DRDO, CAZRI, AFRI, ZSI, and Remote Sensing Center etc. We are still in the process of making an exhaustive list of such institutes so that in the second phase program can be designed and conducted.

Another survey includes identification of academic institutes in Jodhpur district and nearby where R&D activities are going on. We have visited J.N.V. University, Rajasthan Aurveda University, M.B.M Engineering College etc. in order to have an overview of R& D activities going on so that accordingly IPR Literacy & Sensitization program can be designed and conducted.

These surveys are still under the progress and we plan to prepare an exhaustive list of target institutes within two months time.

Details of the fund utilized from March 2008 to September, 2008 is as follows:

S.No.	Expenditure Head	Expenditure (Rs.)
1	Salaries	5,46,203
2	Online subscription	89,888
3	Contingencies	
	(i) Participation in IPR conference	49,901
	(ii) Desktop computers	70,168
	(iii) Laptop	38,300
Total Expenditure		7,94,460
Interest received on the fund		4,772
Remaining Amount (Balance)		2,10,312

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Activities Proposed to be Undertaken:

(a) IPR Awareness / Outreach/ Sensitization Activities:

- I. IPR awareness amongst the holders and creators of IPR of different kinds and varieties by means of conducting various programs
- II. IPR Literacy program amongst the people who are not aware of the kind and quality of Intellectual Property. The target group identified are:
 - Students of schools/colleges/universities
 - University teachers, central and state research institutes of western Rajasthan
 - R&D Institutes based in Rajasthan
 - Local village community of western Rajasthan
 - Industries of western Rajasthan

(b) Establishment of IPR Consultancy Cell:

We propose to establish an IPR Consultancy Cell under MHRD IPR Chair to provide free or at nominal cost research and consultancy support to individuals, industries, Universities, scientific community and courts for recognition and protection of Intellectual Property Rights. The Consultancy cell will also focus on the development of commercial aspects of intellectual property e.g. IP valuation and Management.

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(c) Academic Activities:

Under this, we propose to design and offer specific courses for students, researchers and professionals in intellectual property matters. IPR courses would be designed for undergraduate and as well as postgraduate students keeping in view the contemporary requirement in the field of IPR practitioners.

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(d) Designing a separate web page in NLU website for online queries on IPR issues and digital information source on IPR:

Under this innovative endeavor, we propose to design and upload a separate web page for IPR Chair as the part of university website www.nlujodhpur.ac.in. This will offer facility of online query related to IPR issues. This web page would also contain a digital library or digital information source on IPR related regulation and contemporary issues. We also aim to develop an advanced Patent Search facility on this webpage.

(e) Organize Conference/Workshops/Brain Storming Sessions on IPR related issues:

We propose to conduct conferences /workshops/seminars/brainstorming sessions on IPR related issues with special emphasis on Creation of Traditional Knowledge Digital Data Base of western Rajasthan.

We also propose to design, organize and implement one –week specific training workshops on Intellectual Property and on the Enforcement on intellectual Property Rights.

We also propose to prepare concept papers and working papers on intellectual property issues and allow debates on such papers and create an environment for intellectual Property rights related thinking and research.

This head includes organising local, national workshops and conferences on IPR and funding the participation in IPR national and international conferences by the teachers of universities

(f) Identification of communities holding TK , Classification of TK & Creation of Traditional Knowledge Digital Data Base of Western Rajasthan (TKDDBWR):

Identification and documentation of knowledge and Traditional Knowledge systems for IPR protection and sustainable development has become a highly significant issue. Traditional Knowledge is a pluralistic approach for conserving and managing natural resources.

The integration of Traditional Knowledge and Intellectual Property Rights (IPR) regime in policy formulation and the execution of development programmes is a critical issue.

Research on Traditional Knowledge identification, a systematic documentation of information on the subject, process of accessing the information and the policies for benefit sharing are the key issues demanding an urgent priority for developing countries to protect their social, scientific & cultural heritage against piracy.

Western Rajasthan is exceptionally rich in traditional ethnic practices covering a wide spectrum of biodiversity, medicines, agricultural practices, folklore, Ethnobotany, Ethnomedicine, Ethnoveterinary Practices, dying, printing & handicraft etc.

We have carried out a primary survey in this regard and identified some of the community based traditional knowledge practiced in western Rajasthan. (Kindly refer Annexure –I for detail)

Though some of these traditional practices specific to western Rajasthan are documented by Government and NGOs but a very huge quantum of Traditional knowledge is yet to be identified and documented in order to protect the IP value of these resources. Further this will essentially help in the sustainable development of various communities of this desert area if

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