DATTA MEGHE COLLEGE OF ENGINEERING

IPR- Cell Constitution (2019)

DMCE	Dr S D Sawarkar	Chair person
Comp- IT	Dr S D Devane Prof Aparna Bhonde	Member Co-ordinator
Mechanical	Dr V B Shinde Dr R R Jaware	Member Co-ordinator
Civil	Dr P A Dode Dr S A Rasal (I shift) Dr Sushovan Dutta (II shift)	Member Co-ordinator Co-ordinator
Chemical	Dr Kalpana Deshmukh Dr S J Kulkarni	Member Co-ordinator
Electronics	Dr D G Pete Dr G S Raghtate	Member Co-ordinator
Humanities and Sciences	Dr Aruna Henry Dr Kakuli Maiti	Member Co-ordinator
DMCE	Dr A S Radke	Member & DMCE Co-ordinator

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IPR- Cell

About the Cell: The cell is established on 1st January 2019. The purpose of The IPR cell at DMCE is to organise, disseminate, enhance for the high legal and scientific vision of IPR. The cell looks forward to assisting and accelerating the interaction with industries for sustained growth in IPR to contribute to the wealth creation of the nation.

Vision of the Cell: To become landmark for the creation of human resources in the field of Intellectual Property Rights (IPR) in the knowledge value chain of the Nation.

Mission of the Cell: The mission of the IPR Cell of DMCE is to create awareness and provide guidance to academic and non-academic staff, students, scholars, and outside agencies on the practices regarding intellectual property rights and obligations.

The objectives of the IPR Cell:

- The prime objective is to promote creation and commercialization of intellectual property and safeguard the interests of inventor.
- To create an environment for acquiring new knowledge through innovation, develop an attitude of prudent IP management practices and promote an IPR culture.
- To forward eligible cases of IPR to IPR Office in Mumbai.

- To participate in / arrange periodic meeting of faculty members along with patentees, consultants, attorney and officers of PIC for identifying patentable inventions.
- To engage and conduct workshops/ seminars to promote awareness about IPR.
- To advice and guide students and faculty on the procedure of IPR, screen projects, make drafts and file patents to the competing authority.
- To promote technology advancements for improved quality of life and environment protection.

Pearls of Wisdom

From the book ***Reinventing India*** by Dr.Raghunath Mashelkar…..

'Twenty first century will be the century of knowledge, indeed the century of Mind. Innovation is the key for the production as well as processing of Knowledge. A nation's ability to convert knowledge into wealth and social good through the process of innovation will determine its future. In this context, issues of generation, valuation, protection and exploitation of intellectual property (IP) are going to become critically important all around the world. Intellectual property will no longer be seen as a distinct or self-contained domain, but rather as an important and effective policy instrument that would be relevant to a wide range of socioeconomic, technological and political concerns. The development of skills and competence to manage IPR and leverage its influence will need increasing focus; in particular, in the third world.'

Intellectual property

Intellectual property (IP) means a type of creation of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce; for which a set of exclusive rights like patents, copyrights, trademarks, industrial design rights and trade secrets are recognized under the corresponding fields of law.

A ‘patent’ is an exclusive right granted for an invention to the inventor (patentee) by the patents office which allows the inventor exploit the invention for a limited period, generally 20 years within the given territory. ‘Patents’ refer to inventions as part of Intellectual Property, which is a legal way to protect all creations of the human mind.

The intellectual properties can be broadly listed as follows:

a) **Patent:** is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.

b) **Copyright:** is an exclusive right given to the author of the original literary, architectural, dramatic, musical and artistic works; cinematograph films; and sound recordings.

c) **Trade/Service mark:** means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.

d) **Industrial Design:** means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device.

e) **IC Layout Designs:** means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit.

f) **New Plant Variety:** a plant variety that is novel, distinct and shows uniform and stable characteristics.

g) **Biotechnology Inventions:** include recombinant products such as vectors, nucleotide sequences and micro-organisms.

h) **Traditional Knowledge:** The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to agriculture, food, medicine etc. over a period of time and has been passed from one generation to another traditionally.

i) **Geographical Indications:** means an indication which identify such goods as agricultural goods, natural goods as originating or manufactured in the territory of a country or manufactured in the territory of a country or a region or locality in that territory where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, regions or locality as the case may be.

Patent Information	
PR India/ (IP services India)	http://www.ipindia.nic.in/ (http://ipindiaservices.gov.in/)
Patent Facilitating Centre	http://www.pfc.org.in/
Rajiv Gandhi National Institute of Intellectual Property	http://www.ipindia.nic.in/
Patent search	
INPASS (Indian Patent Advanced Search System)	http://ipindiaservices.gov.in/publicsearch/
WIPO (World Intellectual Property Organization) Patentscope	https://patentscope.wipo.int/search/en/structuredSearch.jsf
USPTO (United States Patent and Trademark Office)	https://www.uspto.gov/patents-application-process/search-patents
Espacenet (European Patent Office- Patent Search)	https://worldwide.espacenet.com/
Google Patents	https://patents.google.com/
IP India	https://ipindiaonline.gov.in/tmrpublicsearch/

DMCE- IPR Cell

Policy for Intellectual Property filing and protection

INTRODUCTION: Intellectual Property Rights are exclusive legal rights over creations of the mind. IPR give the proprietor rights to exploit intellectual creation of the mind. IPRs are essential to fostering innovation to encourage inventiveness in various areas of research and development. It contributes to ensure profitability from knowledge.

PURPOSE AND OBJECTIVE: The principal objectives of the Institute's IPR Policy are,

- To encourage creative and innovative research leading to the generation of new knowledge, ideas and inventions. To facilitate the transfer of Institute-developed research results and new knowledge of commerce and industry.
- To train faculty members, staff and students about provisional patent filing procedures in India as well as the procedure for filing the Applications under the Patent Cooperation Treaty.
- To make faculty members, staff and students familiar about the various requirements/data to be provided with Patent filing forms (Form- 1, 2 & 5).
- To have strong and effective IPR policy, that balances the interests of rights owners with larger public interest and get value for IPRs through commercialization.

Scope of Intellectual Property Rights Policy

1. IPR cell shall guide and help the faculty members and students of D M C E in patentability assessment and to apply for various IPRs such as Invention(s), Designs, Integrated Circuit Layouts and other creative works.
2. The faculty members desirous of filing a patent or for any other IPR application would be given the necessary advice and guidance by the IPR cell. An internal approval form (available at IPR cell) filled by the principal Investigator (PI) wherein the names of the Inventors/Authors shall be mentioned, is to be signed by the PI and forwarded by the HoD for approval of the Chairman IPR Cell. Invention disclosure description (in invention disclosure format) is to be forwarded along with the duly signed approval form to the IPR cell for further action. Invention disclosure Patent/Trademark and similar documents are to be treated as confidential and would be maintained confidentially by the signing of a Non-Disclosure Agreement by the IPR cell. All the expenses for filing patents will be paid by the Institute. However, as the patenting is expensive, efforts should be made to get the patent filed through other funding agencies such as DBT, NRDC and DST (TIFAC).
3. The IPR cell shall help the inventor in drafting the patent application/ or any other IPR application and filling of relevant forms. The draft application along with the relevant forms shall then be forwarded to the concerned agency/authority by the IPR cell. The IPR Cell shall correspond with the authority/agency and the inventors on IP matters. The IPR cell committee for approval for patent filing would consist of: Chairman, Members and Finance Officer or his nominee. The inventors would be required to cooperate with the IPR policy.

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Intellectual Property Rights Policy

Any work sought to be filed by a faculty member and or student(s) arising out of R&D work done at the Institute will be filed in joint names as inventors or authors while Institute shall be the applicant and owner of Intellectual Property (IP). After filing of the application for IP protection, the inventors shall inform the IPR cell of any further development, if any, in the related R&D work. The IPR Cell and inventors in collaboration with Research Advisory Committee shall work together for commercialization of the newly created knowledge.

1. ***Revenue sharing:*** The Institute and Inventors/researchers, all share in the revenue earned from the licensing of patents for their inventions. Under the Current Policy the net earnings from the commercialization of IP owned by DMCE would be shared as follows: The net earnings from the commercialization of IP owned by Datta Meghe College of Engineering would be shared as follows:

Revenue sharing.	Net earnings	Inventor(s) share	Institute's share
For the first amount	10,00,000.00	60%	40%
For the next amount	10,00,000.00	50%	50%
For the next amount	Above 20,00,000	40%	60%

The creator(s) share would be declared annually and disbursement will be made to the creator(s), their legal heir, whether or not the creators are associated with DMCE at the time of disbursement. Co-creators of IP shall sign at the time of disclosure, a Distribution of IP Earnings Agreement, which shall specify the percentage distribution of earnings from IP to each co-inventor. The inventors may at any time by mutual consent revise the Distribution of IP

Earnings Agreement. If any student has a significant part in the development of intellectual properly, he/she should be given due credit and be mentioned in the Income Distribution Form.

2. ***Infringements, Damages, Liability and Indemnity Insurance***: As a matter of policy, DMCE shall, in any contract between the licensee and DMCE, seek indemnity from any legal proceedings, including, without limitation manufacturing defects, production problems, design guarantee, up-gradation and debugging obligation. DMCE shall also ensure that DMCE personnel have an indemnity clause built-into the agreements with licensee(s) while transferring technology or copyrighted material to licensees. DMCE shall retain the right to engage or not in any litigation concerning patents and license infringements. Conflict of Interest: The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) and or their immediate family have a stake in a licensee or potential licensee company then they are required to disclose the stake they and/or their immediate family have in the company. A license or an assignment of rights of a patent to a company in which the inventors have a stake shall be subject to the approval of the IPR Cell taking into consideration this fact.
3. ***Dispute Resolution***: In case of any disputes between DMCE and the inventors regarding the implementation of the IP policy, the aggrieved party may appeal to the Chairperson, IPR Cell, DMCE. Efforts shall be made to address the concerns of the aggrieved party. The Chairperson's decision in this regard would be final and binding.
4. ***Jurisdiction***: As a policy, all agreements to be signed by DMCE will have the jurisdiction of the courts in Thane, M S India, and shall be governed by appropriate laws in India. These guidelines do not constitute legal advice. In case of any legal problem, an intellectual property lawyer may be consulted.

Brief about Indian Patent System

The first legislation in India relating to patents was the Act VI of 1856. The objective of this legislation was to encourage inventions of new and useful manufactures and to induce inventors to disclose secret of their inventions. The Act was subsequently repealed by Act IX of 1857 since it had been enacted without the approval of the British Crown. Fresh legislation for granting 'exclusive privileges' was introduced in 1 859 as Act XV of 1859. This legislation contained certain modifications of the earlier legislation, namely, grant of exclusive privileges to useful inventions only and extension of priority period from 6 months to 12 months. This Act excluded importers from the definition of inventor. This Act was based on the United Kingdom Act of 1852 with certain departures which include allowing assignees to make application in India and also taking prior public use or publication in India or United Kingdom for the purpose of ascertaining novelty.

In 1872, the Act of 1859 was consolidated to provide protection relating to designs. It was renamed as "The Patterns and Designs Protection Act" under Act XIII of 1872. The Act of 1872 was further amended in 1883 (XVI of 1883) to introduce a provision to protect novelty of the invention, which prior to making application for their protection were disclosed in the Exhibition of India. A grace period of 6 months was provided for filing such applications after the date of the opening of such Exhibition.

This Act remained in force for about 30 years without any change but in the year 1883, certain modifications in the patent law were made in United Kingdom and it was considered that those modifications should also be incorporated in the Indian law. In 1888, an Act was introduced to consolidate and amend the law relating to invention and designs in conformity with the amendments made in the U.K. law.

The Indian Patents and Designs Act, 1911, (Act II of 1911) replaced all the previous Acts. This Act brought patent administration under the management of Controller of Patents for the first time. This Act was further amended in 1920 to enter into reciprocal arrangements with UK and other countries for securing priority. In 1930, further amendments were made to incorporate, inter-alia, provisions relating to grant of secret patents, patent of addition, use of invention by

Government, powers of the Controller to rectify register of patent and increase of term of the patent from 14 years to 16 years. In 1945, an amendment was made to provide for filing of provisional specification and submission of complete specification within nine months.

After Independence, it was felt that the Indian Patents & Designs Act, 1911 was not fulfilling its objective. It was found desirable to enact comprehensive patent law owing to substantial changes in political and economic conditions in the country. Accordingly, the Government of India constituted a committee under the Chairmanship of Justice (Dr.) Bakshi TekChand, a retired Judge of Lahore High Court, in 1949 to review the patent law in India in order to ensure that the patent system is conducive to the national interest. The terms of reference included —

- To survey and report on the working of the patent system in India;
- To examine the existing patent legislation in India and to make recommendations for improving it, particularly with reference to the provisions concerned with the prevention of abuse of patent rights;
- To consider whether any special restrictions should be imposed on patent regarding food and medicine;
- To suggest steps for ensuring effective publicity to the patent system and to patent literature, particularly as regards patents obtained by Indian inventors;
- To consider the necessity and feasibility of setting up a National Patents Trust;
- To consider the desirability or otherwise of regulating the profession of patent agents
- To examine the working of the Patent Office and the services rendered by it to the public and make suitable recommendations for improvement; and
- To report generally on any improvement that the Committee thinks fit to recommend for enabling the Indian Patent System to be more conducive to national interest by encouraging invention and the commercial development and use of inventions.

The committee submitted its interim report on 4th August, 1949 with recommendations for prevention of misuse or abuse of patent right in India and suggested amendments to sections 22, 23 & 23A of the Patents & Designs Act, 1911 on the lines of the United Kingdom Acts 1919 and 1949. The committee also observed that the Patents Act should contain clear indication to ensure that food and medicine and surgical and curative devices are made available to the public at the cheapest price commensurate with giving reasonable compensation to the patentee.

Based on the above recommendation of the Committee, the 1911 Act was amended in 1950(Act XXXII of 1950) in relation to working of inventions and compulsory licence/revocation. Other provisions were related to endorsement of the patent with the words 'licence of right' on an application by the Government so that the Controller could grant licences. In 1952 (Act LXX of 1952) an amendment was made to provide compulsory licence in relation to patents in respect of food and medicines, insecticide, germicide or fungicide and a process for producing substance or any invention relating to surgical or curative devices. The compulsory licence was also available on notification by the Central Government. Based on the recommendations of the Committee, a bill was introduced in the Parliament in 1953 (Bill No.59 of 1953). However, the Government did not press for the consideration of the bill and it was allowed to lapse.

In 1957, the Government of India appointed Justice N. Rajagopala Ayyangar Committee to examine the question of revision of the Patent Law and advise government accordingly. The report of the Committee, which comprised of two parts, was submitted in September, 1959. The first part dealt with general aspects of the Patent Law and the second part gave detailed note on the several clauses of the lapsed bills 1953. The first part also dealt with evils of the patent system and solution with recommendations in regards to the law. The committee recommended retention of the Patent System, despite its shortcomings. This report recommended major changes in the law which formed the basis of the introduction of the Patents Bill, 1965. This bill was introduced in the Lok Sabha on 21st September, 1965, which however lapsed. In 1967, again an amended bill was introduced which was referred to a Joint Parliamentary Committee and on the final recommendation of the Committee, the Patents Act, 1970 was passed. This Act repealed and replaced

the 1911 Act so far as the patents law was concerned. However, the 1911 Act continued to be applicable to designs. Most of the provisions of the 1970 Act were brought into force on 20 th April 1972 with publication of the Patent Rules, 1972.

This Act remained in force for about 24 years without any change till December 1994. An ordinance effecting certain changes in the Act was issued on 31 st December 1994, which ceased to operate after six months. Subsequently, another ordinance was issued in 1999. This ordinance was subsequently replaced by t he Patents (Amendment) Act, 1999 that was brought into force retrospectively from 1 st January, 1995. The amended Act provided for filing of applications for product patents in the areas of drugs, pharmaceuticals and agro chemicals though such patents were not allowed. However, such applications were to be examined only after 31-12-2004. Meanwhile, the applicants could be allowed Exclusive Marketing Rights (EMR) to sell or distribute these products in India, subject to fulfilment of certain conditions.

The second amendment to the 1970 Act was made through the Patents (Amendment) Act, 2002 (Act 38 0f 2002). This Act came into force on 20 th May 2003 with the introduction of the new Patent Rules, 2003 by replacing the earlier Patents Rules, 1972. The third amendment to the Patents Act 1970 was introduced through the Patents (Amendment) Ordinance, 2004 w.e.f. 1st January, 2005. This Ordinance was later replaced by the Patents (Amendment) Act 2005 (Act 15 of 2005) on 4th April, 2005 which was brought into force from 1-1-2005.

Patents Rules

Under the provisions of section 159 of the Patents Act, 1970 the Central Government is empowered to make rules for implementing the Act and regulating patent administration. Accordingly, the Patents Rules, 1972 were notified and brought into force w.e.f. 20.4.1972. These Rules were amended from time to time till 20 May 2003 when new Patents Rules, 2003 were brought into force by replacing the 1972 rules. These rules were further amended by the Patents (Amendment) Rules, 2005 and the Patents (Amendment) Rules, 2006. The last amendments are made effective from 5 th May 2006.