

Experts skeptical over key provisions in 'Protection & Utilisation of Public Funded IP Bill'

Monday, February 22, 2010 08:00 IST
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Even as the 'Protection and Utilisation of Public Funded Intellectual Property Bill', aiming at patenting of academic research in the country, is being discussed in Parliament, experts have expressed apprehensions about certain provisions of the Bill. Their reservation stems from the fact the Bill does not really address bottlenecks prevalent at the stage of commercialisation, licensing and technology transfer, which are far more important steps and will help achieve knowledge spill-overs and create useful products for society.

The Bill, also known as the Indian Bayh-Dole Bill, was introduced in Rajya Sabha in January 2009 and is currently undergoing scrutiny by a Parliamentary select committee. The Bill, prepared on the lines of the US Bayh Dole Act, will vest institutes with the right to acquire patents over inventions that result from publicly funded R&D. It also goes a step forward by mandating that individual inventors be paid a minimum of 30 per cent of any royalties that result from the licensing of patents by publicly funded institutes. Ever since its introduction, the Bill was embroiled in controversy as many experts have apprehensions over certain provisions of the bill.

"While the Bill presents a great opportunity to regulate publicly funded research and patenting activities associated with such research for the first time, there is a serious disconnect between the objectives sought to be achieved and the efficacy of a Bayh Dole structure in helping achieve them. The law attempts to vest institutes with the right to patent their inventions, when under existing laws, such institutes have the right to patent anyway. The law does nothing more than reiterating an existing freedom," said Shamnad Basheer, professor in IP Law, National University of Juridical Sciences, Kolkata.

Dr V Premnath, scientist, CFPE/PSE, head, NCL Innovations and director, Venture Centre, National Chemical Laboratory feels that the main problem in the current draft of the bill is that it misses the point that technology innovation and commercialization is likely to be fostered best by freeing the inventors, tech transfer offices and research institution to pursue their ideas freely without any bureaucratic hurdles, delays and paperworks.

Echoing similar opinion, Dr Gopakumar Nair, patent attorney and CEO, Gopakumar Nair Associates said, "Patenting should be incidental to research and not the final frontier. In-built compulsory patenting provision will kill creativity and natural research instinct."