

Experts, NGOs oppose CII-GWU summit on IP for strong patent regime in India

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Even as the Confederation of Indian Industry (CII)'s two-day 'Summit on IP' in association with the George Washington University (GWU) has got underway in Mumbai, several public interest groups and experts have raised eyebrows expressing apprehensions that the one-sided focus of IP Summit is detrimental to Indian interests.

Taking serious note of the GWU's announcement that the series of such summits on IP in India have heightened awareness in India of the benefits of a strong IP (intellectual property) law regime, several NGOs and experts have expressed concern on the continuation of CII IP Summit. The GWU website notes, "In just two years, the India Project has sponsored four conferences in major Indian cities. Attracting legal scholars, judges, lawyers, business leaders, and government officials from around the world, the conferences have heightened awareness in India of the benefits of a strong IP law regime."

This is highly disturbing, as the merits of a strong IP law regime is being contested globally, and there are no empirical proofs of the benefit of a stronger IP law regime. The World Intellectual Property Organization's (WIPO) Development Agenda has clearly shown that strong IP law regimes are not an unquestionable good. It emphasises a balanced IP law regimes instead of a strong one, which must be a regime that takes into consideration the developmental level of each country. Even WIPO agrees that intellectual property is not an end in itself, and that a strong IP law regime but a tool that has to be used carefully, the NGOs and experts said.

The NGOs, who will soon send a missive to the CII and other concerned organisations, said the US patent system is widely recognized as having broken down completely and is currently being reconsidered at multiple levels -- at the legislative level by the Congress and the Senate in the form of the Patent Reform Acts, at a judicial level by the Supreme Court of the USA, and at the administrative level by the USPTO. Given that, it is questionable what effects the US to India knowledge transfer, which is touted as the prime objective of these summits, will have.

Vehemently opposing the summit, experts said that the US law on patents, for instance, does not have many of the public interest provisions that the Indian law does. The US government and industry lobby groups like PhRMA and IIPA, which contribute to the US Trade Representative's annual Special 301 report, have consistently opposed many public interest provisions various laws, such as the provisions for post-grant oppositions. They have also consistently pushed for a "TRIPS-Plus-Plus" regime, repeatedly pressuring the Indian government to enact legislation to cover optical discs; to implement the WIPO Internet Treaties, which India has so far refused to sign; to strengthen criminal enforcement of IPR beyond the requirements of Art. 61 of the TRIPS

agreement; to introduce data exclusivity, which a governmental committee has in the past rejected as against Indian pharmaceutical companies' interests.

In the past, the US government has chastised countries for issuing compulsory licences on AIDS drug, and for pharmaceutical price control -- both of which are allowed by the TRIPS agreement. It is also widely acknowledged (not least of all in an OECD report) that the piracy and counterfeiting statistics provided by IIPA and PhRMA are factually incorrect, and are gross over-estimations, experts said.

Given this background, it is important to know who are funding these summits, who all benefit from stronger and unbalanced IP law regimes, and to question the desirability of having summits which push for stronger IP law regimes without taking into consideration the interests of Indian industries, especially small and medium enterprises, Indian farmers, Indian patients and the Indian public at large, experts said.