



Newsletter July 2009

Concept & Editing by: Dr. Niti Dewan

- [INTRODUCTION](#)
- [GIVE US AID IF YOU WANT TO INSPECT CLIMATE CHANGE MEASURES- SAYS INDIA](#)
- [DEVICE THAT PRODUCES WATER FROM AIR](#)
- [PLASTIC IS NOW BIODEGRADABLE](#)
- [PLASTIC WHICH DISSOLVES IN WATER](#)
- [UK FAST TRACKING GREEN PATENTS](#)
- [CORPORATE SOCIAL RESPONSIBILITY](#)
- [WHERE LIES THE BOUNDARY FOR MEDICAL PATENTS](#)
- [FACEBOOK PERSONALIZED USER NAMES: THREAT TO TRADE MARK OWNERS](#)
- [WHERE LIES THE BOUNDARY FOR MEDICAL PATENTS](#)
- [FACEBOOK PERSONALIZED USER NAMES: THREAT TO TRADE MARK OWNERS](#)
- [AND IN INDIA THE TVS VS. BAJAJ BATTLE CONTINUES TO RAGE:](#)
- [FENI GETS GI](#)

Introduction

Our world is dying. We, the foremost species, are causing destruction of that from which we are born. We as a race, in the quest for survival and to thrive, have altered the climate, the ecology of our planet to such an extent that if nothing is done soon, it would spell the destruction of a substantial part of our land.

Experts in the field predict Rising sea levels, disease, famine, hurricanes, melting glaciers, droughts and flood in the near future.

The impending doom is what prompted 11,000 participants to gather in Bali for the UN Climate Change Conference which took place in 2009. The differences of opinions shall always be present, however all at the conference agreed that innovation is the means of combating the challenge of carbon emissions and climate change.

Developed and developing nations alike want solutions which would be beneficial for the environment as well as for business and economic development. Innovation is the only vehicle which would get the world to the solution which would cater to all the aforementioned requirements. There is however some discord between the developing and developed nations as is seen as under:

Give us Aid if you want to inspect Climate Change Measures- says India

At the preparation talks being held at Bonn for the Copenhagen meet on climate change which is to be held in December of 2009 an issue has cropped up as to how IPR for green technology is to be treated and who is to bear the high cost to shift existing technology to green technology.

At the preparation talks being held at Bonn for the Copenhagen meet on climate change which is to be held in December of 2009 an issue has cropped up as to how IPR for green technology is to be treated and who is to bear the high cost to shift existing technology to green technology.

The Govt. delegates at the talk said that India will not allow its measures to avoid climate change to be inspected by the international community unless the developed countries provide adequate financial aid and also facilitate transfer of green technology.

As compensation for emitting green house gases, India says that each developed country should pay developing countries about 0.8 % of its GDP. India also put forth the proposal that a global fund may be set up which can buy out green technology IPR and then freely distribute them, in the same way as is being done for drugs for HIV/ AIDS.

The developed countries are of the opinion that large developing countries should take “measurable, reportable and verifiable” steps towards reducing green house gas emissions. However Indian delegates state that they will not agree to this unless adequate funding is provided and also the IPR issue regarding the objection taken by Developed countries against Compulsory Licensing of green technology by developing countries is sorted out.

Now more than ever there is a need for the kind of technologies which would slow down/ lower the greenhouse gas levels (this could be done by providing efficient, cheap ways to use renewable energy) and also technologies which combat the anticipated effects of climate change for example: novel plant varieties which possess the capability to thrive even in droughts or even being irrigated with saline water. In Climate Change speak, the former kind of technology is referred to as mitigation technology and the latter is referred to as adaptation technology. One such adaptation technology is discussed hereunder:

Device that produces water from air

In the wake of global warming and climate change, increasingly dry spells throughout the world are causing havoc with the water supply which is in turn leading to droughts, failed crops and dehydration. A new technology has been developed by Fraunhofer Institute for Interfacial Engineering and Biotechnology along with Logos Innovation which will be able to convert moisture in the air to potable water. The Technology employs renewable resources of energy such as solar cells. Thus it can be used in places which lack electric infrastructure. Siegfried Egner who heads the Fraunhofer Institute for Interfacial Engineering and Biotechnology states that the concept is suitable for various sizes of installations; from single person units to generation plants that could supply water to entire hotels.

Plastic causes a lot of environmental problems since it is non biodegradable and its disposal causes pollution, however green innovation is providing the solution that we hope would soon be viable for large scale use:

Plastic is now biodegradable

The Agharkar Research institute has developed a remarkable technology to produce biodegradable plastic for which it has filed a patent jointly with the Department of Biotechnology, Govt. of India. According to P. P. Kanekar who is the acting director of the Institute, “The biodegradable Plastics are synthesized by certain micro organisms, using simple carbon sources like sugar. These Plastics when buried in the soil can be degraded within two months. This is in complete contrast to synthetic plastics used to make carry bags and food packaging material, which are non- degradable”. This invention may solve the problem with Plastic waste but for the dearth of sufficient Biotech companies having the manufacturing capability for production of such problem.

Plastic which dissolves in water

Plastic when discarded into sewage pipes or water bodies can block the sewers and be harmful for the creatures which inhabit the water. A new kind of material called Greenphylic Water-Soluble Degradable Plastic has been developed by a team of seven researchers from Universiti Teknologi Petronas (UTP) in Malaysia. The Patent Application for the invention has been filed and is pending. The Project has won many prestigious national and international awards including the World Intellectual Property Organisation Best Invention Award and the Gold Medal at the Belgian and International Trade Fair for Technological Innovation held in Brussels. The material, also called Eco Plast can dissolve in water at normal room temperatures and if the water is heated it dissolves faster. According to the Leader of the team, Dr. Ramiah, the water used to dissolve Eco Plast will not contain any toxic elements, and this water can be disposed of as normal waste water. Thus this water would cause no harm to the environment or living creatures. Presently, Eco Plast costs much more than normal plastic but Dr. Ramiah believes that with commercialization and with large scale production the costs will reduce.

Green innovation is not limited just to plastics. There appears to be a growing awareness about patent protection and the move towards protecting green innovation. Given hereunder are some of the figures of granted patents and those applied for in the field of green innovation:

Sr.No.	Patents containing the word/relating to	Number of patents
1	Eco- Friendly	940
2	Environment friendly	7540
3	Biodegradable	36360
4	Energy Saving	39678

Though every nation wants green innovation to flourish the United Kingdom has taken concrete steps towards encouraging and facilitating green innovations and solutions as is seen hereunder:

UK Fast Tracking Green Patents

Under a new scheme that has been launched by the UK Intellectual Property Office an environmentally friendly/ beneficial patent could be granted within a period of 9 months. A normal patent usually takes an average period of two to three years. Existing and new patents applications are expected to get the benefit of this scheme. No longer are the applicants required to demonstrate why fast tracking is necessary to get their inventions fast tracked, now all that is required is that the applicant must show that his invention is environment friendly and apply to have it fast tracked.

Corporate Social Responsibility

The Corporate leaders of today are also taking steps towards improving the environment, reducing pollution in an effort to help the environment this is being done through sharing of technology through different models:

- Patent Pools

A patent pool basically means an arrangement whereby two or more patent holders agree to have their technology licensed to each other. This arrangement usually deals with technology in the same or related field or specific patents. If used in good faith, these pools may serve as invaluable platforms for further development of the existing technology, & for making existing technologies cleaner and sustainable.

GlaxoSmithKline recently launched a patent pool programme with the objective of developing low cost drugs for a total of 16 neglected diseases (tuberculosis, malaria, blinding trachoma, buruli ulcer, cholera, dengue/dengue haemorrhagic fever, racunculiasis, fascioliasis, human African trypanosomiasis, leishmaniasis, leprosy, lymphatic filariasis, onchocerciasis, schistosomiasis, soil transmitted helminthiasis and yaws). It has welcomed participation by Indian drug companies and research firms. Over 500 granted patents and 300 inventions for which patent applications have been filed form the pool as yet and Glaxo is willing to share all of them with others in order to develop low cost drugs to treat the above mentioned diseases.

- Patent Commons

The term patent commons generally implies an arrangement whereby the Patent holders, subject to certain conditions, pledge their technologies to be used extensively without payment of royalty. A Geneva based group called The World Business Council for Sustainable Development (WBCSD) and IBM in partnership with Nokia, Pitney Bowes, and Sony in January 2008 started a drive called "Eco-Patent Commons," by way of which companies would donate patents of inventions which provide environmental benefits. In this sort of an arrangement the participants covenant to refrain from enforcing their rights against persons/ entities using the technology in a way that benefits the environment by reducing consumption of natural resource or by reduced waste production.

- Non Assertion

Quite like the Patent Commons concept, Non Assertion covenant implies that the patent holder makes his technology/ invention available for widespread use by legally pledging non assertion of rights against persons/ companies using the technology / patent. This is a better option rather than abandoning or cancelling the patent as the patent holder may restrict the permitted use by imposing conditions such as it should only be used in a manner beneficial to the environment; the users may not claim exclusive rights over the technology, or the technology may be used only in a certain area and the like.

- Humanitarian Licensing

This involves licensing of technology to certain entities, such as developing states, NGOs, philanthropic initiatives and the like on extremely favourable terms or for free.

- Commons Based Peer Production

The term was coined by Harvard Law School professor Yochai Benkler to describe a new model of economic production in which the creative energy of large numbers of people is coordinated (usually with the aid of the internet) into large, meaningful projects mostly without traditional hierarchical organization (and often, but not always, without or with decentralized financial compensation). The best example for this concept is the online encyclopaedia wikipedia.org. Experts feel that using such models in relation to innovation on a global scale with regard to green technologies may offer solutions to the climate change problems. Stagnant technology can be of no help to the greater good. In order to arrive at solutions for a better environment innovation is crucial. Innovation can be based on existing technology only if such technology is shared or is freely available. The need for technology diffusion is great and crucially required by developing nations if they too are to contribute to the global drive to manage / remedy / reduce climate change. As we have seen previously there are many ways in which diffusion of technology may take place and there are means in which innovation can be a base for further innovation. Policy makers and commercial enterprises agree that shall it take a collective endeavour to combat this problem, and little by little they are contributing to the endeavour.

- Designs for the Environment

Patents are not the only Intellectual Property which have a green aspect to them. Designs have also come up as an excellent source of saving the Environment and companies today are choosing to have their set up done to reduce the extent of environmental damage. From the manufacture of a product to its disposal, engineers, architects and designers are re-evaluating the way the products today are produced. From non polluting factories to completely recyclable products green designing encompasses it all. A new philosophy called sustainable design (environmental design, environmentally sustainable design (ESD), environmentally-conscious design) has come into being. The philosophy entails designing physical objects, and services to comply with the principles of economic, social, and ecological sustainability.

- Trade Mark Green

Brands which the consumers associate with conservation of the environment and sustainable business practices are called green brands. Being seen to care about the environment today is good business practice. Certification marks are a vital part of this movement. The presence of certain certification marks like green seal, green leaf etc. on products shows the customer that the manufacturer has done something for the environment, be it reduce pollution by employing different methods of production or use eco friendly raw materials or used sustainable business practices. There are a great number of trade marks which suggest the possibility of being environment friendly the table below gives figures which show this:

Sr. No.	Trade mark consisting of word	USPTO	Community Trade Mark
1	Eco	2982	5861
2	Environment friendly	7540	212
3	Biodegradable	36360	87
4	Energy Saving	39678	2,032

Even in India a quick search conducted for the trade mark Green in classes 1 to 42 revealed 3,142 matching marks. However, there is today a rising trend to just label a product green without it having any environment friendly aspect. This is called green washing. Wikipedia describes “Greenwash” (a portmanteau of green and whitewash) as a term used to describe the practice of companies disingenuously spinning their products and policies as environmentally friendly, such as by presenting cost cuts as reductions in use of resources. It is a deceptive use of green PR or green marketing.” There are, however certain organizations who attempt to check this trend and oppose or expose it.

Where lies the boundary for Medical Patents

A case that could have far reaching effects has been filed against Myriad Genetics and the USPTO by a group of cancer patients and experts in the field of medicine. The suit has been filed in federal court in New York and concerns a patent covering two genes. The contention is that these genes which have been patented have been linked to breast and ovarian cancer and that the patent will inhibit research concerning these two genes. One side contends that gene patents stifle research on them and potentially harm the health of thousands of patients and the other side, that of the Biotech companies, contends that innovation would be smothered as the incentive to do it will be removed if such patents are not allowed.

Facebook Personalized User Names: Threat to Trade Mark Owners

Facebook, the immensely popular networking site announced recently that from the 13th of June 2009 its users will be allowed to register personalized user names, such that the username will be part of the URL for a particular page. Previously users were assigned unique identification numbers.

Now, if the username is searched on facebook or a good search engine, that particular user’s page will show. The usernames are being registered on a first- come- first- serve basis. This would thus enable third parties to register trademarks of others as their usernames on Facebook. What may happen for example is

that brand ABC owned by ABC Ltd. may be registered as a username by any person and if ABC were to be searched on a search engine, the page of the third party who has registered ABC as his username on Facebook would show in addition to ABC Ltd.'s separate site (if ABC Ltd. has any). This new Facebook feature would definitely lead to wide spread infringement of Trade Marks. In anticipation of the threatened abuse of this new feature, Facebook had set up a page on which owners of registered trade marks could list their marks with Facebook and thereby prevent third parties from registering the mark. Facebook has however removed this page and this option is no longer available.

The present scenario is that any one who wishes to dispute a username which has already been registered as a URL by another person, has to fill out a claim form whose link has been given below :
().

And in India the TVS vs. Bajaj battle continues to rage:

The Supreme Court ruled in favour of TVS allowing it to manufacture 'FLAME', the 125 cc bike using a twin-spark plug for combustion, on conditions that the bike will not leave its warehouse. Bajaj Auto. Ltd. had filed an infringement lawsuit against TVS for using the twin-spark plug for combustion, for which Bajaj holds a patent. A high court ruling last month allowed TVS to sell the bike; this judgment was challenged by Bajaj in the Supreme Court. TVS suggested that the bike be allowed to be manufactured and not be sold until the decision of the Court. This offer was accepted by the judges and Bajaj. The court has asked both parties to file a response within two months and the case is listed for hearing in the first week of August.

Feni gets GI

Goa has reason to celebrate as the Goan Feni gets Geographical Indication certificate. Here is a link of the product which have gained GI registration

Where lies the boundary for Medical Patents

A case that could have far reaching effects has been filed against Myriad Genetics and the USPTO by a group of cancer patients and experts in the field of medicine. The suit has been filed in federal court in New York and concerns a patent covering two genes. The contention is that these genes which have been patented have been linked to breast and ovarian cancer and that the patent will inhibit research concerning these two genes. One side contends that gene patents stifle research on them and potentially harm the health of thousands of patients and the other side, that of the Biotech companies, contends that innovation would be smothered as the incentive to do it will be removed if such patents are not allowed.

Facebook Personalized User Names: Threat to Trade Mark Owners

Facebook, the immensely popular networking site announced recently that from the 13th of June 2009 its users will be allowed to register personalized user names, such that the username will be part of the URL for a particular page. Previously users were assigned unique identification numbers.

Now, if the username is searched on facebook or a good search engine, that particular user's page will show. The usernames are being registered on a first- come- first- serve basis. This would thus enable third parties to register trademarks of others as their usernames on Facebook. What may happen for example is that brand ABC owned by ABC ltd. may be registered as a username by any person and if ABC were to be searched on a search engine, the page of the third party who has registered ABC as his username on Facebook would show in addition to ABC Ltd.'s separate site (if ABC Ltd. has any). This new Facebook feature would definitely lead to wide spread infringement of Trade Marks. In anticipation of the threatened abuse of this new feature, Facebook had set up a page on which owners of registered trade marks could list their marks with Facebook and thereby prevent third parties from registering the mark. Facebook has however removed this page and this option is no longer available.

The present scenario is that any one who wishes to dispute a username which has already been registered as a URL by another person, has to fill out a claim form whose link has been given below :

([HTTP://WWW.FACEBOOK.COM/COPYRIGHT.PHP?NONCOPYRIGHT_NOTICE=1](http://WWW.FACEBOOK.COM/COPYRIGHT.PHP?NONCOPYRIGHT_NOTICE=1)).

And in India the TVS vs. Bajaj battle continues to rage:

The Supreme Court ruled in favour of TVS allowing it to manufacture 'FLAME', the 125 cc bike using a twin-spark plug for combustion, on conditions that the bike will not leave its warehouse. Bajaj Auto. Ltd. had filed an infringement lawsuit against TVS for using the twin-spark plug for combustion, for which Bajaj holds a patent. A high court ruling last month allowed TVS to sell the bike; this judgment was challenged by Bajaj in the Supreme Court. TVS suggested that the bike be allowed to be manufactured and not be sold until the decision of the Court. This offer was accepted by the judges and Bajaj. The court has asked both parties to file a response within two months and the case is listed for hearing in the first week of August.