

# Patenting melon juice? Not if India gets its way

Fed up with foreign companies patenting traditional medicine from India, the country's top scientific body is compiling a giant database of everything from yoga positions to medicinal fruit juice.

The initiative has had early success since going public in February, repelling two foreign patent applications in July, one for a skin cream based on melon extract and another for a cancer medicine based on pistachios.

Another 30 cases are being examined worldwide, drawing on the database which aims to prove medical precedents and therefore undercut attempts by companies to patent knowledge that has been passed down over generations in India.

V.K. Gupta, the head of this library, known as the Traditional Knowledge Digital Library (TKDL), told AFP he hoped the database would provide a cheap and easy system to prevent "wrong patents" based on Indian naturopathy.

"Nobody in the world has a right to take our knowledge, repackage it and claim it as theirs," said Gupta, who works for the Council of Scientific and Industrial Research (CSIR).

## More being added all the time

The TKDL already contains 30 million pages and more than 200 000 medicinal formulas derived from herbal and mineral-based treatments originating in India and abroad, such as ayurveda, unani, siddha, as well as yoga techniques.

Researchers are combing through and translating thousands of pages from India's canon of ancient texts, including the Hindu holy book the Bhagavad Gita, from Sanskrit, Persian and Tamil to English and other languages.

"The most important parts of the books which were prone to be patented were identified and converted into coded language and stored into the database," said Jyoti Chahar, a junior ayurvedic expert with the project.

"Now we're in the process of adding more and more books," she added.

In Europe and the United States, patent applications for a treatment containing the leaf of the neem tree in 2005 and the yellow spice turmeric in 1997 attracted huge media interest in India and accusations of "biopiracy."

Various organisations, including the CSIR, challenged their validity and the patent requests were refused on the grounds that the anti-fungal properties of neem and the therapeutic value of turmeric were hardly original ideas.

**'No business granting a patent appropriating public knowledge for private good'**

In July, the European Patent Office (EPO) withdrew a patent granted to a Spanish company for the use of melon extract to treat the skin disease vitiligo after discovering naturopaths had used it for thousands of years in India.

"This knowledge is known to every housewife in India," said Gupta. "You have no business to grant a patent appropriating public knowledge for private good."

Also in July, the TKDL helped to block a patent request lodged with the EPO from an Italian group for a cancer treatment based on extracts from pistachios.

The idea, say the backers of the project, is that the TKDL becomes a widely used open resource, accessible in digital format to foreign patent offices.

The CSIR has already signed agreements with patent offices in Japan and Europe, which can consult the library before deciding whether to grant or deny exclusive rights to applicants.

A final decision to accept or reject a patent can depend on the concept of "evidence of a prior art." If examiners believe there is ample proof that an invention is based on long-standing practice, they can reject the application.

Yoga is of particular concern for the backers of the project, who insist their goal is not to prevent people from benefiting from Indian knowledge but to ensure nobody obtains a monopoly.

## **Yoga postures will also be in the database**

The concern about claims on yoga heightened in 2002 when the founder of Bikram Yoga, a type of yoga performed in a hot environment, successfully copyrighted the practice.

The yoga and intellectual property communities were stunned, arguing that half-naked gurus and dreadlocked hippies had been doing yoga in the heat since time immemorial.

"By taking a patent, they restrict others from performing without their permission," said Archana Sharma, who heads the TKDL's yoga branch.

Up to 1500 yoga postures or "asanas" performed by models and instructors will be videotaped and included in the database by 2012, said Sharma.

Binu Nair, director of the Santhigram Kerala Ayurvedic chain of clinics, said patent officials in other countries were ignorant of the history of Indian medicine, which led to mistakes in the awarding of rights.

Nair, whose chain operates in India and the US and offers therapy for joint disorders, diabetes and infertility, said: "There's a serious lack of support and understanding for ayurveda in the US.

"It doesn't have the same kind of recognition as Chinese medicine. No lobby has pushed for it."

## **Media hype criticised**

However, some intellectual property rights experts have questioned the logic behind some challenges to patents, saying patents should still be granted to truly novel creations that could be inspired by traditional medicine.

"You can build an invention on traditional knowledge," said lawyer Pravin Anand, who brokered the data-sharing agreement between India and the European Patent Office.

"Nothing stops you from taking it as a first step and then using it to create your own invention."

Anand criticised media hype over the neem and turmeric cases, saying India could have sought its own patents for them and capitalised on a multi-million-dollar industry.

"The Indian government had a head start. They should have seen that India can convert this into a business opportunity," he said.

This is exactly the thinking within the CSIR.

Gupta said he hoped to use the library as more than just a search engine, explaining that the state-run science body aimed to create 2,000 new medicines within the next decade based on the data in the catalogue.

This would open the doors for cheap drugs to reach India's millions of poor.

"The moment you bring drugs out of patents, they become affordable and accessible," said Gupta.

"The world has to think, is the healthcare of humanity more important, or the bottom line of a few firms?"

Source: *AFP*

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