REPORT OF PRE-STUDY
ROUNDTABLE CONFERENCE ON

JAN 2021

# INVENTOR REMUNERATION ININDIA

BY

NIPO THE INDIAN IPR FOUNDATION







In India, only a small fraction of employees who invent, file for patent applications and hence while the organizations make significant profits, employee inventors are not remunerated sufficiently. Acknowledging the dire state of patent filing in India and taking forward the recommendations suggested by the **National IPR Policy** to find viable solutions, **NIPO** is collaborating with **KPMG** to conduct a study on the "Inventor Remuneration in India". The study will primarily focus on the need to incorporate inventor remuneration provisions and will suggest a viable model that may be adopted in line with the international best practices after discussions with Industry experts via webinars and interviews.

In furtherance of NIPO's goal to promote awareness among the Indian audience about the current patent filing scenario and encourage patent filings to promote invention NIPO conducted a **Pre-Study Round Table Conference** on "Inventor Remuneration in India" on 20th January 2021. The panel comprised of **Senior Representatives** from the Government, International, Academic, and Industry Sector.

#### INAUGURAL ADDRESS

#### Shri. Rajendra Ratnoo

IAS, Joint Secretary, DPIIT, and Controller General of Patents, Designs & Trademarks

Shri Ratnoo emphasised on the importance of inventions and inventors. He stated that mankind reaps the benefits of inventions which are a result of human intellectual ingenuity, creativity, and capability. Various fields like healthcare that have benefitted humans are attributed to inventors. The 'entire ecosystem of innovation is the inventor'. Thus, remuneration to these inventors is important to strike a balance between the creators and consumers of that IP.

Giving a brief overview of the **National IPR Policy, 2016, Shri Ratnoo** said that this policy aims to nurture the IP culture in the country, by guiding and enabling the creators and inventors to realize their potential for generation, protection, and utilization of IPRs. The policy recommended several measures and incentives for different stakeholders like MSMEs, MNCs and Inventors.

Talking about the initiatives taken by CPDTM, he said that a set of **Draft Model Guidelines**, related to National IPR Policy were developed by CPDTM. These were put up in the public domain in September 2019. However, the guidelines still await the feedback of all stakeholders.

Shri Ratnoo also mentioned various Schemes enacted by the Department of Promotion of Industry and Internal Trade (DPIIT) which help in the creation of a workable ecosystem for IPR.

Scheme for Facilitating Startups
 Intellectual Property Protection (SIPP)-

The objective of SIPP is to encourage and facilitate IPR protection by Start-ups and provides facilities to startups for filing and processing of their applications for patents, designs and trademarks.

 Modernization and Strengthening of Intellectual Property Office (MSIPO)-

The objective of MSIPO is to strengthen the capabilities of the Intellectual Property Offices in India.

 Establishment of Technology and Innovation Support Centers (TISC)

Talking about Inventor Remuneration laws in India, he stated that the Indian Patent Act contains specific provision no remuneration to inventors. As a result, only a small fraction of employees who invent, file for patent applications and hence while the organizations make significant profits. employee inventors are not remunerated sufficiently. Therefore, there is a need for standardized laws of inventor remuneration in India. He emphasised on the need for discussion on inventor's remuneration because Indian Patents Act. 1970 does not specify any provision in this regard and it is the employers who have the freedom to determine the inventor's remuneration.



#### Mr Sumantra Mukherjee

Director, Innovation and Intellectual Property, KPMG India

Mr Sumantra Mukherjee gave a background of the study that NIPO is undertaking in association with KPMG on Inventor's remuneration. He brought to light the disparity between the patent filings in India and the global IPR filings. Statistically, India contributes a minuscule amount in the global patent filings. Moreover, the filings by the global MNCs, academia, and the research organizations within India, the contribution of the Indian enterprises, MSMEs and startups are even lesser. Therefore, the study aims to identify the reasons behind the low rate of patent filings in India.

**Mr Mukherjee** further appreciated the impetus provided by the Government in form of putting up the National IPR Policy and other initiatives to encourage IPR filing and protection. He noted that there has been a substantial shift in the mindset of the Organizations wherein the focus on protecting IPR and capitalizing its benefits has increased.

**Mr Mukherjee** stated that Innovation is the key driver to the success of any business and therefore, the concentration should be on quality than quantity of the patent filings. Emphasizing this statement he concluded that the present study on Inventor's remuneration can act as a lever to pull up a quality increase in the patent filings.

## GOVERNMENT REPRESENTATION

# DR YASHAWANT DEV PANWAR PFC HEAD, TIFAC, MINISTRY OF SCIENCE AND TECHNOLOGY, GOVT. OF INDIA

Dr Panwar opened the discussion by citing the **Guidelines** of Ministry of Science and Technology, released in 2003, about the share of inventors under the Ministry, in the royalty that arises out of their patented invention. According to the guidelines, the granting institute has an option to own the patent, however, up to one-third of the royalty of the patent is to be given to the inventor and at least 25% must be earmarked for patent funds. The rest can be decided by the respective IP owners. These Guidelines also provide for options to the grantee institutions to own the IP rights in their names provided they adhere to the Guidelines.

The MST studied policies of around 32 institutions and their method of sharing the royalty income of the institutes. It was found that different industries have different IPR policies and the inventors share have been defined differently. The number range from 25% to 100% while some institutes had no provision for royalty sharing.

Different models of royalty sharing were also seen indifferent institutes some had a

fixed royalty/ revenue sharing policy while some had a floating model. Whereas some institutes had not clarified the royalty sharing model.

Variety of policies exist in different institutions, as a result, there is no harmonization in the same. The national IPR policy recommended the formation of standardised policy for all.

Quoting a study conducted in the UK which aimed to determine the motivations of scientist to invent. Dr Panwar said that the monetary incentives were at the number 7 while the first place was held by 'larger funding and international awards'. Thus, a balanced approached is required when deciding on any policies related to IPR, considering that monetary benefit is not the only motivating factors for the Despite this. Dr scientists. **Panwar** continued, monetary compensation must be given to the scientists as they are the real creators.

Concluding, **Dr Panwar** said that harmonization is the need of the hour and will immensely benefit the country.

#### DR DINESH PATIL DY. CONTROLLER OF PATENTS & DESIGNS, INDIAN PATENT OFFICE

Talking about the current state of domestic patent filings in the country, Dr Patil said that in 2019, out of 50,659 applications filed, around 20,000 patent applications were filed by residents and only 3690 were granted. Further, only 2053 patent applications were filed via the Patent Co-operation Treaty (PCT) which accounted for less than 1% of the global filings. Only 24% of patents filed in India in the last 13 years were by domestic companies, however, after the National IPR Policy, 2016, this

According to the WIPO Statistics, China is leading with the number of patent applications filed. However, there is a huge gap between the number of applications filed and the grants of patents. The mere filing does not mean that more innovations take place as the quality of the patent is also an important factor. This quality is reflected in the number of granted patents rather than the applications filed.

number has increased to 35%.

Stating the statistical fact of average 24% patents filed in India being filed by domestic applicants or the companies, Dr Patil then highlighted that in 2019-20 the figures have gone up to 35% on an average. He further explained the aims and objectives of the National IPR Policy. He said that the mission of the National IPR policy, 2016 is to stimulate a dynamic, vibrant, and balanced IPR system in India which can foster creativity and innovation. This will further promote entrepreneurship. enhance development. enhance access to healthcare, food security in the country. The main objectives of this policy are inter alia:

- To stimulate the creation of IPR in the country.
- To create a strong legal and legislative framework around IPR.
- To promote commercialisation of IPR.

Enlisting the initiatives taken by the Government to expedite the IPR ecosystem in the country, Dr Patil talked about the recent

amendments in the Patent Rules to ease and streamline the patent filing process.

The amendments included:

Reduced costs for filing of applications for startups and small entities. The cost of filing a patent application for a natural person, startups and small entities is 80% less than that of large corporations.

The provision for expedited examination for certain applicants and applications is also a way towards boosting the patent filing in the country. The female inventors, in particular, are benefitted from this provision.

Thus, the recent amendments in the Patent Rules have been affected to further improve the numbers of applications filed and granted in India.

Another initiative by the government is the SIPP Scheme. Under this, the government has empanelled certain patent facilitators who can be hired by the Startups and the fees of those facilitators will be reimbursed by the IPO. This further aims to encourage startups to file more patent applications.

The provision of 24X7 online application filing has further boosted the number of applications and up to 90% of the applications are filed online. A 10% rebate in patent fees is also given to the applicants who opt for this provision. The entire procedure of patent application right from filing to disposal has been made paperless in the Patent Office which further expedites the process.

Talking about Inventor Remuneration Dr Patil said that in most countries, including India if an employee has developed an invention in the execution of the employment contract, the invention (and the related patent rights) will belong to the enterprise. To avoid confusion certain employment agreements are signed between the employer and employee, determining the remuneration of patents.

Assenting with Dr Panwar, he said that certain guidelines are needed to harmonise this as India does not have a specific law that deals with inventor remuneration and certain standardization would benefit not only the inventors but also the country at large.

# INTERNATIONAL REPRESENTATION

#### **MR KIMITAKE ABE**

#### DEPUTY DIRECTOR, IPR DEPARTMENT, JAPAN EXTERNAL TRADE ORGANIZATION

Mr Kimitake Abe started the discussion by giving a background Article 35 of Japan's Patent Act which is also known as the Employee Invention System. He stated that in Japan the Employer-Employee relation and Employment-remuneration system is well defined and well regulated. Though when it comes to litigation, the litigious process undermines the employer-employee relation.

He gave an outline and purpose of Article 35 of the Japanese Patent Act (hereinafter referred to as the Act). Employee invention has been enshrined under Article 35 Section 1 of the Act as an invention which, by nature, falls within the scope of the business of the employer and is achieved by the act of the employee. The system provides for treatment of rights and for "Employee remuneration Invention". Meaning thereby, that the employer has the right over the invention of the employee (inventor) and in return gives remuneration to the inventor. But this system has been revised several times as per the needs of the society. The revisions also aimed at ensuring appropriate remuneration to the employees and guidelines to reduce friction between the employer and the employee.

Sharing one of the recent major revision of the System of 2016 which aimed at ensuring appropriate remuneration to the employees and enlisted guidelines to reduce friction between the employer and the employee, Mr Abe stated that the revision mainly included two aspects:

Firstly, under the revised System, the right to obtain a patent for the invention is with the employer from the beginning of such

invention based on an agreement in advance, unlike before the revision, where the employee had the initial right to obtain a patent for his invention and subsequently, the employer can acquire the rights from the employee. The revision aims to stabilize the intellectual property strategies of the corporation.

Secondly, the Guidelines for the process of determining remuneration for the invention has been established. The revision was much required because earlier, the provision stated that the employee is allowed to receive a "reasonable value for the invention" if his right to obtain patent has been succeeded by the employer. But the term "reasonable value for the invention" made the calculation of the remuneration unclear.

In addition to these revisions, the Act also prescribes that an employee would receive a "reasonable amount of money and other economic benefits". Enable flexible incentive measures to be taken per corporate strategies.

Give economic benefits other than money to protect the interests of inventors.

The Minister of Economy, Trade and Industry provides Guidelines for "reasonable amount of money and other economic benefits" by prescribing criteria for determining the benefit shall be developed with account taken of the following circumstances:





#### MR KIMITAKE ABE...

- Discussion between the employees and the
- employer
- Disclosure of criteria to the employees
- Considering opinions from the employees

The purpose of the revision is "to ensure appropriate profit for employees and enhance incentives for investors". Clarifying the rules of procedures ensures in reducing compensation disputes between employers and employees in Japan.

Substantiating the revision, Mr Abe gave the example of the Mr Shuji Nakamura vs NICHIA CORPORATION [1] also known as the Blue Light Emitting Diode Incident (2001) where Mr Shuji who was the employee of the NICHIA Corp. invented blue light-emitting diode for the company and filed a suit against the company for compensation for holding the right to a patent of the invention and reasonable compensation. The Court calculated an exorbitant amount of 60 Billion Yen, making it a problem of excessive compensation under the garb of "reasonable compensation" for the Corporations. To deal with such ambiguities, the present revision was made.

In conclusion, he mentioned the benefits Japanese Corporations and their respective employees have gained from this revision and the ability it has to promote inventions.

[1] 907 F.Supp.2d 866

#### MR PRESTON RICHARD

#### **EUROPEAN AND INDIAN PATENT ATTORNEY, BARDEHLE PAGENBERG (MUNICH)**

Mr Richard gave a brief history of the laws in Germany regarding inventor remuneration. In 1920, by a collective bargain, the employees in Germany filed cooperative agreements, demanding share in their inventions. During World War Two, there was a provision to incentivise inventors and companies to invest more and support the war output from the companies. After the war, this provision was made into an ordinance and the German Employees Inventions Act, 1957 was passed. This law was formulated to remedy the conflict between the employment laws (the invention belongs to the employer) and the patent law (the invention belongs to the inventor).

This law applies to all employees from the private and public sector. However, it does not apply to self-employed persons(freelancers) or directors of a company. Its jurisdiction is based on the employment contract as well as the place of work. In case of a dispute, the parties must appear before the arbitration at the **German Patent and Trademark Office**,

**German Patent and Trademark Office**, before going to the court.

The Act covers the service inventions, which can be defined as an invention made during the term of employment which:

- resulted from the employee's tasks in employment;
- is based upon the experience or activities of the employer.

Talking about the process up under the Act, Mr Richard said that when the invention is conceived, the employee has to report it to the employer. If the employer doesn't claim the invention then it becomes free and the employee gets the right.

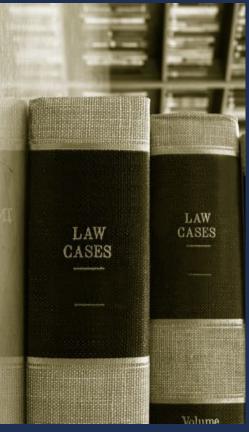
However, if the employer claims the invention then the rights of the invention pass to the employer and the employee have the right to compensation. The employer is also obliged to file national IP protection. The employer can release the invention or file it in foreign countries or he can abandon the invention.

The calculation of compensation or remuneration is a detailed process in Germany. The basic formula is that the compensation is the product of the value of the invention and the contribution factor.

#### Compensation = Value of the Invention x Contribution Factor

The contribution factor is based on a point system. The point system is given to each employee inventor for their contribution to the problem and the solution to it. It ranges from 1 to 6 points with 6 being the largest contribution and 1 being the smallest. The position of the inventor in the company is also a relevant factor. If the inventor has a lower position in the company, he will get higher points and vice versa.

The value of the invention is based on a licensing analogy which is the product of the turnover and licensing rate.





#### MR PRESTON RICHARD...

Thus, if the turnover is higher than the reduction in the licensing rate is lesser.

The value of the invention is based on various analogies.

- Licensing Analogy- this is a product of the turnover under licensing rate. Just the turnover is higher than the reduction in the licensing rate is lesser.
- Benefits Achieved- if the product is not a single invention, rather an improvement, the benefits achieved by the invention above those of the previous invention are considered.
- Licensing revenues- if the invention was licensed (but not by the employee), then the licensing revenues are also factored in.
- Blocking patents- if the patent is used by the employer to block a competitor's patent, then it is also included when calculating the value of the invention.

Concluding, Mr Richard said that the major benefit of this system is that the employees are compensated and given an incentive to invent. The detailed guidelines, processes and decisions expedite the process further. However, there is a high obligation on the employers to keep a track of the entire process for every invention. There is a scope for improvement in the process of calculation of remuneration as it is very cumbersome for the employers to partake every year. Transnational inventions where multiple inventors are included, it becomes difficult to ascertain remuneration as to who will avail the benefits of the German contract and who will not.

### ACADEMIC REPRESENTATION

#### DR RAVINDRA GETTU DEAN ICSR, IIT MADRAS

Dr Gettu adding to the previous speakers who gave their insights about Government's initiatives facilitating the patent filing and remuneration emphasised on how the IITs, Central Universities and other academic institutions do not face any concerning the distribution of issue the remunerations. For these institutions. the incentive goes beyond the monetary aspect as patents are used in promotion and as awards. The Sponsoring agencies give these institutions the rights to monetise the patents.

Licensing revenue is also shared substantially with the patents directly or indirectly. By indirect, meaning thereby that the inventors are funded to carry on research and undertake new projects. Therefore, academic institutions have more flexibility for the distribution of remuneration. Though he suggested that it is good to have some National guidelines so that everyone can fall in line and large discrepancies between the institutions can be avoided.

Raising a major concern, he mentioned how international filing of patents can be expensive as a result of which many good patents remain unprotected internationally.

Concluding his speech, he suggested that Government can come up with subsidies in form of CSR (Corporate Social Responsibility) which will help the inventors file for patents and protect their inventions in different parts of the world at an affordable price.



#### DR PARIKSHET SIROHI ASSISTANT PROFESSOR, FACULTY OF LAW, UNIVERSITY OF DELHI

**Dr Sirohi** opened the discussion by highlighting the recent changes in the IP Policy in India, including the National IPR Policy,2016, which have benefitted the inventors.

- The filing fees have been brought down for MSME.
- The new NIDs have been set up in 4 places in the country and their status has been elevated to the Institute of National Importance.
- The new policy for Geographical Indication (GI) has been introduced.
- India has acceded to WIPO's international treaties.
- Recently IPO has entered into a Pilot Programme on Patent Prosecution Highway in conjunction with the Japan Patent Office.

This has led to a drastic improvement in the global innovation index in India. Several countries all over the world including Hungary, Switzerland, and Israel have statutory provisions concerning service inventions. However, there are no laws regarding the same in India. As a result, employees have to rely on the **Indian** 

#### **Contract Act.**

Service inventions the inventions are created as а consequence of the employment or in connection with the employer-employee relationship. It includes all the public service-related activities or any other activity which requires the input of the employer.

The employee inventions are classified into 3 types: free inventions, mix inventions, and service inventions.

Some countries recognize free inventions, but India isn't one of them. The free inventions belong to the employee.

In India, the salary given to the employees is considered enough remuneration for the invention. The problem with legislation for inventions Is the conflict of different laws especially in the case of MNCs.

Inventions in MNCs are done by teams of inventors. Some inventors are a citizen of one country and residents of another.

This raises the pertinent question that should the service invention be governed by the laws of the country of the employer or the country where the inventor takes place or the country where the employee inventor resides or enjoys citizenship.

This remains unanswered in the employment contract and causes complications when the invention is created. The Indian Contract Act is a grey area in this regard. Whether the invention which has not been created considered as already transferred or do they belong to the employer.

The inventor may be in the process of developing something and then joins a company question of ownership remains vague in such scenarios.

An administrative problem also arises due to this. The agreements which are legally enforceable need to be stamped. However, employment contracts are not drafted on the stamp paper and are prima facie unenforceable.



There are several studies which show that almost 80% of the patent applications filed are in the category of service inventions. Dr Sirohi said that thus the inventors, employers, and IP practitioners should arrive at a consensus on an international basis. There is a need for standardised IPR laws in India.

There is no provision for any financial reward to the employee inventor. Unlike many countries like UK France Germany, the problem in India is that the patent filing is not the task of the employee inventor, as a result, he doesn't know the nuances of the same.

According to Dr Sirohi, the UK model of inventor remuneration laws can be most suitable for the Indian scenario. **Section 39 of the UK Patent Act** says that the invention made by the employee belongs to the employer if it is made during normal duties. **Section 40** of the act also says that employees to receive additional remuneration if the patents of outstanding benefit. Even in case of compulsory licensing the inventor has compensated appropriately.

Concluding, Dr Sirohi said that if there is a provision like this in India, it will not only help boost the morale of the inventors but also help increase a greater number of inventors and increase the quality of patents filed in the country. Thus, it will help the inventors, the companies, and the nation on the whole.

## INDUSTRY REPRESENTATION

#### MR BALWANT RAWAT HEAD OF IP, MERCEDES-BENZ R&D INDIA LTD.

Mr Rawat began his address by emphasizing on the national IPR policy which has given impetus to innovation with slogans like Creative India Innovative India. He noted that it is imperative to distinguish inventive India and innovative India. Meaning thereby, that the focus should be on the quality of patent filings instead of their quantity. The aim behind this is to promote innovation, give employment opportunities, economic development and growth of the company along with the inventors.

There has been a huge improvement considering the percentage of domestic inventors filing but there is a lot more that needs to be done in the innovation space concerning incentive mechanism at both stages of invention and innovation.

Looking at some leading industries, it can be observed that the percentage of workforce filing patents is as less as 20 % in certain cases. Therefore, they are doing more than the regular salary that they are getting which deserves some kind of appreciation monetary or non-monetary. Considering the percentage of applications which are commercialized, converted into innovations or success, it is less than 10%. It can be said that mere 1-2% of the inventors fall under this ambit of 10%. But these inventors are the ones making a difference to realise the value for the company. He further stated that the problem arises here when it comes to incentivising these inventors.

Sharing his experience of interacting with

the inventors working for Research and Development in different nations, he mentioned that he experienced a strong correlation in the engagement, motivation of inventors from the countries having laws for inventor's remuneration.

The maturity and the quality of inventions are way higher. The inventor's creation stays with the company and also helps in realising the invention and can be commercialized because bigger awards are associated with the commercialization or the usage stage. If the invention is successful, inventors get these awards and the company also benefits.

Relating these circumstances with India, Mr Rawat said that India by far does not have any laws related to inventor's remuneration and every aspect of it is governed by a contract between the employees and employers which is also mostly a one-sided affair because employees don't have a say in drafting those contracts, that are, instead are fixed as per company's policy.

There is a need to regulate these policies because patent filing is not just the company's specific but it also helps in the growth of the nation and the knowledge and motivates inventors so that one can expect higher quality and quantity of patent applications.

It is time to consider this prospectus or the least that can be done is to recognise the right to remuneration so that the inventor community in India are motivated and they are considered as a stakeholder making it a win-win situation.

#### MR ARSHAD JAMIL CHIEF IP COUNSEL- GLOBAL HEAD IPR, BIOCON LTD.

**Mr Jamil** reiterated the fact that there is no law in India to grant compulsory remuneration to inventors. However, Biocon, as a pharmaceutical company has an inhouse policy regarding compensation to scientists.

He said that some incentive must be given to the inventors, either in the form of monetary benefit, or any other. The applications, grants and the subsequent practice of the patents are directly linked to the inventors/ scientist's increments or bonuses or inhouse recognition.

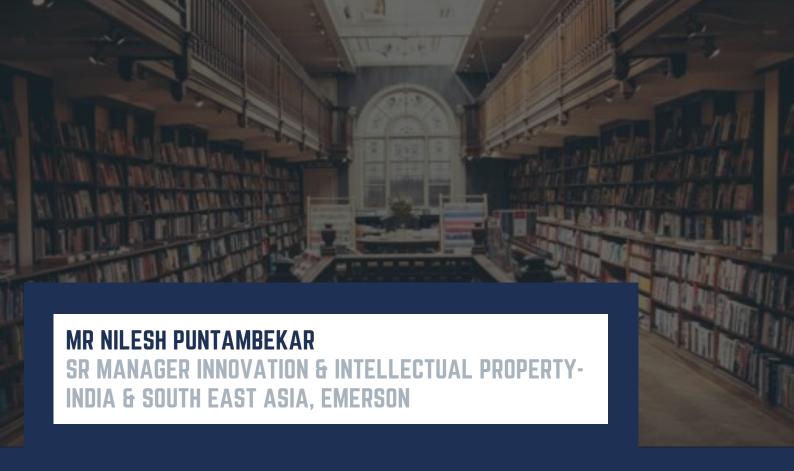
Thus, this policy is quite beneficial to Biocon. However, if the scientist leaves the employ of the organisation, they don't get the benefits which get accrued due to their invention. The organisation also provides certain reward schemes and incentives to the inventors, but they don't give the part of the profit from the invention as it is not feasible for the company.

# The inventors must be paid as per the invention and their position in the company.

#### MS GABRIELE MOHSLER VP PATENT DEVELOPMENT, <u>ERICSSON</u>

Ms Gabriele Mohsler started her address with a background of the German legislation on Inventor's remuneration. Though the legislation provides a cumbersome method to calculate remuneration, it provides a fair and equal remuneration to the inventors irrespective of their location. She stated that employees in addition to their salaries must be allowed remuneration for their inventions. But the requisites for allowing such remunerations should be determined by the companies. Suggesting a few of them, she said a three-step approach can be looked forward to. Paying a significant payment at the time of filing a patent to the inventors, when further filings are made in other countries, the inventors may get an additional amount and a constant check on the legal aspects with respect inventors' remuneration.

She emphasized on the fact that the inventors must be paid as per the invention and their position in the company. Higher the position, lower the remuneration as the incentives will stimulate the inventors at the lower level to come up with better inventions.



**Mr Puntambekar** opened by saying that the government has introduced various initiatives for the generation to inventors, but organizational or internal motivation is also necessary.

If the inventor is incentivised then they can create better inventions or better IP, which will, in turn, increase the monetization of the said IP. This will finally benefit the company. Not only will this help the inventors or companies, but it will also be a way towards India's aim of becoming an intellectual superpower.

Most companies pay some reward recognition to the inventor, but this is usually at the initial stages of the patent filing (disclosure, filing, patent grant). However, very few companies provide remuneration when the patent is commercialized.

If the commercial profit is shared with the inventor, it will act as a long-term incentive. Thus, better motivation, the better quality of IP and better monetization are interlinked.

# Q&A SESSION

Question 1: In case of inventions made by employees of Multi-national Organizations where inventions are created across countries by inventors having residence in one country and citizenship in another, laws of which country in such a case shall govern inventions?

Answer 1: Shedding light on the question Mr Rawat said that the remuneration laws applicable of place where contract takes place, irrespective of the citizenship of the inventor. It is imperative to note that what matters is that an inventor needs to be an employee of a specific company and legal entity of a country to avail the benefits of the remuneration laws.

Further, **Dr Panwar** drew a distinction between the residence and citizenship concerning the Indian Patents Act. He said that Indian Patents Act specifies resident of India and not a citizen of India, therefore, any inventor residing in India needs to first file for patents in India and before filing for patents internationally, permission from the Indian Patents Office has to be taken.

Question 2: When a particular invention has multiple inventors, it is difficult to establish the evidence of inventorship especially for giving remuneration. What would be the most feasible solution to this issue?

**Answer 2: Dr Panwar** giving his insight on this question, stated that it is a matter of internal coordination amongst the Research Team where they have to knit and decide how they want to share the remuneration based on the respective inventive contribution.

Adding to this, **Ms Mohsler** mentioned that remuneration in case of multiple inventors may be distributed equally or in proportion to their contribution but this has to be indicated by the inventors. Distribution is important because re-filing for patents might lead to their invalidity.

**Dr Sirohi**, answering to this question, said that as inventors often work in teams, this problem of distribution of remuneration is bound to happen and that is why the organizations should find an equitable way out.





Question 3: Why do employees or inventors working in the R&D unit of established firms or organizations over technology-based start-ups? What can be probable reasons?

Answer 3: Mr Puntambekar answered that in start-ups inventors or inventors have indecision. Start-ups, being a lucrative option, there are risks associated. There is ambiguity related to the success of the start-ups, whether they will be able to successfully sustain in the market or will wind up in mere few years is the level of uncertainty attached. It is just the opposite with the well-established organizations. Therefore, employees driven by monetary incentives might prefer to be working safely in the R&D units of recognized organizations unlike employees who are passionate beyond monetary compensations and are susceptible to risk may opt for start-ups. There is no straightjacket formula to ascertain who will prefer what as both the kind of organizations have immense opportunities and it ultimately comes down to choices and preferences of the respective employees. He gave an example of the Indian scenario where the freshly graduated engineers prefer to take the first job offered as there the extensive competition in the employment arena.

Question 4: Inventors receive remuneration at each stage of the patent cycle, however, after filing the patent, strong objections were raised by the examiner, leading to the abandonment of the patent. Won't this be a double burden for the company?

**Answer 4:** Answering the question **Ms. Mohsler** said that the risk of patentability must be borne by the company and not by the inventors. In case the invention is excellent, but the company doesn't file it for business reasons.

Question 5: Isn't employer ownership more efficient than the contrary, as it eliminates the possibility of hold-ups by the employee inventor, consequently making it more attractive for the firm to invest in R&D by the employer?

Answer 5: Mr Gettu answered the question affirmatively. He said that it is much more efficient and productive for the company to be the owner. Giving the example of IIT Madras, he said, that the IIT is the owner but the inventor is recognising the author of the invention.

Adding to it, **Dr Panwar** said that the patent provision makes it mandatory for the name of the inventor to be published in the patent certificate. form 8 is filed for the same.

**Ms Mohsler** said that the inventors are proud to have been named inventors and the recognition acts as an incentive as well.



Question 6: Given that employment clauses of government research organisations like CSIR, ICER etc. mandate that all the rights to the patents filed by those employees vest with the organization, what is the feasibility of having a nationwide inventor remuneration policy?

**Answer 6:** Answering the question **Dr Panwar** said that in case of specific organizations like CSIR, ICER, individual IPR policies govern their functioning including the inventor remuneration. The harmonization of policy cannot be mandated across all institutions because all are autonomous. Certain ranges can be defined, and all institutes can adopt them. There was an attempt to enact legislation in this regard, but it wasn't successful.

Assenting with Dr Panwar, **Dr Gettu** said that IIT Madras too has an Institute policy, however, it has to fall in line with the national policy and should be approved by the governing bodies.

#### Question 7: Different countries have different methods to calculate the inventor's remuneration. Which method, in your opinion, would suit India?

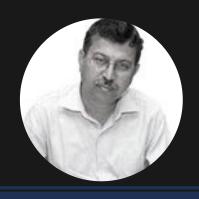
Answer 7: Dr Sirohi emphasized on the German model for payment of inventor's remuneration but having said that he also considered that the British system relates to Indian scenario more than the German System. Thus, we can adapt the British system with a little bit of tinkering here and there.

Seconding the opinion of Dr Sirohi, Mr Richard mentioned how detailed the German System is and that is where the problem arises. As such a detailed system makes it a cumbersome process leading the organizations to let the inventor detail know everv about the remuneration process like organization's turnover, exact method and so on. This makes it a complicated process. An alternative to this can be providing the inventors with a lumpsum amount but again giving a lump sum amount may also have its demerits. Comparing the German System with the British System he stated that the results ultimately are the same using the respective models but the difference is in the processes where Germany has a cumbersome process, Britain follows a reasonably simpler method of calculation.

Agreeing with Mr Richard, **Ms Mohsler** said that if the method of calculating remuneration is too detailed and complicated it adds a lot of burden on the company.

Adding to the answer **Mr Puntambekar** said that instead of yearly or regular payments alarm some amount to pay to the inventor is much more feasible both for the company and for the inventor it is the method of calculation of the remuneration.it also reduces the chances of disputes between the employer and employee.

Agree with Mr Puntambekar, Dr Panwar said that the direct Income cannot be attributed to one patent in the case of a company utilising patent for its production. However, there are other situations where this might not be the The method of calculating domination also depends on institution and their policies for example DRDO he has a clear policy which grants licence with without any royalty. no royalty income is accrued by DRDO. In such a situation giving a lump sum amount would be a better solution.



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