

PATENTING OF MICRO-ORGANISMS IN INDIA

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With the advent of industrialization, came along globalization. It gave an opportunity to the individuals to come up with their own creations of mind. This was so because, unlike before, the resources available were plenty and there was much more exposure to technology which facilitated the growth of new ideas. With a growth in new ideas and inventions, there was felt a need for a law to protect the creations of mind. And for the very same reason we had the evolution of the concept of intellectual property rights. By virtue of this, then came a law to protect the creations of mind that conferred rights and protections to the inventor. Intellectual Property Rights (IPR) has many aspects like copyrights, trademarks, patents etc., but this paper exclusively deals with patents. Even more specifically it deals with patenting of microorganisms. The topic has raised many question with respect to the subject matter being a mere discover hence rendering it not patentable, and other questions relating to bio piracy. In the year of 2002, with an amendment in the Patents Act, microorganisms were made patentable and this was attributed to India being a party to TRIPS (Trade Related Intellectual Property Rights), was mandatorily required to grant patents on microorganisms. In this paper, the author aims to provide a definite structure which can be used to grant patent for microorganisms, thus making the law more specific. The author has sought the help of European legislation and American landmark judgments, along with referring to the success achieved in fields of medicine(drugs) and plants after the grant of patents. This paper, seeks to fill the lacunae in the patent law of India with respect to patenting of microorganisms as the existing law which is in its infancy needs an elevation on the basis of certain international laws.

Keywords: Patents, Microorganisms, Indian Patent Act, 1970, European Patent Convention, U.S. Case Diamond v. Chakarbarty, Bio-technology, Bio-piracy.