

INTELLECTUAL PROPERTY RIGHTS IN HOMEOPATHY***Omprakash Patel, Lavali Vishwakarma and Madhuri Patel**

India.

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ABSTRACT

The intellectual property law is there to save the original work, and reward the inventor of homeopathy drugs. Internationally and nationally many organizations have supported the homeopathic pharmacy sector to flourish for well-being. Traditional knowledge has been compiled in the form of a database to make it easily available for all users.

INTRODUCTION

The patent system was created to reward creativity, promote technical advancement, and promote the diffusion of ideas. There are several reasons that have been used to justify the restriction on the free flow of ideas that the awarding of a patent involves, including natural rights, moral reward, encouragement of creativity, and incentives for invention. Common discussion between different countries suggests that patents are important for an investor to be able to recover its investment in Research and Development.

Samuel Hahnemann, a German physician, followed Hippocrates principle who is also known as the creator of Medicine, argued that diseases could be treated both by the 'principle of contraries' (*contraria contrariis curantur*) and by the 'principle of similars' (*similia similibus curantur*) and invented homeopathy in 1796. Many proponents of the future medical schools adopted these ideas, which led to the emergence of homeopathy. With the help of this specialty, patients can benefit from a safe, affordable practice that enables them to comprehend and treat the binomial disease in accordance with a global and integrative approach while also valuing various facets of their uniqueness. A pharmacological substance that, in high concentrations, can cause signs and symptoms of the disease to occur in a healthy person is prescribed to a sick patient using the homeopathic therapeutic method in diluted form and extremely small dosages.

The definition of a medicine, for conventional, herbal, or homeopathic medications or food supplements says any compound, or combination of substances, that can be used in or administered to humans or animals with the goal of either restoring, correcting, or modifying physiological functions through the exertion of a pharmacological, immunological, or metabolic action, or of making a medical diagnosis (Merz, 2018). The complex debate over the need for alternative therapies and drugs is negatively impacted by a lack of understanding of many homeopathic principles and how they function, particularly when it comes to rules governing the use of this specialty in the public sector, for instance.

The early 19th century saw the introduction of homeopathy in India. It first thrived in Bengal before spreading over all of India. The method was initially extensively used by amateurs in the civil and military forces, among other places. The first college dedicated to studying homeopathy was founded in 1881 and is known as the "Calcutta Homeopathic Medical College." This organization played a significant part in the spread of homeopathy in India (Ghosh, 2010).

In order to control the study and practice of homeopathy, the Indian government recognized it as one of the country's official medical systems in 1973 and established the Central Council of Homeopathy (CCH). According to its premises, homeopathy cannot be reduced to therapy or to a single diagnostic method because it is a unique specialty that includes a complex philosophical system in addition to a medical and pharmacological system. In 2005, India introduced product patent protection for pharmaceuticals in compliance with the TRIPS Agreement. The product patent protection policy has the potential to limit the development of generic pharmaceuticals, which could have significant effects on people's access to reasonably priced medicines. India, which was aware of this prospect, likewise passed novel legislation as public health measures to prevent the issuance of dubious patents and to support high standards of patentability. Indian pharma is regarded as an affordable, high-quality medicine in the pharmaceutical sector. Homeopathy is referred to by many different terms, such as complementary, integrative, non-conventional adjuvant, alternative medicine, etc. Homeopathy is considered a therapeutic strategy for treating human sickness. It is well known that the four pillars of the homeopathic paradigm for treating illnesses are the idea of therapeutic resemblance, drug testing on healthy volunteers, prescribing medicines especially suited to the patient, and using dynamited (very diluted) treatments. The World Health Organization (WHO) states that the terms 'complementary' and 'alternative' are used to refer

to a range of healthcare practices that are not incorporated into a nation's widely used healthcare system or ingrained in its culture. The WHO has promoted the development of homoeopathic projects in recent decades to increase its accessibility to public health systems globally because it is thought to be an effective and secure alternative, increasing clinical resolution, lowering costs, and lowering the iatrogenic side effects of conventional pharmacological therapy.

Distorting influence of IPRs

Patentable remedies and all other remedies have split into "two solitudes" - treatments that can be patented, on the one hand, and substances, methods, or therapeutic systems that cannot be patented, on the other (eg, biological remedies, such as vitamins and minerals; herbal remedies and extracts; homeopathic remedies; remedies from other cultures, such as Chinese or Native American; and physical therapies, such as massage).

When the international community has looked at knowledge in developing nations, it has mostly concentrated on two issues: First is the protection of "traditional knowledge" from being misused by industrial country interests, and second, the control of "biopiracy" on the part of industrial country interests, which is the exploitation of the biodiversity found in developing countries to create products for agriculture, healthcare, and other uses without paying the "traditional communities" who first discovered the value of such genetic material the appropriate compensation (Kyle and Qian, 2014). Our extensive knowledge of plant compositions and therapeutic uses found in ancient manuscripts and treatises has drawn the attention of foreigners, who have trademarked many of these uses under the guise of innovation despite the fact that they are already in the public domain and hence are not patentable. This has occurred because such knowledge is not readily available in a manner that is understandable by patent examiners outside. Because the process for retrieving and appealing patents is exceedingly expensive and time-consuming, which we can ill-afford, this has hurt our national interest.

Homeopathy and Indian Systems of Medicine create their medications mostly from plant ingredients. Although about 500 of the 8000 plants said to have therapeutic qualities are actually used. The majority of these plants are grown naturally in the wild as part of the local vegetation, and the supply chain is informal. Due to overexploitation, unsustainable practises, biodegradation, and population pressure, this traditional foundation is dwindling. There are limitations on wild resource harvest and procurement. Because of the trade's secrecy and

exploitation, unsustainable techniques are used in the pursuit of profit. Many species of these plants have either fully vanished or turned endangered due to the lack of a scientific system for collecting and promoting regeneration. The availability and quality of raw materials are ongoing issues for the industry. There are reports of widespread drug adulteration and substitution in the almost complete absence of a reliable supply of high-quality raw drugs and a system for enforcing laws.

Homeopathic drug and Traditional Knowledge data management

To preserve traditional information about illness prevention and treatment, the Ministry of Health and Family Welfare created a digital repository of traditional knowledge in partnership with the National Institute of Science Communication, the Indian Systems of Medicine, and Homeopathy. The government wants to preserve this ancient knowledge so that it will be available to all people and to prevent it from being "poached" by foreign companies looking to patent indigenous Indian materials. Many species of these plants have either fully vanished or turned endangered due to the lack of a scientific system for collecting and promoting regeneration. The availability and quality of raw materials are ongoing issues for industry. There are reports of widespread drug adulteration and substitution in the almost complete absence of a reliable supply of high-quality raw drugs and a system for enforcing laws. The structure of the Indian Traditional Knowledge Resource Classifications is comparable with the International Patent Classification and contains information on 5000 subgroups (IPC). By enabling patent examiners to access essential information on traditional knowledge in a properly classified forum, Traditional Knowledge Resource Classifications is improving the quality of patent examination and also check incorrect patents made based on Indian traditional knowledge (Fredriksson, 2022).

Homeopathy status in the world

According to a 2017 survey by the World Intellectual Property Organization (WIPO), China, United States, Japan, South Korea, Europe, India, Russia, Canada, and Australia top the list of regions or nations that invest the most in patents globally, that took many disciplines into account. Additionally, when comparing the results of the current study with those reported by Enel in 2019, who listed the major nations that published articles on homeopathy, we can see that the five countries with the highest scientific productivity (United Kingdom, United States, Germany, India, and Brazil) are also among the countries with the most patents in this industry globally. When looking at the different categories of patent applicants, we

discovered that independent inventors are the most prevalent in the homeopathic area. Researchers that fall into this category may be independent or affiliated with a small institution or business. The smallest filing and maintenance fees that are associated with this type of patent application typically influence the decision to file patents as an individual inventor rather than a formal body. Most of the homeopathic formulation patents that have been submitted through the PCT system involve new active ingredients, delivery methods, medicinal dosage forms for topical and oral usage, and cosmetic goods. The patents contain formulations intended for both humans and animals, and the principal medical functions have to do with boosting anti-inflammatory activity or mending the immune system. Homeopathic remedies for the treatment of skin cancer, depression, and cigarette addiction were also discovered. Clinical case reports and/or pre-clinical and/or clinical investigations are presented in the majority of patents.

CONCLUSION

Although homeopathy has been acknowledged as a medical speciality, it is still uncommon at colleges. Due to the fact that homeopathy is still relatively unstudied, there are fewer patents. On the public network, this trend is anticipated to intensify. The government has repeatedly stated that there is a need to stop the long-standing neglect of these systems in our healthcare strategy because they provide a wide range of preventive, promotive, and curative treatments that are both efficient and affordable. These systems include Ayurveda, Homeopathy, Siddha, Unani, Yoga, and Naturopathy. Financial advantages and concessions that are accessible to the modern pharmaceutical business have been guaranteed to the Indian system of medicine sector, together with an increase in budgetary support. The government has a clear understanding of the prospects presented by the rebirth of interest in homeopathy and other Indian Systems of Medicine in India and abroad. Over 200,000 traditional medicine formulations on Ayurveda, Unani, and Siddha are included in the new database, which was created jointly by India's Council of Scientific & Industrial Research (CSIR) and the Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha, and Homeopathy (AYUSH), totaling 30 million pages. These translations are available in the Traditional Knowledge Digital Library (TKDL), which enables USPTO examiners to look through thousands of years worth of accumulated Indian traditional knowledge. The TKDL also includes translations from these sources, which were originally written in Hindi, Sanskrit, Arabic, Persian, and Urdu, into French, German, Japanese, and Spanish. Homeopathy has been practiced for more than two centuries, but because it is based on alternative paradigms that

threaten the status quo, it is still shunned by modern scientific reason. In India nowadays, only licensed, registered homeopaths are permitted to practice homeopathy. Homeopathy currently ranks third in popularity among medical treatment modalities in India, behind allopathy and Ayurveda.

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