

Publicly Funded Patents & Technology Transfer- a review of the Indian Bayh-Dole Bill- NUJS- 12<sup>TH</sup> September 2009



## ■PATENTING & TECHNOLOGY TRANSFER- IIT KHARGPUR EXPERIENCE

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# IIT –KGP AT A GLANCE

- ESTABLISHED IN MAY 1950
- 500+ Faculty
- 9000+ students including researchers
- 31 schools/centres/departments
- Managed by a Board of Governors
- Annual budget 120 crores (25 million USD)
- Under the Ministry of Human Resource Development (MHRD) Govt. of India

# Research at a Glance

- Sponsored Research & Industrial Consultancy-division established in 1982
- Managed by Dean (SRIC)
- interface between funding agencies and the Institute
- To handle sponsored research projects and industrial consultancy assignments.
- 2007-2008, handled Rs. 126.34 crores (25+ million USD) from Government, private and international funding agencies/enterprises.
- Currently handling Rs 300 crores (50+ million USD)

# SRIC –clients

- Government Departments – e.g. DRDO
- Major Public Sector Corporations-Damodar Valley Corporation
- Private sector clients- notable ones – Google, Microsoft, GE, Tata Motors, Infosys, ITC, Reliance etc
- Research Areas span from Accelerated Life Testing to that of X-ray Crystallography

# The IP perspective

- *The Institute strongly believes that the intellectual property rights of a person are not only to be protected but also commercially exploited.*
- Policy statement -<http://www.iitkgp.ac.in/sric/ipr.php>

# Patent Scenario

Year	Filed	Granted
2007	6	38
2008	40	10
2009	31	4

# Licensing stats

Year	Number
2007	6
2008	40
2009	31

# Policy perspective

- The comprehensive IPR policy document for the researchers and staff are posted at <http://www.iitkgp.ac.in/sric/iprpolicy.html>
- Distribution of the Proceeds
  - Institute's share - 50%
  - Creator's share - 50%

# Capacity Building

- IIT Kgp is the first technology institute to start a school on IP specialization
- The Rajiv Gandhi School of Intellectual Property Law founded with a generous grant from Vinod Gupta Charitable foundation offers a three year LL.B programme in law with specialization in IP
- The entry is targeted for four year or more graduates from Technology, Science and Management

# IP Collaboration

- Academic tie up with George Washington Law School, University of Ontario, University of New South Wales
- Institutional collaboration with TIFAC, NRDC, Indian Patent Office, Ministry of Corporate Affairs, Govt of India
- Industry collaboration with Microsoft

# Back to Bayh Dole Basics...

- The IIT policy is in fact implementing Bayh-Dole framework
- The new bill if becomes an act will have no major impact
- The institute IP policy is driven by the aim of self sufficiency of funds to run the Institute than depending heavily of Government budget

# The impact outside IIT framework

- Unlike the developed world – Indian research for inventions and innovations is State funded
- In United States the federal government was sitting over 30000 patents which led to the Bayh Dole experiment

# To Bayh Dole or not to Bayh Dole

- 1. if these innovations and creations are not claimed as 'rights ' but placed in public domain, it will only help private players to freely commercialize this knowledge. This is also a free rider of a different variety of the publicly funded knowledge resources.
- 2. It will give a direction to applied research which will help in creating essential technologies which otherwise is imported at a huge cost and also at times is denied by the technology holders in other countries by their respective trade policies.

# To Dole or not to Dole

- 1. It will encircle the intellectual output of public institutions which are essentially funded by public resources-this will also fence the upstream research by shrinking the public domain space.
- 2. Thus the tax payers funding of the public research efforts to finally end up in paying the commercial players to get the benefits of the research –the institutional benefit is marginal in the business cycle

# The transplant issues

- To work out clear research exemptions provisions (aka-bolar provisions) among public funded research entities to enable upstream research
- To make provisions for open source or patent pooling routes other than conventional patent route
- Instead of thrust on commercialization – where the highest bidder wins –the thrust should be effective utilizations.

# The Transplant Issues;;

- Having Audit committees for monitoring tech transfers
- Inventor freedom clause for commercializing the invention
- Non-exclusive licence approach

# A Last Word

- *I do not want my house to be walled in on all sides and my windows to be stuffed. I want the cultures of all lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any.*
- *M.K. Gandhi*