

**GOVERNMENT OF INDIA
SCIENCE AND TECHNOLOGY
LOK SABHA**

UNSTARRED QUESTION NO:2699

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CSIR Bid to Contest Patents

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Will the Minister of SCIENCE AND TECHNOLOGY be pleased to state:

- (a) whether the Council of Scientific and Industrial Research's Traditional Knowledge Digital Library (CSIR-TKDL) has contested a consumer goods giant's attempt to patent an ancient Indian formula;
- (b) if so, the details and the present status thereof;
- (c) whether the CSIR-TKDL has mentioned various formulas from the ancient Indian books that authenticate the consumer items and if so, the details thereof, item-wise;
- (d) whether the Government has taken any steps to get those formulas patented; and
- (e) if so, the details thereof and the steps taken by the Government to get Indian system of medicines patented to avoid such incidences in future?

Answer

MINISTER OF STATE FOR SCIENCE AND TECHNOLOGY AND EARTH SCIENCES

(SHRI Y.S. CHOWDARY)

(a) Yes, Madam.

(b) The Council of Scientific and Industrial Research (CSIR) through the Traditional Knowledge Digital Library (CSIR-TKDL) has successfully contested an attempt made by consumer goods giant M/S Colgate-Palmolive Company (United States of America) to patent a Mouth-wash formula containing herbal extract. Prior art evidences from TKDL provided that the claims made in the patent application filed by M/S Colgate-Palmolive Company were not novel and the use of claimed constituents of the mouth wash under reference was already mentioned in India's traditional medical literature such as Ayurveda and Unani. The details of the patent applications and the TKDL evidences are given in Annexure 1.

(c) The patent application filed by M/S Colgate-Palmolive Company claimed an oral composition comprising: a combination of extracts comprising an extract from *Myristica fragrans* and a natural extract other than the extract from *Myristica fragrans*. The TKDL provided the prior art evidences from the following ancient Indian books of Ayurveda and Unani systems of medicine on the use of claimed constituents of the mouth wash under reference:

- (i). Carak Samhita (Ayurveda);
- (ii). Ayurveda Sara samgrah (Ayurveda);
- (iii). Rasa Yoga Sagar (Ayurveda); and
- (iv). Qaraabaadeen Najm-al-Ghani (Unani).

(d)&(e) CSIR has played a major role in protecting India's rich traditional knowledge concerning healthcare by creating the Traditional Knowledge Digital Library (TKDL), in collaboration with Department of AYUSH. TKDL currently contains information concerning 2.93 lakh medicinal formulations contained in India's traditional literature on Ayurveda, Unani and Siddha, available in public domain, in five international languages, i.e., English, Japanese, Spanish, French and German. Wrong patents on India's traditional knowledge, such as that on 'Haldi', 'Neem', 'Basmati Rice', were being granted at International Patent Offices since India's traditional knowledge was not available to patent examiners at International Patent Offices and even in case of availability it being in local languages like Sanskrit, Urdu, Tamil etc., was incomprehensible for the patent examiners. TKDL breaks the language and format barrier. To facilitate the protection of country's traditional knowledge, access to TKDL has been provided to International Patent Offices but only under TKDL Access (Non-disclosure) Agreement. Since 2009, TKDL Access Agreement has been concluded with European Patent Office (EPO, 34 Member States), US Patent & Trade Mark Office (USPTO), Canadian Intellectual Property Office (CIPO), IP Australia, Japan Patent Office (JPO), United Kingdom Patent and Trademark Office (UKPTO), German Patent Office (GPO) and Chile Patent Office. Examiners of these International Patent offices can utilize TKDL only for search and examination of India's prior art with respect to the Patent applications filed in the area of traditional knowledge, but cannot make any third party disclosure.

As per the Patent law, for a patent to be granted three conditions are essential namely Novelty, Inventive Step and Utility with respect to the claims made for getting the patent.

In addition to the TKDL Access Agreements, CSIR-TKDL Unit is submitting pre-grant oppositions along with prior art evidences from TKDL, on a regular basis. The evidences through TKDL safeguard the sovereignty of the country's traditional knowledge and thus protect the traditional knowledge from being misappropriated in the form of patents on non-original innovations.

TKDL is thus the only tool available in preventing misappropriation of India's traditional knowledge at International Patent Offices. Several countries are approaching CSIR in getting TKDL replicated, for protecting their country's traditional knowledge. Some key achievements of the TKDL are:

- (i). Due to prior art evidences available in TKDL, till date since 2009, India has been successful in preventing grant of wrong patents at International Patent Offices in more than 200 cases without any cost and in few weeks/months of time. The patent applications cancelled/ withdrawn by the applicants, due to TKDL prior art evidences, have been found to be filed mainly by the MNCs of developed nations on India's Traditional Medicinal Knowledge. Reference is made herein to the earlier revocation wherein APEDA

had to spend about ` 7 crores towards legal fees only, for revocation of few claims of wrong patent granted on Basmati rice; and
(ii) Similar outcome is expected in another 1500 cases wherein Pre-grant opposition along with prior art evidences from TKDL have been filed by CSIR-TKDL at International Patent Offices.

TKDL is recognized globally as a model for protection of traditional knowledge.
