



## **INTELLECTUAL PROPERTY AND COVID-19: RECONSTRUCTION OR DECONSTRUCTION?**

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### **ABSTRACT**

The COVID -19 pandemic was a catastrophe which took the world by surprise. The outbreak undoubtedly triggered multiple social, political, economic and environmental impacts globally sparing no countries from its effects. The situation resulted in an unprecedented closures and quarantines throughout the world and its impact was naturally reflected on the legal sphere as well. Intellectual Property regime was one of the areas of law where the effect of the pandemic made a significant impact. This article aims to analyze the possible impacts caused by the change in circumstances warranted by COVID 19 pandemic on the Intellectual Property regime. The extra ordinary circumstance created by the pandemic warranted the collaborations of various countries and organizations to come up together in the larger public interest. Initiatives were made between organizations giving leniencies on exclusive rights on the IP's to fight the pandemic. The COVID-19 pandemic affected Intellectual Property regime from a transactional, litigation and regulatory perspective. It made a massive impact not only on the Intellectual Property rights which were already protected but also on the IP's which were on the process of getting the protection. The authors have also analysed the effect of coronavirus on the IP regime in India. All countries and firms are frantically trying to abide by the principles of

social distancing. Even though most of the fields of human life have come to a halt, IP regime continues to move forward. The authors have attempted to put out few suggestions which they believe would positively contribute to the present situation.

### **INTRODUCTION**

The COVID -19 pandemic was a catastrophe which took the world by surprise. The outbreak undoubtedly triggered multiple social, political, economic and environmental impacts globally sparing no countries from its effects. The situation resulted in an unprecedented closures and quarantines throughout the world and its impact was naturally reflected on the legal sphere as well. Intellectual Property regime was one of the areas of law where the effect of the pandemic made a significant impact. This article aims to analyze the possible impacts caused by the change in circumstances warranted by COVID 19 pandemic on the Intellectual Property regime.

The extra ordinary circumstance created by the pandemic warranted the collaborations of various countries and organizations to come up together in the larger public interest. Initiatives were made between organizations giving leniencies on exclusive rights on the IP's to fight the pandemic.

### **IMPACT OF COVID-19 ON IP**

The COVID-19 pandemic affected Intellectual Property regime from a transactional, litigation and regulatory perspective. It made a massive impact not only on the Intellectual Property rights which were already protected but also on the IP's which were on the process of getting the protection.



### LITIGATION PERSPECTIVE

The effects of COVID-19 had a significant impact on IP from the litigation perspective. Since most of the countries were forced to go into a lockdown, the court proceedings were disrupted in most of the countries. The courts were forced to give leniencies on the conventional rigid procedures and managed the court operations by relying greatly on technological support.

About the court operations during COVID-19, the European Patent Office (EPO) cancelled the opposition proceedings and hearings until 14 September 2020 unless the hearing is held by Video Conferencing with the parties' consent under the pilot project<sup>1</sup>. The European Patent Office (Board of Appeals) has resumed oral proceedings in-person but only to a limited extent. Video Conferencing is available for the conduct of oral proceedings with the parties' agreement. This is a big step change with respect to EPO proceedings since EPO is usually so rigid and particular with respect to the in-person attendance of the parties.

In France, the trials have generally been cancelled at the outset of the pandemic. Since the beginning of May, Video Conferencing was allowed on a case-by-case basis. Italy issued a stay on all non-urgent court operations till 11 May 2020 at the outset of the pandemic<sup>2</sup>. The court operations have now resumed. However, the hearings are now taking place either in the form of the exchange of short written notes or through video conferencing. In the Netherlands also,

the oral hearings, if required, are done by means of video conferencing. The courts of United Kingdom took a slightly different response as opposed to the courts of other countries in the sense that from the outset of the pandemic, the courts in the UK rejected most of the applications for the stay of hearings as the court was of the opinion that as many hearings as possible should go ahead and should go ahead remotely. Although most of the applications, hearings and trials were done remotely via video conferencing, the courts, from the beginning of the pandemic, was encouraging the parties to continue with the litigation and not to postpone the hearings. However, there were instances where trials and hearings were postponed. The most notable being the case of *Huawei Technologies Co Ltd. v. Conversant Wireless Licensing SARL*<sup>3</sup>.

Thus, we can see that the courts in various countries are managing to different extents depending on whether remote hearings are adopted or not. It is also important to note that in-person hearings are not happening in most of the countries barring a few exceptions.

### EMERGENCY MEASURES BYPASSING IP RIGHTS

One of the fundamental reasons behind the intellectual property rights protection is to facilitate the creators with a legally permissible quasi-monopoly, at least for a specific period of time, over their novel inventions so as to enable them to reap the benefit for their invested time, money and efforts over that particular innovation.

<sup>1</sup>European Patent Office, available at: <https://www.epo.org/news-events/covid-19.html>, (Visited on 18/07/2020).

<sup>2</sup><https://www.engage.hoganlovells.com/knowledgeservices/news/covid-19-ip-update-impact-on-litigation>, (Visited on 18/07/2020).

<sup>3</sup>*Huawei Technologies Co Ltd. v. Conversant Wireless Licensing SARL*, UKSC 2019/ 0041.



The COVID-19 pandemic warranted the governments across the world to procure essential equipment and medical supplies which will benefit the patients regardless of any possible backstops. Even now, there is a growing need for ventilators and medical equipment in many countries.

If the situation persists, many governments will be forced to take measures to ensure that the equipment or products that will benefit the health of the patients can be procured without any delay by the governments or by third parties authorized by the government including the products that are patented, without the fear of patent infringement proceedings. This is where emergency measures bypassing the IP rights come into the picture.

Provisions enabling the government to take emergency measures to bypass the IP rights can be seen in the IP laws of most of the countries. A classic example of this is the Crown Use Provisions in the UK Patents Act, 1977. Section 55 to 59 of the UK Patent Act stipulates the Crown Use Provisions. These provisions permit the government department or a person authorized by the government to do otherwise infringing acts without the consent of the patent proprietor. Section 55 provides that this power can be used by the government or any person authorized by the government. It applies at all time but it is supplemented further by section

59 during periods of emergency. Section 59 is very wide in its scope and expressly includes within its ambit the use of Crown Use Provisions for securing supplies or services essential to the life/well-being of the community<sup>4</sup>. It is very important to note that even though the compensation for crown use may be agreed upon by the parties, there are circumstances under section 55(3) of the Act where the crown may occur without any compensation being made to the proprietor of the patent<sup>5</sup>. The most recent application of these provisions was made this year in the case *IPCom GmbH v. Vodafone*<sup>6</sup>. In this case, the Court held that an express authorization to work the specific patent is not required to bring Crown Use as a defense for infringement. All that is required is a written authorization identifying the relevant act to be carried out<sup>7</sup>.

Similarly in the wake of the outbreak of the pandemic, Germany made amendments to the German Act on Prevention and Control of Infectious Diseases (*Infektionsschutzgesetz - IfSG*) proposed by the Federal Ministry of Health (*Bundesgesundheitsministerium-BMG*) in March 2020. These amendments have been enacted by the Act on the Protection of the Population in Case of an Epidemic Situation of National Significance (*Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite*)<sup>8</sup>. The new act gives over-arching powers to the federal

<sup>4</sup> Section 59 (1) (b), 59 (1) (c), UK Patents Act, 1977, available at: <https://www.legislation.gov.uk/ukpga/1977/37/section/59>, (Visited on 17/07/2020).

<sup>5</sup><https://www.gov.uk/guidance/manual-of-patent-practice-mopp/section-55-use-of-patented-inventions-for-services-of-the-crown>, (Visited on 17/07/2020).

<sup>6</sup>*IPCom GmbH v. Vodafone*, [2020] EWHC 132 (Pat).

<sup>7</sup><https://www.gov.uk/guidance/manual-of-patent-practice-mopp/section-55-use-of-patented-inventions-for-services-of-the-crown>, (Visited on 17/07/2020).

<sup>8</sup>Update on Patent Related measures in Germany in view of Corona Pandemic, available at: <http://patentblog.kluweriplaw.com/2020/04/02/update-on-patent-related-measures-in-germany-in-view-of-corona->



government in the event of an epidemic like COVID-19.

The German Patents Act had an emergency provision for ‘use orders’ under section 13 of the Act which categorically says that the effect of the patent will not apply if the federal government orders that the invention shall be applied in the interest of public welfare<sup>9</sup>. However, this provision was not used for decades by the Federal Government. In a significant turnaround, Section 5(2) of the new legislation enables the Ministry of Health to issue ‘use orders’ for patents according to section 13 of the German Patents Act during an epidemic situation of National Importance<sup>10</sup>. Undoubtedly this newly introduced provision will have an effect of limiting exclusive use of a patent and considering the timing of the amendment it is beyond any doubt that this was introduced as a response to COVID-19 outbreak.

Similarly, Article 31 of the TRIPS Agreement also permits the use of patents without the authorization of the patent holder in cases of national emergency or circumstances of extreme urgency<sup>11</sup>. It is true that emergency provisions of this nature are used rarely by the governments. However, if the existing circumstance caused by the pandemic persists over a considerable time, it may bring on a pressing need on the governments to implement these provisions.

[pandemic/?doing\\_wp\\_cron=1595014604.8378500938415527343750](https://www.reuters.com/article/health-coronavirus-israel-drug/israel-drug/israel-approves-generic-hiv-drug-to-treat-covid-19-despite-doubts-idINKBN21623L), (Visited on 18/07/2020).

<sup>9</sup> Section 13, German Patents Act.

<sup>10</sup> Section 5(2), IfSG.

<sup>11</sup> Article 31(b), TRIPS Agreement.

<sup>12</sup> Israel approves generic HIV drug to treat COVID 19 despite doubts, available at: [https://in.reuters.com/article/health-coronavirus-israel-drug/israel-approves-generic-hiv-drug-to-treat-](https://in.reuters.com/article/health-coronavirus-israel-drug/israel-approves-generic-hiv-drug-to-treat-covid-19-despite-doubts-idINKBN21623L)

Until now the only instance of the government using such powers bypassing the IP rights to fight the COVID-19 pandemic happened in Israel where the government approved the licensing of the generic version of a patent-protected drug ‘Kaletra’ for treating coronavirus patients<sup>12</sup>.

### TRANSACTIONAL PERSPECTIVE

One of the most significant impacts of COVID-19 on transactional IP was a rise in collaborations. COVID-19 has prompted a large number of stakeholders to collaborate as well as speeding up of the pandemic response measures. This allows stakeholders to share their resources, costs and risk. Involving both private and public sectors, these collaborations happened in a wide range of areas including vaccines, antigen/antibody testing, medicines etc.

For example, in United States, Johnson and Johnson Company is collaborating with Biomedical Advanced Research and Development Authority (BARDA), which is part of the Office of the Assistant Secretary for Preparedness and Response (ASPR) at the U.S. Department of Health and Human Services, for developing a vaccine candidate against COVID-19<sup>13</sup>. Similarly, in United Kingdom, AstraZeneca, GSK and the University of Cambridge have formed a joint collaboration in setting up a new testing laboratory in the wake of COVID-19

[covid-19-despite-doubts-idINKBN21623L](https://www.inj.com/johnson-johnson-announces-a-lead-vaccine-candidate-for-covid-19-landmark-new-partnership-with-u-s-department-of-health-human-services-and-commitment-to-supply-one-billion-vaccines-worldwide-for-emergency-pandemic-use), (Visited on 18/07/2020).

<sup>13</sup> Johnson and Johnson, available at: <https://www.inj.com/johnson-johnson-announces-a-lead-vaccine-candidate-for-covid-19-landmark-new-partnership-with-u-s-department-of-health-human-services-and-commitment-to-supply-one-billion-vaccines-worldwide-for-emergency-pandemic-use>, (Visited on 18/07/2020).





outbreak. The facility is exclusively set up as a response to the pandemic outbreak<sup>14</sup>. Internationally, we witnessed multiple collaborations such as COVID-19 Tools Accelerator, which is launched by the World Health Organisation (WHO). This brings together several organisations who work together to develop new drugs to fight against Coronavirus. WHO also launched a technology pool which would make it easier to access effective vaccines, medicines and other health products to combat against COVID-19.<sup>15</sup>

Also we witnessed a large number of licensing of the IP rights by big players in the pharmaceutical sector to smaller players to ensure mass productivity of medicines and anti viral drugs which will help to control the pandemic. A classic example for this is the issue of voluntary licensing by Gilead Sciences Inc, a pharmaceutical company in USA, to the pharmaceutical companies of India on the production of the anti viral drug Remdesivir. Remdesivir is a promising candidate for a future drug against Coronavirus. Gilead Sciences came up with this drug. It has decided to enter into voluntary patent licencing agreements with four Indian pharmaceutical companies. This allows them to manufacture and sell the Remdesivir drug. This licence is royalty free till a vaccine is found for Covid-19. As far as Remdesivir is concerned, Gilead has made it royalty free agreement, thereby ensuring affordable and easy availability of the drug. Outsourcing production and manufacture of

the drug to India through voluntary licencing is essential as India is known for its capacity for mass production and export. This will help to meet the global demand. This helps us to understand that temporary waiving of IP rights can lead to easy and affordable availability of medicines which would be commonly beneficial. Since voluntary licencing does not deprive the patent holder's their rights, they can always increase the prices at a later point in time and thereby cover the losses that they may suffer now.

Another noteworthy development in the IP regime from a transactional perspective was the initiative of Open COVID Pledge. The Open COVID Pledge calls on organizations around the world to make their patents and copyrights freely available in the fight against the COVID-19 pandemic. The Pledge was developed by the Open COVID Coalition, an international group of scientists and lawyers seeking to accelerate the rapid development and deployment of diagnostics, vaccines, therapeutics, medical equipment and software solutions in this urgent public health crisis<sup>16</sup>. Founding adopters of the pledge includes technological giants like Facebook, Amazon, Microsoft etc. These companies have pledged to make their intellectual property rights available free of charge for the fight to end the COVID 19 pandemic and in minimizing the impact. This opens a massive opportunity to the smaller companies to effectively utilize the resources of these big companies, without any fear of infringement to fight against the pandemic.

<sup>14</sup>Astrazeneca, available at: <https://www.astrazeneca.co.uk/media-press-releases/2020/astrazeneca-gsk-university-of-cambridge-collaborate-to-support-uk-national-effort-to-boost-covid-19-testing.html>, (Visited on 18/07/2020).

<sup>15</sup> World Health Organization, <https://www.who.int/news-room/detail/15-05-2020-who-and-costa-rica-preview-technology-pooling-initiative-to-ensure-access-to-covid-19-health-products-for-all>, (Visited on 17/07/2020).

<sup>16</sup><https://opencovidpledge.org/>, (Visited on 18/07/2020).



## REGULATORY PERSPECTIVE

From a regulatory standpoint, the major change brought by COVID-19 in the IP regime was with respect to the deadlines for filing of various IP related matters. Since lockdown was inevitable in most of the countries, the IP organizations in most of the countries were forced to give relaxation to the deadline for the filing of various IP related matters.

The United States Patent and Trademarks Office (USPTO) issued the first official notice on March 2020 terming the circumstances caused by the outbreak of the pandemic as an “extra ordinary situation” and granted general relief with respect to payment of late fees in patent and trademark correspondence<sup>17</sup>. This was followed by the enactment of Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which authorized the United States Patents and Trademark Office and the Register of Copyrights to “toll, waive, adjust, or modify any timing deadline established by the relevant statutes”<sup>18</sup>. Deriving the power from the CARES Act, the United States Patents

and Trademark Office brought two new directions waiving the Patent related and Trademark related timings respectively under the CARES Act<sup>19</sup>.

The European Patent Office provided an extension for all time limits which was originally between March 9 and April 30 to May 1. The time period for payment of renewal fees has been extended till 31 August 2020<sup>20</sup>.

In UK, the UK Intellectual Property Office termed days on or after 24<sup>th</sup> of March 2020 as ‘interrupted days’. Until an official notification comes as to the effect of marking the end of the ‘interrupted days’ period, the deadline for patents, trademarks and designs are extended<sup>21</sup>.

Similar extensions, waivers or relaxations were provided by most of the countries and organizations.

## EFFECT OF CORONAVIRUS ON IP IN INDIA

The effect of coronavirus can be felt with great intensity across all continents, countries, states and individuals. It has not spared any economy. Its impact can be

<sup>17</sup> United States Patent and Trademark Office, Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Coronavirus Outbreak, (Mar. 16, 2020), available at [https://www.uspto.gov/sites/default/files/document/s/coronavirus\\_relief\\_notice\\_03162020.pdf](https://www.uspto.gov/sites/default/files/document/s/coronavirus_relief_notice_03162020.pdf), (Visited on 18/07/2020).

<sup>18</sup> H.R.748 (CARES Act) § 12004(a), available at <https://www.congress.gov/bill/116th-congress/house-bill/748/text#H266E718EF3A847BC8A0F1C51BBA85CF8>, (Visited on 18/07/2020).

<sup>19</sup> USPTO, Notice of Waiver of Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act (Mar. 31, 2020), available at [https://www.uspto.gov/sites/default/files/document/s/Patents\\_CARES\\_Act.pdf](https://www.uspto.gov/sites/default/files/document/s/Patents_CARES_Act.pdf); USPTO, Notice of Waiver

of Trademark-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act (Mar. 31, 2020), available at <https://www.uspto.gov/sites/default/files/document/s/TM-Notice-CARES-Act.pdf>, (Visited on 18/07/2020).

<sup>20</sup> European Patent Office, Coronavirus (COVID-19) – continually updated information (April 1, 2020), available at <https://www.epo.org/news-issues/covid-19.html>, (Visited on 18/07/2020).

<sup>21</sup> UK Intellectual Property Office, Coronavirus important update on IPO services (Apr. 2, 2020), available at <https://www.gov.uk/government/news/coronavirus-important-update-on-ipo-services>, (Visited on 18/07/2020).



witnessed in all facets of life. As an attempt to contain the rapid spread of COVID-19, majority of the nations have resorted to the system of lockdown. The basic principle of social distancing found the apex position in all societies. The field of Intellectual Property also has not been left alone by this pandemic. However the authors would like to point out the possibility of a bright future for intellectual property during the post-coronavirus period, as business' holding intellectual property would be ready to licence their existing IP and use the proceedings to add to their financial reserves.

In *Intellectual Property Attorney's Association and Anr v Controller General of Patents, Designs and Trade Marks and Anr*<sup>22</sup>, an order was passed by the Delhi High Court extending the period of limitation for any process in relation to intellectual property matters and its filings which became due on or after 15<sup>th</sup> March, 2020 until further notice. This comes as a huge relief for various stakeholders across India and even abroad, who would have otherwise found it extremely difficult to meet the due dates for IP filings. However, if a matter is of utmost urgency, then the concerned party may apply to the Court and it will be taken up without further delay.<sup>23</sup>

The Controller General of Patent and Trademark issued a public notice on March 23<sup>rd</sup> in relation to filing of documents at the Indian Trademark Registry and it states that

an applicant can request for extension to submit all necessary documents at the Registry under Section 131 of Trademarks Act, 1999 and Rules 109 and 110 of Trademarks Rules, 2017.<sup>24</sup> However with regard to fresh applications, since there is a statutory limitation prescribed, there is no extension of time granted.

All patent hearings which were to be done in person for matters in relation to Patents and Designs on or before April 15, 2020 made efforts to convert it to Video Conferencing. The Indian Patent Office further provided that delay in re-submitting of documents would be condoned under the Patents Act, 1970 only if an application is made by way of a petition for such condonation.<sup>25</sup> This is done by the Controller General of Patents, Designs & Trademarks. Such extension would be available only for one month from the date when Covid-19 outbreak ceases to exist. This is according to Rule 6(6) of Patents Rules, 2003.

The Supreme Court held by way of a notice dated 23<sup>rd</sup> March, 2020 that was also made not mandatory for lawyers and litigants need not come physically and submit documents relating IP matters.

There is a rise in applications to the Controller General of Patents, Designs and Trademarks for patents and trademarks such as 'Corona Safe', 'COVID Sanjeevani' and so on. There was even an application for a

<sup>22</sup>*Intellectual Property Attorney's Association and Anr v. Controller General of Patents, Designs and Trade Marks and Anr.*, W.P.(C) No. 3059/2020 (Writ Petition).

<sup>23</sup>Taxguru, available at: <https://taxguru.in/corporate-law/intellectual-property-rights-vis-a-vis-covid-19.html>, (Visited on 19/07/2020).

<sup>24</sup> Ministry of Commerce and Industry, Trade Marks Registry, Public notice, 16/03/2020, available at:

[http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Public-Notice\\_adjournment.pdf](http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Public-Notice_adjournment.pdf), (Visited on 19/07/2020).

<sup>25</sup> Intellectual Property India, Public Notice on hearing and submissions of documents relating to proceedings under Patents Act, 1970, available at: [http://ipindia.nic.in/writereaddata/Portal/News/668\\_1\\_PUBLIC\\_NOTICE.pdf](http://ipindia.nic.in/writereaddata/Portal/News/668_1_PUBLIC_NOTICE.pdf), (Visited on 19/07/2020).



downloadable computer security software with the name as 'Corona'.<sup>26</sup>The reason behind firms adopting the name 'Corona' is because of its widespread popularity among the consumers. This is a word which would be in the eyes of the consumers at least during 2020 and it is good opportunity for business houses to capitalise this popularity.

In order to comply with the social distancing principles, the all private and public firms have resorted to remote working or 'work from home' methods. There is a rising concern for protection of IP rights in this case. Proper adoption and compliance with data privacy laws is essential for businesses, especially during a pandemic situation. Business owners are advised to revise their existing agreements and add new clauses in relation to remote working and better protection of IP rights.

### **SUGGESTIONS**

Patent pool is a system where two or more patent holders come together and jointly make available their patents. Often for the manufacture or production of various products different patented technologies would be needed. The manufacturer will have to take efforts to individually negotiate with different patent holders, which would prove to be cumbersome and expensive. Patent pools help to make these patents available at one single place. A third party only needs to get a licence from these patent holders, the terms of which could be easily negotiated. It is an efficient method to make available drugs against COVID-19 in an affordable manner. Patent polls have proved to useful in several circumstances, for example, in the manufacture of planes for the United States of America during World War I. it also

promotes innovation and research and development.

Incentivising IP holders is of utmost importance in the current scenario. This can be propelled through government negotiations. This must however be according to the principles of just, fair and reasonable. The government may even collaborate with these innovators. The ministry AYUSH may provide them with compensation or determine a reasonable value for their product through discussions with them.

IP right owners and patent applicants must check whether existing patents, trademarks or copyright registrations are to be kept and if not, whether it should be sold, licenced or abandoned. This helps in managing costs. Selling or licencing such intellectual property will help in enlarging financial resources. IP firms could also ensure optimum level of productivity even through work- from- home methods by ensuring efficient remote access facilities.

The need of the hour is to provide for an open environment for innovation and pool of knowledge. The appeal of the Indian Civil Society to the Government of India is on this line of reasoning. Existing law and policies can be utilised by the government to regulate prices and ensure smooth availability of anti-Covid-19 drugs. The government is urged to make the research initiatives taken by various teams such the Department of Biotechnology and Biotechnology Industry Research Assistance Council (BIRAC) COVID-19

<sup>26</sup> CNBC TV18, <https://www.cnbctv18.com/legal/whats-in-a-name->

[coronavirus-related-trademark-applications-pour-in-5651471.htm](https://www.cnbctv18.com/legal/whats-in-a-name-coronavirus-related-trademark-applications-pour-in-5651471.htm) , (Visited on 15/07/2020).





Research Consortium through open source information.<sup>27</sup>

There is one convention which countries tend to forget and it is the Convention on Biological Diversity which was adopted in 1992. It is a legally binding international agreement with an aim to bring fairness and equity in the access to genetic resources between its signatories. This led to the adoption of Nagoya Protocol which requires sharing of benefits arising from use of genetic resources. Hence if a drug is found against Coronavirus, its commercialisation will be bound by this Protocol and benefits arising from it should be shared among the member countries. The Biological Diversity Act, 2002 in India stipulates along the same lines and mandates that any patent application for the use of genetic resources requires signing with the Biodiversity Authority of India that benefits arising from the resource would be shared with the Authority.<sup>28</sup>

### CONCLUSION

There is no denial to the fact that the outbreak of the COVID 19 pandemic has caused an unprecedented circumstance across the world. The IP regime was also drastically affected with the repercussions of the pandemic at various levels like litigation, regulatory, transactional etc. There were lot of deviations from the 'usual business' which were initially considered to be tampering with the rights of the inventors and investors. At the same time, the crisis had also opened the doors for some of the massive opportunities in the IP realm. The initial

responses to the COVID 19 prompt us to believe that the IP regime along with technology will play a massive role in both controlling and eradicating the pandemic. For any significant development to be made towards achieving this goal, it is very important that the major players in various sectors like technology and medicine need to share their resources and work together and the onus is on the IP regime to facilitate such collaborations between various parties. From an IP perspective, the measures taken by the major players and countries so far are highly welcoming. Initiatives like Open COVID Pledge received wide acceptance and more and more big companies are coming forward to show their willingness to make available their Intellectual Property to the world to fight this pandemic together. Most of the vaccine research around the world is happening with the collaborations between various entities or countries. The changed circumstance had also provided a massive opportunity to the smaller players of various industries to collaborate with or make use of the resources of these major players to bring something significant and thereby emerge themselves as an important entity in their respective field of operations. Countries have been frantically trying to abide by the principle of social distancing and hence all IP offices including in India remain closed. Through this paper the authors have tried to highlight how measures such collaborations and voluntary licencing of IP rights help in the easy availability and affordability of vaccines against COVID-19. The authors

<sup>27</sup> The Leaflet, <https://theleaflet.in/statement-by-india-civil-society-need-for-open-innovation-and-knowledge-sharing-for-covid-19-healthcare-through-indian-ip-laws/> , (Visited on 19/07/2020).

<sup>28</sup> Business Line, <https://www.thehindubusinessline.com/opinion/paten>

[t-pooling-a-covid-success-story/article31891866.ece?fbclid=IwAR2UxsWeRKDzVTglw58Y\\_gaMxsuXdi5apZfInZlj0fkqvKraXYmsM7NS5TU](https://www.supremoamicus.org/story/article31891866.ece?fbclid=IwAR2UxsWeRKDzVTglw58Y_gaMxsuXdi5apZfInZlj0fkqvKraXYmsM7NS5TU) , (Visited on 19/07/2020).



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believe that the suggestions enumerated through this paper would be beneficial for the future of IP and the society as a whole.

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