

17.10.2008

**THE PROTECTION AND UTILIZATION OF
PUBLIC FUNDED INTELLECTUAL
PROPERTY BILL, 2008**

A

BILL

*to provide for the protection and utilization of
intellectual property originating from public funded
research and for matters connected therewith or
incidental thereto.*

BE it enacted by Parliament in the Fifty ninth year
of the Republic of India as follows :-

	<p>1. (1) This Act may be called the Protection and Utilisation of Public Funded Intellectual Property Act, 2008.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	Short title and commencement
<p>14 of 1957. 16 of 2000. 37 of 2000. 53 of 2001.</p> <p>21 of 1860.</p>	<p>2. In this Act, unless the context otherwise requires-</p> <p>(a) "designated countries" means countries in respect of which the recipient opts to retain the title under section 5;</p> <p>(b) "Government" means the Central Government and includes local authorities and statutory authorities under the control of the Central Government;</p> <p>(c) "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;</p> <p>(d) "intellectual property creator" means the person employed or engaged by the recipient for research and development and who created the public funded intellectual property;</p> <p>(e) "recipient" includes a university or institution of higher education established for research purposes which has entered into an agreement with the Government under section 3, and includes an organization established by an Act of Parliament or a non-profit scientific or educational organization registered under the Societies Registration Act, 1860.</p>	<p>Definition.</p> <p>39 of 1970.</p>

	<p>(f) "prescribed" means prescribed by rules made under this Act;</p> <p>(g) "public funded intellectual property" means intellectual property which is the outcome of research and development for which the Government has provided grant under section 3;</p> <p>(h) "Utilization" means the manufacture of a composition or product, the practice of a process or method, operation of a machine or system, or commercialization thereof.</p>	
	<p>3. (1) Any recipient interested to take a grant from the Government for the purpose of research and development shall enter into an agreement with the Government before receipt of such grant.</p> <p>(2) The agreement entered into under sub-section (1) shall be in such form and manner as may be prescribed.</p> <p>(3) The recipient of the grant shall,-</p> <p>(a) make disclosure of public funded intellectual property to the Government within the time specified under section 4;</p> <p>(b) perform the duties under section 7;</p> <p>(c) constitute an intellectual property management committee in the manner specified under section 10;</p> <p>(d) abide by such other conditions as may be prescribed.</p> <p>(4) The Government shall not release any grant to any recipient until an agreement under sub-section (1) is entered into.</p>	Funding Agreement.
	<p>4. The recipient shall within a period of sixty days of actual knowledge of the public funded intellectual property make a disclosure thereof to the Government in such form and manner as may be prescribed.</p>	Disclosure of the Public Funded Intellectual Property
	<p>5. (1) The recipient shall within ninety days of the disclosure under section 4, but within the period</p>	Vesting of title of public funded intellectual property.

specified by any law for the time being in force for receipt of application in the designated countries for protection of public funded intellectual property, intimate, in such form as may be prescribed, to the Government, his intention to retain the title of the public funded intellectual property with respect to the designated countries and the Government shall allow the title of such public funded intellectual property with respect to such countries to vest in the recipient:

Provided that where the recipient fails to disclose the public funded intellectual property under section 4 or give such intimation within the specified time, the title of the public funded intellectual property, shall vest in the Government:

Provided further that the Government may, by an Order published in the Official Gazette, refuse the title to the recipient within ninety days of the receipt of the intimation on any of the following grounds,-

(a) that the recipient is not located in India or does not have a place of business located in India or is subject to the control of a foreign Government.

(b) that in the public interest and in exceptional circumstances the Government deem it expedient so to do;

(c) that it is necessary so to do in the interest of the security of the nation;

(d) that the public funded intellectual property is related to atomic energy as defined under section 20 of the Atomic Energy Act, 1962 or under section 4 of the Patents Act, 1970:

Provided that where the Government is satisfied that the recipient has, for reasons beyond his control failed to give intimation within the **time specified under this sub-section**, it may, for reasons to be recorded in writing, extend the said period to **such limit as may be prescribed.**

33 of 1962
39 of 1970

