

Correspondence

Can we expect to achieve anything from Indian Bayh Dole?

Sir,

We read with interest article by Satyanarayana¹ on the pros and cons of the Public Funded IP Bill 2008. The Bill modeled on the US Bayh Dole Act envisages to provide impetus to research and patenting among Indian institutions from public funds and provides them title to ownership of patents, which in turn could be licensed to private commercial entities. It is presumed that the IP Bill (2008), would spur research in the country. As author has mentioned, the Bill was introduced with objectives such as to ensure that the benefits of public funded research reach the public, create an environment where wealth can be generated from the university system and forge more closer academia industry partnership. Can objectives of the Bill be achieved? One of the objectives is to generate wealth from university system. Many of Indian universities have set objectives to generate wealth from research activities as they are almost directionless of the expected outcome. Further, the purpose of wealth generation too is not specified. If wealth is to be generated, is it for public good or for university? If universities are expected to generate wealth, they would lose focus of meeting social obligations. Other objective of forging closer academia industry partnership can be done even without implementation of IP Bill. If academia is carrying commercially useful research where an industry interested is involved, definitely the collaboration would be productive. More academia industry partnerships can be forged by identifying potential for commercially useful research that benefits university as well as industry, which ultimately may benefit public due to its commercialization. The most profound impact would be on healthcare research.

According to Puryakaystha², the Bayh Dole Act dealt with only one aspect of Intellectual Property - namely inventions. Public funded IP Bill (2008) has in its scope all aspects of Intellectual Property if it arises out of publicly funded research. Clause 2(c) of the Bill states “intellectual

property” means any right to intangible property, including trade mark, patent, design, and plant variety as defined under the Copyright Act, (1957), the Patents Act, (1970), the Designs Act, (2000), the Semiconductor Integrated Circuits Layout-Design Act, (2000), and the Protection of Plant Varieties and Farmers’ Rights Act, (2001). The wording of this clause is quite ambiguous and confusing. According to this clause even the class notes and presentations may be protected. The IP Bill, ironically, is not to advance science but to exploit commercial potential by private commercial entities. The science landscape of the US is different compared to that of India. According to a Fortune article, as stated by Puryakaysatha², Americans spent \$179 billion on prescription drugs in 2003. That is up from \$ 12 billion in 1980. Further, in last couple of decades, discovery of new molecules have drastically reduced.

The attempt to implement Publicly Funded IP Bill 2008 may have negative impact on research activity, especially in healthcare sector. An attempt to blindly copy or emulate laws that are enacted in developed countries, may have adverse effect on scientific landscape and research activity of the country.

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