

Japan Seeks Patent Term Extension at RCEP

Push for Stringent IPR Norms

Regional Comprehensive Economic Partnership - a 16-member grouping of 10 Asean nations and 6 others that have FTA with it

GROUPING ACCOUNTS FOR 40% OF THE WORLD TRADE

Japan, backed by other Trans Pacific partnership (TPP) countries push for TRIPS + IPR norms, such as

Patents grant for incremental innovations not allowed under Indian patent laws (section 3(d) of Indian Patents Act)

Patent term extension if lost out on that time while obtaining drug marketing approvals

INDIA'S STAND- Not to go beyond TRIPS provisions in RCEP

India pushing for Protection of Traditional Knowledge

RCEP pact seeks to include goods, services, investments, competition and intellectual property

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New Delhi: Japan is pressing for an extension of monopoly rights by up to five years for a patented drug if the innovator firm loses out a chunk of its patent term during the process of gaining marketing approval from a drug regulator, according to the country's draft text submitted on Wednesday as part of the ongoing negotiation at the Regional Comprehensive Economic Partnership (RCEP).

RCEP is a proposed free trade agreement among the 10-member Association of Southeast Asian Nations and Australia, China, India, Japan, South Korea and New Zealand. The current round of talks is ongoing in Greater Noida.

According to government officials, Japan is being backed in its efforts by Australia, New Zealand, Malaysia and Singapore and other fellow countries in the Trans Pacific Partnership (TPP), another proposed regional free trade agreement under which these countries are negotiating with the US. India is not budging from its stated position of

not going beyond its global commitments made under Trade-Related Aspects of Intellectual Property Rights (TRIPS), and is instead pushing for protection of traditional knowledge.

Japan is also pushing for patents to be granted for incremental innovations, even when they don't show any improved efficacy over an existing invention, the latest Wednesday draft reviewed by ET shows. This is a direct attack on Section 3(d) of India's patent law, which forbids patenting of frivolous innovations dubbing them attempts at 'evergreening'.

This clause was upheld by the Supreme Court last year, when it turned down Swiss drug innovator Novartis' plea for patenting its cancer drug Glivec.

Groupings of public health activists and patients holding protests in Delhi against such provisions being put forth at the RCEP, warn that giving in to such intellectual property provisions could severely restrict access to low-cost medicines for people in developing countries.

"Japan, a close ally of the US

in TPP, is aggressively negotiating for patent term extensions and lower patentability criteria in RCEP as well. This can extend monopoly protection beyond global commitments and create new kinds of monopolies" said Leena Menghaney, regional head for South Asia at Doctors without Borders Access Campaign, an international public health group. This could threaten India's role as the pharmacy for developing countries at a time when Doctors without Borders alone procures 80% of its global requirement of HIV medicines from here, she added.

Another patent expert said: "I know of a Japanese pharmaceutical giant which was granted a patent here for a TB drug in 2011. They are yet to seek marketing approval from the drug regulator. Delay in getting marketing approval can be from the company's side as well. Also such indirect attempts at patent linkage (linking patent grant process to drug marketing approval system) will put unwarranted pressure on the drug regulatory authorities to hasten their process of approval."

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