

# Patent and Public Domain Balance – 1

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Patent Law is believed to promote the progress of science and technology by providing exclusive rights to inventors for a limited period of time. It operates on the principle of 'Quid Pro Quo' or 'Give and take'. An inventor gives an invention to the public and takes exclusive rights over it for a limited period of time. The grant of exclusive rights is believed to provide incentives to invent, invest, design around and disclose. Possibilities of commercial benefits during the period of exclusive rights is believed to encourage inventors to invent and investors to invest. Incentive to design around springs out of the efforts of competitors to work around the technology, whose access is blocked due to existence of patents. As complete disclosure of the invention is a prerequisite to the grant of a patent, the inventor is incentivized to disclose his invention to the public in order to get a patent. These incentives operating together or individually are said to promote the progress of science and technology.

## Patent Life Cycle

The basic objective of the patent regime as seen in the patent life cycle is creation of new inventions through economic incentives and enrichment of the public domain. By granting exclusive rights, the patent regime provides the aforementioned incentives, which in turn promote progress of science and technology by encouraging investment and invention through promise of financial benefits during the exclusive period.

On being created and satisfying all requirements, an invention passes through the patent domain before entering the public domain. The existence of a public domain is central to the purposes of a patent system, which aims to foster innovation. While a patent grant rewards and promotes inventiveness by conferring a limited monopoly upon an invention which meets certain criteria, a viable and vigorous public domain is indispensable to the process of invention itself. Information in the public domain acts as a basis for further inventions by providing the knowledge necessary for future inventive activity. However, this does not apply to path breaking inventions, which are completely different from the existing knowledge and which open up a totally new field that is not dependant on information in the public domain.

Most provisions under patent law are in one way or the other related to and affect the patent life cycle. The objective of the patent system, which is to promote the progress of science and technology, can be achieved only if the patent law achieves a balance between inventions in "patent domain " and information in the public domain. The determination of the ideal balance between patent and public domains is very tough because it varies based on the economic and social ideologies of each country. Any failure by a country to maintain the ideal balance could be counter productive to patent objectives resulting in slowing down of progress of science and technology.

The posts that follow will review various patent provisions under the Indian law with an aim of defining the appropriate balance between patent and public domains for optimal technology progress.

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