

# Protecting patents: India worst in world

Ranking by arm of US Chamber of Commerce; study says all BRICS countries lack the required drive to enforce patents; Indian law & SC rulings rapped

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**D**espite the current decade being called India's "decade of innovation", the country has been ranked at the bottom of the list of 25 countries in terms of its intellectual property (IP) environment. According to the 2014 International Intellectual Property (IP) Index by the US Chamber of Commerce's Global Intellectual Property Center (GIPC), India's percentage score has fallen from 25 per cent in 2012 to 23 per cent.

"The continued use of compulsory licences, patent revocations, and weak legislative and enforcement mechanisms raise serious concerns about India's commitment to promote innovation and protect creators," the report said. The index, titled *Charting the Course*, gives a snapshot of the IP environment of 25 countries.

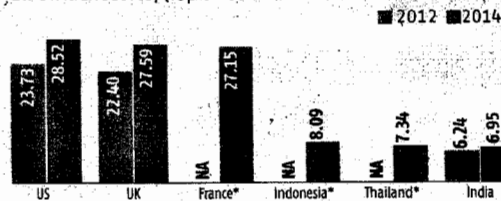
David Hirschmann, president and Chief Executive Officer of GIPC, said: "Nations — big and small — are wrestling with domestic legislation, judicial proceedings, criminal proceedings, and other processes regarding IP. These are all opportunities to chart a course toward a strong IP environment." He said along with these opportunities, some countries are taking backward steps on IP. "India, which again finished last in the second edition of the Index, continues to allow for the deterioration in its IP climate."

The US is the highest-ranking country, followed by the UK and France. The five BRICS economies — Brazil, Russia, India, China, and South Africa — continue to face serious challenges.

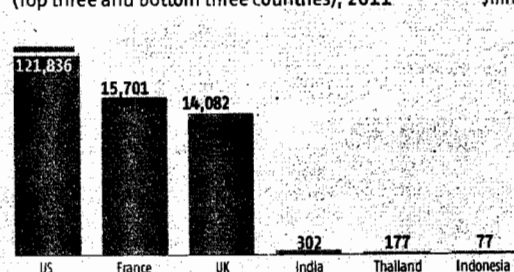
According to the report, several factors led to the deterioration of the IP environment in India. For instance, in the biopharmaceutical sector, "Indian policy continued

## POOR PROPERTY MANAGEMENT

GIPC index scores, (Top three and bottom three countries)



Charges for the use of IP receipts  
(Top three and bottom three countries), 2011



Source: World Bank

to breach international standards of the protection of innovation and patent rights, revoking patents generally accepted around the world and announcing that other patented medicines are being considered for compulsory licences." The report also mentions the Supreme Court's April 2013 ruling on the patentability of the anti-cancer drug, Glivec, that the drug does not meet patentability standards imposed by the Indian Patent Act.

India scored poorly in the areas of patents, copyrights, enforcement, membership and ratification of international treaties (in which it scores zero), among others. "The continued use of compulsory licences, revocation of patents, and weak legislative and enforcement mechanisms across all IP rights raise serious concerns about India's commitment to promoting innovation," the report said.

Most high-income economies — with notable exceptions such as Canada, New Zealand, Chile, and the United Arab Emirates (UAE) — have robust national IP environments in place. The weakest national IP environments are in the lower-middle-income countries such as Vietnam, Indonesia, Thailand, and India.

Some of the developments, which are expected to improve the IP climate globally include the fact that currently 12 countries — the US, Japan, Australia, Peru, Malaysia, Vietnam, New Zealand, Chile, Singapore, Canada, Mexico, and Brunei Darussalam — are negotiating the Trans-Pacific Partnership Agreement, which is expected to set a higher standard in the Pacific region, and help in protecting and enforcing IP. Moreover, the US is currently negotiating with the European Union on a trade and investment partnership

## LOSING GROUND

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agreement, which is supposed to promote competitiveness, growth, and jobs.

China continues to show strength in the patents arena, earning the highest score of all middle-income countries and even outperform high-income countries such as Chile and the UAE. While progress is being made, China's overall IP environment continues to see challenges, particularly with regard to trademark and trade secrets as shown by its overall score.

According to a 2013 study by the European Patent Office and the Office of Harmonization for the Internal Market on the impact of IP rights and IP-based industries on the EU economy, IP-intensive industries generated almost 26 per cent of all direct and 35 per cent of indirect jobs. The report also found that IP-intensive industries produced almost 39 per cent of EU-wide gross domestic product (GDP), worth almost €5 trillion.

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