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ANALYSIS OF GROUNDS OF INTERSECTION AND DISSECTION OF TECHNOLOGY LAW AND PATENT LAW FOR THE SAKE OF PUBLIC WELFARE, IN INDIAN JURISDICTION

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ABSTRACT

In this paper a proper analysis is being made in the various grounds of intersection as well as dissection of technology laws as well as patent laws, for the purpose of the public welfare in India. Firstly an introduction is made where in the contemporary era, how technology has been developed, and how the same has lead to various complexities which conjoin itself with the patent law and even sometimes make it again a separate entity, in the name of public welfare. Followed by that the grounds of intersection between technology and patent law has been made where the various aspects of dependence between the two laws has been eluded, as well as in aspects of patent assignment & licensing, fair competition, as well as in joint ventures, how these two laws go into similar lines, has been shown. Followed by that grounds of dissection of these laws are being shown, where such grounds are feasible in matter of compulsory licensing, general exceptions, technology based on unauthorized access. Followed by that base upon such phenomenon, certain recommendations, has been made on the basis of the justiciability of such intersections and dissections, against human rights. And in extension, to that certain suggestions has been made in favor of human rights, and also welfare of greater public. Lastly the entire matter has been concluded.

KEYWORDS

INTERSECTION, DISSECTION, TECHNOLOGY LAW, PATENT LAW, GROUNDS

RESEARCH METHODOLOGY

Here the research paper mainly focused upon the qualitative research methodology. Hence in order to bring out certain analytical findings, a considerable focus was upon certain data, in the form of written information. Here detailed information has been taken with regard to the grounds of intersection and dissection of technology and patent law. Hence the actual focus is

upon the ‘how ‘ factor of the phenomenon, which is unlike being “how many” of the same.

INTRODUCTION

As we find out the way the technology, is actually emerging in the contemporary world, it can be very well said that the entity, is actually into dominating the entire marketing industry. Through the ages, it has been seen that the particular technology is actually expanding it’s form, and as a result, it were seen that the complexities to that regard is also found to have increased to that regard. And hence, to that regard for the particular purpose, the efficacy of the regulation has also to increase it’s veracity as well as span. Though the increment of the span it is found out that also on the other hand the laws has also to increase it’s protection from various dimensions. Now in that regard, it is found that there are certain aspects of law, where in lieu of the similar application on the particular products, it has been seen that the nature of these two aspects of laws are also same. Now in order to have the protective welfare of the people, it were to be seen that whether these laws are actually dependent upon each other, or they have their own identity, to that regard. Hence, such similarity can actually be seen between the laws relating to patents as well as the technology laws. They are not only having the similar application, but also having the flow of application in the similar way. Hence such points of intersection as well dissection between the two aspects are laws are thus to be analyzed, and also to see the vivid relation of it with that of protection of the rights of the people.

GROUND OF INTERSECTION BETWEEN TECHNOLOGY LAW AND PATENT LAW

Firstly let’s come upon the various points of intersection between the law relating to patents as well as technology law, where it is to be seen that both these aspects are almost dependent upon each other.

Dependence between the two laws

In that regard the first point of such would be the intersection on protection of various technological inventions in this regard. A particular technological gadget is found to be protected on the basis of the workflow of it, which is the work of the technology law, and on the other hand the same actually finds it’s base from the exclusivity given to the patent holders. Thus to that regard the efficacy of the patent law, actually comes into the picture. Hence this way it is see that both the aspects are actually related to each other in the form of dependency.

According to functionary of the technology law , it unlike the patent law, it actually imposes regulations on the basis of the management of the technology, the development of the technology as well as the protection of the technology. In all situation such kind of law are actually imposes regulations which would keep the health of the technology unadulterated in all aspects, which would also lead to the development of the particular technology. A vivid example to that regard would be the Information Technology Act, 2000. Here according to sections , and 3 it were seen that the particular act is actually penalize the executor, who actually is having access to somebody's data which can also be related to technology, as well preventing from having any kind of data thft in that regard. Now if we analyze only about the fact of penalizing the unauthorized data, then in such situation , the same actually means the attribution to the patent holder itself. So in that regard it is seen that the particular law is conjoining with the patent law. Here while executing the provisions of the particular act the essence of section 48 of the Patents Act can actually be seen in that regard, hence a kind of dependency is being created to that regard. But the question here is that whether such kind of system is actually not having any kind of public welfare element associated with the same or not. If we see properly, we can very well understand the fact that the access to the particular technology is actually not given just as an attribution to the patent law. Rather the another cause contributing to the factor would be as mentioned previously to keep the actual health of the technology in a proper position. And that can actually happen if the full control is over the particular patent holder itself, in lieu of the fact that in that same actually knows all the efficacies of the particular technology. The dependency is also there in other way round. If we analyze the structure of the patent law, we find out that that there are certain patentability standards for a patent to be granted it's position. And within that aspect, standards like industrial application and inventive step are very much prominent. So in order to price the aforementioned standards the same involves certain regulations, which are actually associated with the management of the particular technology. More specifically speaking there is actually the need of having certain laws while testing with the particular technological gadgets which would actually prove both of the standards of inventive step as well as industrial application. This is mentioned in section 2 (1)(j) of the Patent Act, 1970. It must be taken into heed into neither of the circumstance, any interest of the particular technology. Hence in that regard it were seen that the health of the particular technology is getting adulterated. Here let's take the example of the Telecommunications Act, 2023, where we actually find out that the main objective of the Act is actually to have bring out certain regulations, while using a particular technological measure, like that of assignment of the spectrum, etc. Thus here while checking

certain patentability standards, it is very much obvious to actually understand the fact that what legal efficacies, one need to follow, with regarding using of a particular technological gadgets, as a part of the examination. Apart from that I we analyze the provisions of the DPDP Act, here we get to see that the protection by the particular statute in a detailed way upon the data, while the same is actually being used by third party, which is mainly focused upon the management of the same. Thus in such situation , patent law also has a kind dependence upon these technology laws . And for all such coherence, balance as well dependence the main goal to all these factors would be to serve the public welfare. In the case of Koninjkle Phillips Electronics N.V. Vs Rajesh Bansal & Ors Delhi High Court, declared compensation against the defendant for unauthorized access for selling DVD players containing decoding technology. On other hand section 72 of the IT Act, 2000, declares compensation for breaching privacy. And here the patented technology can be very well understood as the data. This way again section 48 of the Indian Patent Act, 1970 as well as section 72 of the IT Act, 2000 are found to be correlated.¹

Patent licensing and assignment

Followed by that, the next ground of such intersection would be based upon execution of the licensing as well as technology transfer agreements. Here in sections & of the Indian Patent Act 1970, it has been already mentioned about the licensing as well as assignment of the patents. Here in that regard while executing these deliberations certain regulations on management of the technology is actually required. Thus in order to deliberate such kind of executions, it is very well needed to have proper regulation with regard to the management of the particular technology. So to that respect, it is very much needed to have followed the various aspects of IT Act, where section 43A of it grants protection against using reasonable security practices of data , causing wrongful gain over the same, while section 72 grants protection against non authorized use of these data. So in this case the reference to section of the Patent Act, 1970 is coming. The concept actually eludes about the matter of compulsory licensing. It is mentioned in section 84 of the Patents Act, 1970. Here it actually eludes the fact whenever it is found that the patent holder is actually restraining the use of the patent, to the public, or charging fees unaffordable against the usage of the particular technology, then in such situation, the government actually forces the patent holder to actually have the control over such kinds of patents. This way again the intersection between the two laws would bound to happen with regard to the public welfare of the people. Again in the case of *Microsoft Corporation vs*

¹ <https://tax.guru.in> Boundaries between Tech laws and IP laws and Intellectual Property
<https://nluassam.ac.in> UNDERSTANDING INTELLECTUAL PROPERTY AND TECH LAW

Yogesh Papat & Anr, the Delhi High court declared compensation for the unauthorized use of the proprietary software. Thus again this way it makes intersected the section 72 of the IT Act, 2000 as well as section 48 of the Patent Act, 1970 gets intersected². In *Bayer Corporation vs Natco Pharma Ltd. (2012)*, it is found that the court declared that compulsory licensing on the basis of the claim by the Natco, upon the patent holders. And a compulsory licensing process would involve certain efficacies of the management of the technology, taking the aid of the laws of the respective genres, which can be the provisions of the Information Technology Act, 2000 or any such provisions, involving the technology of their respective fields³. And thus again because of the sake of public welfare, we find out that both these aspects of the laws are getting combined⁴.

Competition & Antitrust issues

Followed by that another ground of such intersection is between the two laws would be upon the for competition issues, in the market. Here if we see according to provisions of the Competition Act, 2002, it is seen that the same actually follows the policy of FRAND licensing. It is a kind of licensing which is actually granted to the Standard essential Patents where the main focus is upon the patent holder, where it must be stated to them that the licensing which will be operated by the patent holders, in such a manner, where fairness, reasonability as well as non discrimination, must be attained. So from here we can very well understand a balance must be created in such a way that both the public as well as the patent holders must get benefitted, out of it. So here if we mainly concentrate upon the fairness as well as the discriminatory provisions, then it may have certain elements of public good associated with the same. Thus this may include within itself the various efficacies on dealing with the technology, where the focus of maintaining the fair and discriminatory essence would be on the basis of those elements. Hence in order to establish that thing, reference to various technology laws are needed. Hence in India there has been various legislations, exclusively upon technology which actually deals with such kind of management of these technologies. And to that effect we see the legislations namely the DPDP Act, 2023, the Telegraph Act, 1997, the Foreign management Act, 1999, etc, which deals with such factor. Hence again it is there by proved that for the fair competition, I.e. mainly for public welfare, there comes intersection of these two aspects of the laws.⁵

² <https://www.indiakanoon.org> Microsoft corporation vs Yogesh Papat & Anr

³ <https://www.indiakanoon.org> Bayer's Corporation vs Natco pharma (2012)

⁴ <https://nluassam.ac.in> UNDERSTANDING INTELLECTUAL PROPERTY AND TECH LAW

⁵ <https://www.ftc.gov.in> The Intersection of Patent law and Competition Policy

Joint ventures in cross border technology formation

Another important ground of intersection between technology law as well as the patent law would be the cross border technology formation. Such of kinds of practice mainly happens through technology transfer agreements between the countries. And it actually happen through joint ventures between the companies. Now a days as we find out that the technology is actually increasing in such a rapid pace. And one of the primordial factor contributing the same is through joint ventures between countries of different nationalities, and there are many variables, in that regard starting the research programmes, training programmes, the franchise agreement etc. So in that case, as it is actually a joint agreement, the same into involving of usage of each other's technology. So here a certain kinds of check must actually be seen regarding the usage of the technology for the purpose of the public welfare. On the other hand as the particular technology is actually sourced from a particular inventor, that particular technology is bound to have certain checks on it's usage by the inventor. And in order to execute the same, it is again going through the lines of the patent legislation of the country. Hence again the law relating to patents as well as the technology law is found to be intersected from that of the Indian origin. And such an be actually proved from the respective of the immunizations granted to them. So in that case, if we analyze section 48 of the Patents Act, 1970, it has been mentioned very well that the patent holder having the exclusive rights over a particular scientific invention has all the rights to stop the usage of any person from using their patented product. Coming to section of the Information Technology Act, 2000, we find out that the section 43A of the said legislation which totally focuses upon the body corporate, and that will also implement certain regulations, as well as security practices upon the usage of the particular technology. Thus it actually states that if any kind of wrongful measure is being taken, on improper usage of the particular technology then compensation will be imposed upon the wrong doer. On other hand section 72 A of the IT Act, 200 will impose certain penalizations, if any wrongful loss is actually created. And to that effect if we combine these two provisions of these two legislations, we see that the same will actually be applicable upon the joint ventures of the technology. And the question to that is then that whether the aforementioned provisions of the aforesaid Acts, are having the resemblance on it's significance or not in the aforementioned facts. Thus again in this particular ground both the technology laws as well as laws relating to patents, of the country, are getting intersected, with regard to the public welfare of the country. ⁶

⁶ <https://blog.ipleaders.in> Intellectual Property Issues in Joint ventures

<https://www.lottfischer.com> Managing Intellectual Property in Joint Ventures and Collaborations

GROUNDS OF DISSECTION BETWEEN PATENT & TECHNOLOGY LAW

Thus till now, the various grounds of intersections of these two laws are actually eluded in the name of the public welfare. Now going through the same lines even there are certain grounds where it is proved that the these two laws retain their own identity.

Compulsory Licensing

Firstly is on the basis of the matter in public welfare where we see, that the quantum of benefits actually increases from that of public welfare, then in such situations, the technology laws actually deviate from that of the patent laws. According to section 87 of the Information Technology Act, 2000, it is found that the Central Government actually has all the rights to make regulations on the basis of the use, adoption as well as utilization of the technology. This particular provision submits itself to section 84 of the IT Act, 2000, it is found that whenever it is seen that any patent holder is found to retained the rights of the patentability rights of the invention, against the public welfare then such rights will be taken away by the union government, for the sake of the people concerned as mentioned above. So from here we can see that both the lines of the particular legislation has the similar significance. Here this can be very well eluded through a particular case study. Thus we see that the case of Agracetus Patent Revocation case (1994) is a classic example to the particular phenomenon. A particular US Company named Agracetus has been seen in the matter to have granted the patent to a particular scientific invention of method of growing certain cotton seeds. Here the cotton cells were actually changed through the aid of tissue culture. This would actually acts as an active step for the immunization of the cotton. But in order to process the same in the market the same did actually charge a very high price. Considering certain situations, the Indian Government decided to revoke the particular patents. Such was taken as a decision by the patent holders considering certain factors. It was seen that the cotton is regarded as one of the major national crop of the country. It is found to have highly used by the Indian farmers. And thus such strict patenting of the particular crop, would not only hamper the interest of the farmers, but also the public at the large. The assumption has been made with regard to the intensity, and the veracity of the particular crop being used in the country, and the vivid connection of the same, with the people's life style which also contribute to the income profile of the these farmers as well. And accordingly such decisions are also taken in that regard. Thus from various such case laws, it can be very well understood regarding that it is also for the case of the public benefit only, the

two laws can also shape into different forms.⁷

General exceptions against patentability

Another aspect of dissection would be on certain restriction which the Indian Government has put to certain technological aspects, to get the patent rights over the same, which in it's apparent nature, though qualify to be a patent, the government has actually given certain restrictions upon it depending upon the type of it. According to section 2(j) of the Indian Patent Act, 1970, it has been mentioned that any invention, which is to be patentable, must actually have an inventive step along with an industrial application. But here again the question lies that whether all such scientific inventions, which are actually having fulfilled the criterion as aforesaid, are actually getting the patents or not. Unfortunately there are actually certain exceptions, with regard to the same, which is mentioned in sect 3 of the statute. And there the first exception to it would be the various scientific principles, or theory. One of the main factor contributing to it would be acting as a secondary factor for the development of the technology, which would actually be used as base factor for innumerable technologies, useful for the public welfare. So in such case patentability to these entities, may somehow obstruct as well as delay such inventions. Another proviso, in this regard would be upon a particular process of having treatment for humans as well as animals. The particular matter is very vividly connected with the welfare of the people, and thus the same, and thus any kind of compromise to that effect would not be considered, which has it's probability, with this particular aspect. And lastly another aspect of exclusion would be on the basis of the business methods, computer programmes, algorithms etc, citing the fact of having all these entities, are having a secondary effect to the technical development. Now we all know that the provisos generally do not form the main crux of the statute, rather, it actually have certain separate implications relating to any different statute, or doctrines. Hence if such section is having compared with the section of the IT Act, 2000, it has it's submissions within it. According to such section, it has been mentioned that the Union Government, whenever necessary has the right to adopt regulations, with regard to the utilization, use as well adoption of certain technology, and to that effect, such provision very clearly indicated arbitrary power on the Union Government against the patentability of technological inventions, where government actions are always for the people. Thus in that way again both the two laws are dissecting in it's nature. This can be very well understood through a classic example. Here this case can be well understood through the aid of Visa

⁷ <https://blogpleaders.in> Compulsory licensing in IPR
<https://www.jainandpartners.com> compulsory licensing in patents

International Service Association vs Controller of Patents (1994). Here in this particular case the particular invention actually dealt with the authentication as well as authorization of various financial transactions. Unfortunately no patents were actually granted to the entity.⁸ Here the judicial authority declared that though the particular invention though having novelty as well as industrial application within the same, it is actually not having any technical contribution, to the same. Thus in that regard again the fact has been proved that it's only for the public welfare exclusively, these two laws may gets separated through the aid of the language of their provisions itself. Another ground of such separation may happen from the fact of certain life saving drugs, where it again goes through the same lines of having the deprived the patent holder from getting exclusive right of ever greening their inventions, mentioned in section 3 (d) of the Act. It is found that the drugs are actually the primary components for the building up of various medicines. Thus from a particular drug component, several medicines, can actually be borne out. And medication is one of the most prominent pillar for the social welfare, which may gets interrupted in it's pace with relation to the veracity of it's effect, if the patentibility is renewed. Thus in such case, again the particular invention having both inventive step as well as industrial application, cannot actually get any kinds of patent in that regard. Thus in that regard we find out that the particular drug is not being totally deprived from having patents, but, still the same cannot be also renewed in spite of having fulfilled the criterion of the patents mentioned in section 2(j). The particular legislation of the country i.e. the Drug and Cosmetics Act, there is the mentioning of section 29 of the Act, where it states the license are being given for the purpose manufacturing as well as sale of drugs. So that can go with lines of exclusivity of patents, from the perspective of the one, who has created it. But again for public welfare, the same is not granted to them. A classic example in this regard would be Novartis AG Vs Union of India (2013)⁹, were it were mentioned that only because of minor modifications, one cannot actually be granted patents¹⁰.

Breach of Digital Privacy

As we all know the fact that section 72 of the Information Technology Act, 2000, where punishment is being provided to the person who are found to have breached the privacy of the data of the company. This particular section actually has much relevance with the section of The Patent Act, 1970, which actually talks about the compensation for the unauthorized usage

⁸ <https://www.indiakanoon.org> Service Association vs Controller of patents (1994)

⁹ <https://www.indiakanoon.org> Novartis AG Vs Union of India

¹⁰ <https://www.wipo.int> Exceptions and limitations to Patents Rights
<https://docs.manupatra.in> Exceptions and Limitations to patent Rights in India

of the particular technology. But the particular Act, can also be altered with the type of the particular technology. It is found that there are certain technologies, I the contemporary era which process in the way to hack to trace one's own data, without having take permission from the same. Such kind of practice is alleged as hacking. And to that effect to process such kinds of acts, it is necessary to track one's own data, a particular technology devises the entire thing, to which the patent is not being granted to the patent holder of such inventors. Rather such kind of technology is not only restricted from marketability, but also having applied the aforesaid section of having penalized for the same. So through that line, according section 48 of the Patent Act, 1970, which talks about giving exclusive rights to sell the particular invention., where here the regulating authority has all the rights to have frozen the particular technology. There are various instances with regard to it. Though the final judgment has not been given yet, but still the case of Manohar Lal Sharma vs Union of India (2021) is a landmark case highlighting the particular provisions. Here the aforesaid technology is found to have hacked the mobile phones of various activists, then politicians, as well as various activists. Claims have been raised against violation of section 43 & 66 of the IT Act, 2000, for privacy. Not only that but also, violation to article 21 of the Indian Constitution is also being highlighted from it, raising issue of privacy.¹¹

PROBABLE RECOMMENDATIONS

Hence after analyzing all these issues certain findings has come, upon which certain recommendations, can me made.

So as it is very well understood that only because of the public welfare both the entities of technology law as well as law relating to patents, combine, then such status of public welfare must actually be scrutinized properly. There must be much clarity on that basis. If we scrutinize the entire institution of compulsory licensing we find out that such thing actually occur when the certain thing of public demand is not accessed properly by the public due to retaining by the patentee or because of imposing certain unnecessary conditions. Thus in that regard the particular practice is going totally in contrary to the patent law, which on other hand is actually compromising the position of the patentee. Now the question in this regard is to what extent is such kind of action is actually valid, or reasonable. Thus in such situation, we see that the matter must be valid or reasonable. Or else unnecessarily depriving the rights of the patents would actually be not justiciable. Apparently though it is showing to have a proper stand, but

¹¹ <https://blogpleaders.in> Punishment for hacking of Computers

in reality it has its inner efficacies within it. For that first of all we need to understand, the genuineness of such problem. Before that it is actually difficult to understand the actual reasonability. Rather the focus must not be totally upon the dependence on the matter of the claim. There must be much research and analysis being made to this regard. The effect of the particular action of the patentee must be analyzed minutely, to see whether really the problem is actually affecting the basic needs from the greater public or not. Otherwise depriving a person from its exclusive rights would merely be a violation of the fundamental rights. So for that a special body of social scientists, must be set up by the government, in order to detect the point. And the fact is that the combination of these two laws are having only in the name of public welfare. But again whether for public welfare depriving a person from its basis rights is actually justiciable is again a question.

Then followed by that, another point of non reasonability is, about the mechanism behind the formulation of the licensing agreements. Here in such situation we find out that the matter in the patent law is actually being synchronized with the section 43A & 72 of the IT Act, 2000. We find out that both of these sections are talking about the penalizations for breaching privacy of data which can be correlated with section 48 of the Patent Act, 1970, which talks about the non authorized use of a particular patented product. But here I think the inter dependence of the two laws must be much more broader with regard to the public welfare. The reason behind the same is that a particular technology must not be totally given up to a different entity, on the basis of negative conditions, which might sound a quite naïve in that regard. It is rather preferable that a proper training programme must be given to the particular licensee, before being given to be handled with such kind of technology. And such execution would also be the scrutinizing ground for the ones who are actually eligible to use the particular technology. Otherwise the entire project would become harmful for not only the patentee but also for the licensee and the greater public as well. Thus the particular programme if incorporated in the particular statute of the patents would correlate vividly with the management of the technology. And with that way, it also relates with the section 70 of the IT Act, 2000, where it mandates to take protection of the critical information, which constitutes the particular machinery. These entities actually form a vital part in regulating the health of the particular machinery. Thus in that way having provided the training programme in regulating the technology, to the patentee would submit to the abovementioned section of the Act. And contrary to that, may lead to the causation of danger to the public, with a wrongful utilization. And that would also violates Article 38 of the Indian Constitution, which imposes responsibility of the state to take welfare measures for the public.

Next form of discussion can be upon the competition law issues, which are making both the technology law as well as the patent law a separate entity altogether. Here it is seen that both the laws are carrying a totally different significance, in order to facilitate public welfare. But the question here is whether again then same problem of violation of rights is actually happening. According to the various exceptions, which are granted according to section 3 of the Indian Patent Act, 1970, it has mainly classified the same, on the basis of general conception. Rather it can be said that the same has a theoretical undertone. But in practicality, the dependence is much upon the situational variance. Thus in exceptions, we find out that the same has within itself various business methods, drug component, mathematical algorithms etc. Now if we analyze the component of the various business methods, business methods, etc., it is not that all these entities would act as a base factor to many medicines or business strategies respectively. There can be certain entities which may actually lead to any one component or execution. In that case, in the name of public welfare, the particular patentee is not only deprived of its fundamental rights, but also, from their patent rights are get totally deprived off. The entire application of section 48 of the particular statute is getting totally redundant. Thus in such scenario, the focus must be deviated to the individual testing upon these components. If a patents is being filed upon these elements, firstly proper testing must be made upon the probable implications, which are there, and accordingly, a committee of scientists, strategists, must be there with there in attachment with the office of controller of patents, and accordingly, though may take a bit longer time but proper justice would be rendered to not only to the public but also to the patentees as well. And accordingly the additional clause of having examined upon it probability, will be added to the exemption clause of the statute.

CONCLUSION

So after analyzing all these aspects, it is very well understood that the intersection as well as dissection of these two laws, in India through its provisions of the language, is again happening on the basis of language / words. The entire thing is actually happening on the basis of the general significance of the language, which is a bit diverted from the actual reality. And hence accordingly, ignorance to the individualistic analysis, to case are actually making the law diverted from the utmost constitutionalism. It is some way or the other breaching the constitutional rights of the people. This is because the various exceptions, which are being given against patentability which either deviates the patent law from the technology law, or compromises the law from its actual position, to make it relevant with the provisions of the technology law, in India, are based upon general approach exclusively. And above all for actual

purpose for which these intersection as well dissection is happening i.e. for the public purpose, in various instances there is actually no connection with such at all. Otherwise, such intersection as well as dissection between these two aspects of law is very much required for the sake of public good.

REFERENCES

- <https://tax.guru.in> Boundaries between Tech laws and IP laws and Intellectual Property
- <https://nluassam.ac.in> UNDERSTANDING INTELLECTUAL PROPERTY AND TECH LAW
- <https://www.indiakanoon.org> Microsoft corporation vs Yogesh Papat & Anr
- <https://indiakanoon.org> Bayer's Corporation vs Natco pharma (2012)
- <https://www.ftc.gov.in> The Intersection of Patent law and Competition Policy
- <https://blog.ipleaders.in> Intellectual Property Issues in Joint ventures
- <https://www.lottfischer.com> Managing Intellectual Property in Joint Ventures and Collaborations
- <https://blog.ipleaders.in> Compulsory licensing in IPR
- <https://www.jainandpartners.com> compulsory licensing in patents
- <https://www.indiakanoon.org> Service Association vs Controller of patents (1994)
- <https://www.indiakanoon.org> Novartis AG Vs Union of India
- <https://www.wipo.int> Exceptions and limitations to Patents Rights
- <https://docs.manupatra.in> Exceptions and Limitations to patent Rights in India
- <https://blog.ipleaders.in> Punishment for hacking of Computers