ABSTRACT

Biotechnology is a boon to the mankind. Biotechnology involves application of technology on biological forms and processes for the human wellbeing. Research and development growth in this sector contributes a new count to Intellectual Property Rights system. The standard tests of patent law are an impediment for grant of patents to the biotech innovations. Failure in granting a patent hearten uncontrolled piracy of new inventions and the imaginative proprietors go through with great economic or financial losses because of low returns on their huge investments in the research. This review focuses on the current scenario of patenting in Biotechnology and pharmaceutical sectors worldwide and also about the Indian patenting laws and regulations and their contribution in global economy.

KEYWORDS: Patents, Intellectual Property Rights, TRIPs, Biotechnology.

INTRODUCTION

India is one of the world’s leading and major economies. The globally growing market of biotechnology and pharmaceutical industries play a major role in this economical development. TRIPs regulate the intellectual property rights issues of the discoveries and inventions from these industries. This always been a matter of concern between countries to follow these rules with mutual agreement. Many times, patenting cause controversies among countries and industries due to the specific rules and regulations of the nations (jurisnotes.com). Patenting is an important standard for measuring innovations and development in technology and research especially in biotechnology where exciting and important inventions have been made in recent years. Understanding Intellectual Property
Rights due to the globalization and TRIPs’s regulations and rules is a major challenge for a developing nation like ours (Chawla, 2005).

In India, patents and intellectual property rights were first time introduced in year 1856. These rules were then sanctified in 1911 as Patent and Design Act. In the changing political environment, Patent act of 1970 was introduced. Patent act of 1970 satisfies the globally accepted requirements for patenting as novelty, involvement of inventive steps, and industrial application but excluded the pharmaceutical and agrochemical products from being patented (Sharma et al., 2015). Several amendments were implied on Patent act of 1970 and its amended new form came into existence in year 2005. This act was in accordance with the WTO’s Trade related aspects of intellectual property rights or TRIPs. In agreement with these terms, Indian patent law instituted Section 3(d), which implies that a mere discovery of a new form of a known substance cannot be patented unless it is significantly more efficacious. Moreover, patents are given only for inventions and not for discoveries (Chawdhury et al., 2014).

TRIPs agreements required to make obligatory patent laws around the globe including all pharmaceutical and biotechnological inventions. In India, the existing patent laws were amended abided by with WTO’s TRIPs (Archana, 2013). TRIPs, agreement seeks to enforce US style patent laws in the nations worldwide and covers everything from pharmaceuticals to information technology software and human gene sequences.

The number of granted patents to the various institutions and organizations during year 1990-2002 revealed that chemical and pharmaceuticals were the leading industries in India which obtain the highest number of the patents in that decade (Malviya et al., 2010).

On international front, Patent office of USA, Japan and the European countries deals with the international filed patents. For Biotechnological inventions, patent office of US is a leading firm in patent filing due to the factors like “materialization of firms from the universities, venturing capital investments, and landmark rulings”. Patents granted in Biotechnology and pharmaceutical sector put in to a very significant part in the overall silhouette of developed economies.

Pharmaceutical and biotechnology patents in a country like India, possibly will be of restricted use to researchers in developed nations, “who find they may have to sell their drugs much
more cheaply than they do in the West, and more often by licensing them to the same Indian drugs companies that contest their patents” (www.biopharminternational.com).

Since R & D in biotechnology requires very huge investments and also they are time consuming. Although, granting Intellectual Property Rights (IPR) to an innovation is an effective tool to protect biotechnology inventions and to avoid biopiracy. Instead of this important role of IPR policies, there are no globally acknowledged guidelines for the management of IPR are available and a broad range of outlooks exists regarding the utility of IPR in the area of biotechnology.

REFERENCES