

Trailer Agreement on employees can protect Patents, IPs of cos: Dr KC Kankanala

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With Indian companies increasingly getting into knowledge oriented cutting edge work, patents and Intellectual Property (IP) are seen as the logical options to protect their interest not only from competition but also from their own employees. However, the irony is that not many firms have any clue on protecting their interest or are having a laid back attitude.

In the case of life sciences industry, comprising of pharmaceuticals, biotechnology, contract research, clinical trials and drug discovery, the relevance of Patents and IP is all the more critical as genuine research is the backbone of the many inventions driving the industry to the next league and also addressing new emerging challenges faced by millions.

Absence of preventive actions becomes a bone of contention and many of the disputes are being fought in the court and also out of court. Although such issues happen on a regular basis, many are not publicized and it is difficult to gauge the misappropriations.

However a practice which is vogue amongst many companies today is to get senior employees quitting the company to sign a Trailer Agreement (TA). The agreement revolves around maintaining confidentiality and tracking the ex-employee's job movement. Therefore companies across the world and India taking the Trailer Agreement seriously need to take necessary action if in-house technology is stolen and infringement of confidential documents is made. TA will make the employee responsible because it comes with a legal binding, Dr Kalyan C Kankanala, Chief Knowledge Officer, Brain League IP Services Pvt. Ltd., told Pharmabiz.

Intellectual Property generated by an employee during the course of his employment with a company generally belongs to the company. As there are no statutory provisions with respect to the same in India, most companies use agreements to transfer IP of employees to the company, he added.

The TA generally is basic clause to protect the company's IP and includes: Intellectual Property clause transferring IP generated by the employee to the company and agreeing to co-operate in its protection and enforcement; Confidentiality Clause that obligates an employee to maintain secrecy of a company's confidential information during the term of employment and after the employee leaves the company. The confidential information protected includes inventions, processes, methods, scientific information, business information, financial information, client lists and so on; and Non-compete clause that ensures that an employee does not work with or start a competing company after he leaves the company. Generally, one year of reasonable non-compete is considered to be valid in India, said Dr Kankanala.