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VOLUME 10 ISSUE 2**

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Mr. Madhu Pillai, PMP Speaker 'Effective Costing & Validation'  
with PMI MC Chapter Board Members

**Dear Friends,**

Lets welcome the new look PMI MC Journal that now has a tinge of freshness and a broader outlook!

The cover page is now distinct and provides a professional and corporate look. The concept we wish to promote is to have three themes on the Cover Page:

1. Celebrity Profiles
2. Young Achievers
3. Models

Celebrities could be business leaders whom we will profile along with articles written by them. Young Achievers would be PMI Mumbai Chapter members who in their project management profession have done exemplary work and want to showcase the same to the members. The Editorial team will evaluate the work you submit and validate before short-listing your photo to the cover page along with the article on your work. Cover Page Models can again be one among you who wishes to be part of the PMI MC Cover page... and show your grandchildren how good you look on Page 1! We are open to start Page 3 too if you would like to see "Page 3"!

In this edition of the MC Journal enjoy (with a morning sip of tea or an evening coffee mug or a glass of your favorite soft drink) some interesting articles shared by distinguished Chapter members.

Our esteemed Chapter President **Tejas Sura, PMP®** shares with us new updates from the PMI Mumbai Chapter in Q3 2008.

In this edition **Dr. James Brown** critically evaluates ROI and shares valuable information on the subject.

**Jacob Mathew, PMP®** writes in to us on how to enhance team productivity and collaboration. He stresses on the value of inter-team communication and how it is the essential mantra for project success.

**Sumantra Sarkar, PMP®** brings us The Ahmedabad Branch of PMI Mumbai Chapter (PMIMC) monthly PMP club meeting details, held on the 20th of July, 2008.

**Sudhir Garg PMP®** shares his PMP certification experience with us.

**Ms. Deval Patel** talks about the significance of Intellectual Property rights in Globalization.

Learn how to earn PDUs by publishing your articles in PMI MC Journal.

The **2008 MEGA EDITION** of **PRAKALP** is due for Dec'08 end release and we eagerly look forward to receive your articles! This edition will also be available in **PRINT** version.

**May the season of festival and Deepavali the festival of lights bring joy and happiness to each one of your life!**

Warm Regards,  
**Kummar Vaalsalam.**  
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**Kummar Vaalsalam,**  
**PMP®**

**CHIEF EDITOR.**

**Tejas V. Sura, PMP®**

**R.V. Joshi, PMP®**

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## From the President's Desk

### Esteemed Readers,

The 'INITIATION' process for the Chapter has been completed - The initial scope description is in place with a provision for expansion, should the membership volunteerism exceed the expected resource allocation boundaries. The Annual budget with the supporting funding is in place. The VPs have been empowered to start the various activities with full gusto!

The membership counts have increased from 669 in December 2007 to 724 in August 2008, recording the highest increase amongst Chapters in Western Asia Region. The Chapter Accounts have been audited and the Annual Report preparations are on. Kalyanraman Narayanswamy has taken steps towards planning Annual General Meeting and Elections to vacant Board positions.

The Communications portfolio lead by RV Joshi has several firsts up its sleeve in the past quarter! A looping presentation has been developed to be displayed during all Chapter events, communicating the Chapter announcements and updates. Prospective members wanting to volunteer for Chapter activities have logged in their details directly on the CMS of the Chapter setup by the Communications team. Constant Contact Tool has been successfully implemented and the attendance at Chapter events has surged due to higher penetration of Chapter Event Notifications.

The Chapter's PMP Preparatory Course is being conducted on a monthly basis. Sharad Harale has ensured several additions to the Library including but not limited to books on CAPM Preparation and MS Project software tool. Details are available with the Chapter Office.

The Chapter conducted two programs in the past month. Ravi Eppaturi (Corporate Relations portfolio has switched hands from Shashank Gadgil to Ravi) managed the dinner event on 28<sup>th</sup> August "Effective Costing & Validation- Path to

Success on Projects" delivered by Mr. Madhu Pillai, PMP.

Zubin Kika (has now taken over the Programs portfolio from Vivek Prakash) organized the training program on "Effective use of Microsoft Projects 2007 in Project Management" presented by Mr. P. Seenivasan, PMP. An IPM Day event is planned in mid-November on "Challenges in Project Management".

The Chapter's popular monthly event, PMP Club, had a record attendance of over 80 participants during the September meeting. Membership is requested to register online for all future PMP Club events to avoid inconvenience.

The Ahmedabad Branch chaired by Nimish Mehta is planning for the next PMPCE course in the next month. Rakesh Gupta has initiated dialogue with interested members for a branch in Nagpur and a student branch of a Management Institute in Mumbai.

The Architect for the Goregaon Property has been appointed. The Architectural Layout is firmed up. Electrical & A.C. layouts are finalized. Team lead by Rakesh Gupta will be finalizing schedule of finishes for the premises.

A course for training NGO staff in Project Management is being developed and a pilot workshop is expected to be conducted next month. Sharad Harale and I are actively involved in this initiative for a noble cause.

The Chapter Committee has received an overwhelming response to its call for Volunteers and over 30 members joined the Committee after the September PMP Club meeting to express their interest in specific Chapter activities. To summarize, the Chapter is all set to execute its initiatives as per the plan. Our objective is to satisfy stakeholders like you and we seek your help to achieve the same.

**Tejas Sura**

**B.E. (Civil), M.S. (USA),  
PMP®**

**president@pmimumbaichapter.org**

**WISHING**

**YOU & Your family**

**A VERY HAPPY,  
POSPEROUS  
and  
JOYOUS  
DEEPAWALI!!**

**Warm Regards,**

**The Managing Committee  
PMI Mumbai Chapter.**



# Is Return On Investment (ROI) Overrated?

Return on Investment (ROI) is probably the most popular business case measure for assessing projects and initiatives. However, it is fraught with pitfalls and is the most overrated project selection method. I am using ROI here to represent a variety of financial measures that can be determined by financial analysis. Regardless of the final measure, whether it is Net Present Value (NPV), Internal Rate of Return (IRR), Economic Value Added (EVA), or ROI, the basis of the calculations is the same. You're looking for a forecast of revenue and costs.

**I am not the only one to make negative remarks about financial measures.**

"These methods are extremely popular project selection approaches. But don't be fooled: The businesses with the poorest performing portfolios rely almost exclusively on financial selection approaches, according to our research."

*Winning at New Products: Accelerating Ideas from Idea to Launch,*  
Robert G. Cooper

**Your ROI decisions are only as good as your ability to forecast!**

ROI is computed using a forecast of costs and a forecast of revenue or cost savings. Thus, ROI is dependent upon the accuracy of the forecasts

for the costs and revenue projections. The question that the program manager needs to ask is: "How accurate are, and what degree of confidence do you have in these forecast estimates?" This question should be followed by a review of all the ROI estimates for the past three to five years to assess the demonstrated history of individual and organizational forecasting ability.

**History is proof of performance!**

If the organization has a history of accurate costs and revenue forecasting, then have confidence in the ROI numbers. However, if the history of the organization's forecast of cost and revenue numbers is poor, the program manager should discount or ignore the ROI calculations. Still, have the organization calculate the ROI so you can judge their forecasting ability in the future, but you should not include ROI as a determining factor in your analysis to identify the best projects and initiatives.

As always, judgment is a determining factor and if there is overwhelming and compelling evidence leading you to consider ROI, despite the poor forecast history, and then go ahead. The good part about going back and looking at previous ROI projections is

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**President of SEBA®**  
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SEBA Solutions Inc. is a  
Registered

Education Provider with the  
Project Management Institute

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Management' published by  
McGraw-Hill.

He provides project  
management training and  
keynote speeches worldwide  
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that it will tell you the forecast accuracy of those projections. Even with good forecasting ability today's environment is so dynamic with accelerating technology change and globalization forecasting is problematic.

Then there is just plain old uncertainty. I suspect there are lots of ROI analyses out there now that are useless since oil was recently more than at \$130 per barrel. Who forecasted that? If we use ROI we must constantly evaluate our ability to forecast and weigh the level of uncertainty associated with what we are forecasting. If uncertainty is low and forecasting ability is good (a history of demonstrated good forecasts) ROI and financial measures may be a leading tools.

### **Using history drives accountability!**

I am sure that no one at your great company or organization tweaks or massages their ROI numbers to "bump them up" a little or a lot with hopes of

getting a project or initiative selected, but it does happen in other companies. *If your organization never goes back to critique ROI estimates and then hold the estimator accountable for those estimates, expect a lot of massaging of ROI data by those trying to increase the odds of their project gaining approval.* The program manager has to assure that the project selection process uses valid data and/or understands the deficiency of the data.

When this discussion comes up in my training of program and project managers, most of them say that their organization never looks back at previous ROI estimates. Invariably a program manager will make the comment that "Circumstances have changed. There is no point in going back because the circumstances are different now." This is not a valid excuse for not going back and analyzing. It is simply another reason not to give too much credence to the use of ROI and financial measures in a dynamic environment.



## Enhancing Team Productivity

Survey project managers on what according to them are the pain areas when it comes to managing projects and you would get varied answers. While some will mark non-availability of right skills on the top of list, others might put managing scope, identifying the right resources, managing the team aspirations and motivating them, assuring delivery quality and/or struggling with the insatiable stakeholders among many others. Most of the project managers, having learned from experience, will identify their own focus areas and stretch themselves and the team to successfully complete the project. All efforts, to a large extent, would be directed towards keeping the senior management and the customer happy. Many a times the project manager ignores the thin fabric that runs across team - the layer of transparency and visibility that helps the team collaborate and help deliver on time and budget.

A project team delivers best when every individual in the team is oriented towards the common goal of success. Every worker, using a generic term, needs to be aware of his role and responsibilities and how his/her contribution makes the difference. This only happens when each and every member of the team - from the trainees to the team leads - is aware of the project activities. The first step towards achieving that is building an environment that encourages transparency and is conducive to collaboration.

Projects, depending on the size, have to a large extent depended on documents and mails to gather

and track requirements and changes. Key items, as per the person documenting the minutes, will get documented in the MOM. While this serves the basic requirement of documentation and information management, this does not help create an environment for knowledge sharing. The void in this area is evident in longer-running and big-team projects.

During the life-cycle of projects, the team members are bound to come up with some of the following concerns:

- Where does my work fit into the scheme of things?
- Have I been assigned the best task? Is this the best I can do?
- Are my opinions heard and appreciated? Do I count?
- Am I acknowledged for the ideas and suggestions that I throw in?
- What are my associates working on and how committed are they towards the common goal?
- What are my takeaways at the end of the project?

Such thoughts, as mentioned earlier, manifests easily during projects running for a longer duration and/or in projects with larger teams especially if they are spread across different times zones (virtual teams).

While there could be many ways to inspire and motivate the team, an easy starter solution that is useful for the project team as well as for the organization is building a collaboration platform. Such a platform will help:

**Jacob Mathew, PMP®**  
**jacmw@hotmail.com**

### PMI MC VISION

To be recognized as the organization of choice by evangelizing Project Management

### PMI MC MISSION

Evangelize project Management across industry, academia, community and government.

Provide a forum for project management professionals to promote the principles and ethical standards of PMI.

Promote networking among professionals, sharing project experiences and best practices, imparting training and enabling PMI certifications and ultimately enhancing quality of life.

Provide infrastructural facilities like library, portal and knowledge repositories.



- build an environment to freely discuss issues and thoughts
- the team contribute ideas or recommendations to make the project or the process better
- the team members get recognized for their contribution - be it for the assigned work, ideas and/or anything else that makes the project or the team a success
- individuals or the leads record conversations or rationale behind every decision as this builds a layer of transparency
- avoid the creation of silos that are detrimental to the success of the team and the project
- engage each and every member and help them contribute in whatever way they could
- build a common repository of understanding of project context, activities and the associates contribution
- build a lookup for common definition of project related terms and jargons
- identify better fits for tasks or for new roles within the team

For organizations on a tight budget, I suggest not to look out for the expensive collaboration platforms and kill the initiative. Lots of open-source platforms (based on PHP, Java or .NET) are out there that will do the job very well and also make this a cost and effort effective exercise.

**To conclude, here is a suggestion:**

The next time you prepare or revise the Communication plan

Many projects do start with such a portal, but find it difficult to sustain the relevance of the portal. The lack of efforts in documenting thoughts/discussions or feedback from co-workers negates the whole purpose behind the portal. The team leads need to show the way by being active participant in the forums and also acknowledging the efforts of the team in making it a success.

Here are few tips for the leads to make the project portal a success:

- Spare time to go through the new items on the portal frequently
- Add views and reply to queries that might be raised in the forums
- Initiate discussions on non-project items to break the monotony within the team
- Acknowledge team contributions in the meetings or in the forum
- Accept ideas and suggestions and incorporate them into the project

At the end of the project, the collaboration platform that is the project portal during the life of the project gets archived as the knowledge base for the organization.

for your project, do remember that your team members are also prime stakeholders in the engagement. Studies have indicated that software teams that collaborate and work as a team, contribute to the overall group dynamics and help in fulfilling the common objectives. Put in another way, work teams are made with individuals who collaborate and perform beyond their individual capabilities.





## News from PMI MC - Ahmedabad Branch

**Sumantra Sarkar,  
PMP®**

The Ahmedabad Branch of PMI Mumbai Chapter (PMIMC) held its monthly PMP club meeting on the 20th of July, 2008.

The July edition of this meeting was attended by about 25 enthusiasts including PMI members and non members. Mr. Nimish Mehta, Branch Chair, Ahmedabad Branch, kicked off the meeting by welcoming the audience, introducing the speaker Mr. Arun Lal and detailing the efforts and events that Ahmedabad Branch of PMIMC has been involved in since the last 9+ months.

The meeting was taken to the next level by Mr. Arun Lal, PMP who had taken this opportunity to provide insight on a relatively new subject, "Critical Chain Project Management". Mr. Arun Lal is a certified Project Management Professional having 14 years of overall IT experience including senior positions in Project Management. Currently, he works as Portfolio Manager with FKS, a Future group company. He is one of the first-few trained lead assessors in India for 'Organizational Project Management Maturity Model' (OPM3).

Critical Chain is a revolutionary method of Project Management by Dr. Goldratt. It is based on the "Theory of Constraints" which has been now a proven success in the manufacturing sector. Critical Chain challenges the conventional methods of

Project Management like Critical Path method and PERT by taking into consideration the constraints. The creation and execution of the project plan is different from the conventional methods. Before getting in to the details of the Critical Chain planning, humorous examples relating to "student syndrome", "Murphy's law" and "Parkinson's law" were given. It was explained that with Critical Chain method, the project plan is created:

- \* Backwards from a completion date.
- \* Each activity is set to start as late as possible.
- \* The activities do not contain buffers at this level.
- \* Instead, the individual buffers are added up and added to the entire project to derive the completion date.

It was also explained that while executing the projects, each task need not be focused upon but the consumption of buffers should be monitored. Illustrations pertaining to project buffers, feeding buffers and resource buffers were given to help relate with the day to day work of the audience. RAG reports should be created based on the consumption of these buffers and given the simplicity of a RAG report; it is interpreted by everyone in the same fashion.

The 6th PMP club meeting ended with the vote of thanks and a plentiful of thought provoking ideas for the audience.



Session in progress: Effective Costing & Validation



**Process Risk?  
Systems Risk?  
Compliance Risk?**

**Unable to  
successfully  
implement and  
integrate  
The models  
ISO 9001, ISO 27001,  
ISO 20000, BS25999,  
COBIT, CMMI  
With your business?**

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I remember when I joined Tech Mahindra as an IT Business Analyst; I started thinking about the next step. It was a difficult call. I was into two minds; one path was to get into Business Functions and second was to be a part of Project Management Group and gain credentials. I decided to go with second one as I believe that Project Management is a blend of both Arts and Science and succeeding here requires having a multifaceted personality which involves people management as well as rigorous mathematical concepts that need to be managed simultaneously.

When I joined Reliance Retail Ltd at Navi Mumbai as a Project Manager, I decided to pursue my PMP Certification. While looking for the 35 hours mandatory course, I found PMI Mumbai Chapter as one organization which provides the 35 hrs preparatory course at the minimal cost. Here, people from industry with lots of experience on project management are invited to share their experiences and insights. PMI Mumbai Chapter has a library where one can borrow books, appear for practice tests and read journals.

My batch was the 51st Prep Batch by PMI Mumbai Chapter comprising of 34 students. The best part was the study material provided by the chapter. I got the original PMBOK (that made me delighted) and the Slides which were prepared by the chapter as per the PMBOK. The chapter also provided us with a 4 pager quick reference sheet and Project

Management Book by Kim Heldman.

During the course, I realized that it is not difficult to clear PMP as we do most of the steps involved (time estimation, costing, scheduling) in our day to day project management at our offices. It is just a matter of time to be spent on PMBOK and some good exam preparatory book (I found PMP Exam Prep by Rita Mulcahy to be the best book).

After completion of the course, I filled in my application which got cleared in 5 working days. I took 10 days of leave to have a focused study. My approach was simple. Study PMBOK, study slides provided by PMIMC, study PMP Exam Prep by Rita Mulcahy and appear for PM FASTrack by Rita Mulcahy for evaluating myself.

I used to repeat the cycle again when ever there was a failure in any of the knowledge area. This made me confident in all the knowledge areas. Another important aspect to be worked out is the 4 hours exam. It is difficult for all of us at this level to sit for 4 hrs at a stretch. The best way to achieve this is by practice. I appeared for Super PMP (which is a 4 hrs 200 question test, exactly the way you appear for PMP available with PM FASTrack by Rita Mulcahy). This gave me real confidence for the certification.

And finally when I came out of the test center, I was carrying PMP Certificate with a smile on my face and satisfaction in the mind.



**Ms. Deval Patel.  
Advocate & Solicitor.**

**Deval Patel Associates  
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## PMPCE Course

Introduction to the PMBOK  
Project Management  
Project Management Processes  
Professional Responsibilities

### Integration Management

- Develop Project Charter
- Develop Preliminary Project Scope
- Statement
- Develop Project Management Plan
- Direct and Manage project Execution
- Monitor and Control Project Work
- Integrated Change Control Close Project

### Scope Management

- Scope Planning
- Scope Definition
- Create WBS
- Scope Verification
- Scope Control

### Time Management

- Activity Definition
- Activity Sequencing
- Activity Resource Estimating
- Activity Duration Estimating
- Schedule Development
- Schedule Control

Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce, and very often, in the execution and implementation of projects. Intellectual property or 'IP' is divided into two categories:

- (i) Industrial Property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and
- (ii) Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs.

Intellectual property, especially copyrights, patents, and trade secrets promise to play an increasingly important role in the economy of the 21<sup>st</sup> century as information and information technology comprise a greater share of economic activity.

The globalization of economies, projects and information of corporate and industries desirous of making their presence felt globally has led to the transborder flow of the intellectual property and worldwide similarities in intellectual property laws and rights. Globalization has made it possible for products and technologies to be launched and used simultaneously throughout the world. As cross-border trade and business increases in products and services that are the subject of intellectual property protection, those holding intellectual property rights become more interested in ensuring protection of those rights outside their borders. Harmonized intellectual property regimes allow transnational corporations to internationalize the different phases of production as well as distribution and sale without jeopardizing protection of intellectual property rights.

Globalization is largely the result of planning by economists, business interests, and statesmen. Since World War II, barriers to international trade have been considerably lowered through international agreements such as the General Agreement on Tariffs and Trade (GATT) and the creation of the World Trade Organization (WTO) to which over 151 member countries are signatories, including India.

India is also member of two major treaties, namely, Paris Convention for the Protection of Industrial Property (relating to patents, trademarks, designs, etc.) of 1883 and the Berne Convention for the Protection of Literary and Artistic Works (relating to copyright) of 1886. Apart from these, India is also a member of the Patent Cooperation Treaty (PCT) which facilitates obtaining of patents in several countries by filing a single application.

The World Intellectual Property Organization (WIPO), a United Nations agency based in Geneva, administers treaties in the field of intellectual property. India is a member of WIPO and the Department of Industrial Policy & Promotion is the nodal Department in the Government of India for all matters concerning WIPO.

### The Role of Intellectual Property in Nation-Building

The future of India depends greatly on its ability to transform knowledge, innovation and creativity into an indispensable valuable asset. Knowledge-driven economies encourage innovation and creativity for the development of trade and for attracting foreign investments. In addition to the owning of assets like labour or land, it is essential for Indian industries to build wealth for



themselves and the nation by the creation of intangible assets such as intellectual property.

### The Importance of Intellectual Property in Industries

Intellectual Property such as patents, trademarks, trade names, industrial designs, layouts of integrated circuits, geographical indications and copyrights have long played an important role in industries experiencing rapid technological change.

Studies at the University of California, Berkeley show that intellectual property rights inherently play a bigger role in establishing competitive advantage in the industries at the heart of the information economy than they did in the agricultural and industrial sectors that earlier dominated the economy.

The Government of India has taken several measures to streamline and strengthen the intellectual property administration system in the country. Projects relating to the modernization of patent information services and trademarks registry have been implemented with help from WIPO.

A brief analysis of the growth achieved by diverse sectors such as Information Technology (IT) and Pharmaceutical industries reveals the role and significance of intellectual property.

### Intellectual Property in the Information Technology Sector

India has always been one of the most desired destinations in terms of outsourcing of research and development (R&D) and product development, because of a variety of reasons, including cost effectiveness, language expertise, quality of work, management skills and most importantly, government support.

What makes India favourable is also the legal system, which regulates the information technology (IT) industry and provides protection for the intellectual property through statutes such as the Information Technology Act, 2000, Patents Act, 1970 and the Copyright Act, 1957.

In the IT industry, innovation and intellectual capital are essential ingredients for progress.

To illustrate how profoundly intellectual property rights influence competitive strategy in the information technology sector, like most software companies, Microsoft uses copyrights, patents, and secrecy to protect its software programs (notably Windows and Office), worth tens of billions of dollars. Copyright protection strengthens Microsoft's incentives to develop and improve its software, and gives it some control over the interfaces between its desktop software and other software.

Information technology companies such as IBM, Intel, Hewlett-Packard, and Motorola receive hundreds, if not thousands, of patents each year. They use their patent portfolios offensively to keep out competitors in certain market niches, defensively to negotiate cross licenses with other firms holding their own patents, and also as profit centers by entering into licensing agreements that generate substantial revenues. As the number of patents has grown, and as licensing revenues have multiplied, patents are playing an ever-growing role in competitive strategies in the semiconductor and computer hardware and software industries.

Indian IT companies, now to a large extent, understand the importance of the promotion and protection of intellectual property.

India has one of the most modern copyright protection laws in the world. Major development in the area of copyright during 1999 was the amendment to the Copyright Act of 1957 to make it fully compatible with

#### Cost Management

- Cost Estimating
- Cost Budgeting
- Cost Control

#### Human Resources Management

- Human Resource Planning
- Acquire Project Team
- Develop Project Team
- Manage Project Team

#### Risk Management

- Risk Management planning
- Risk Identification
- Qualitative Risk Analysis
- Quantitative Risk Analysis
- Risk Response Planning
- Risk Monitoring and Control

#### Communications Management

- Communications Planning
- Information Distribution
- Performance Reporting
- Manage Stakeholders

#### Quality Management

- Quality Planning
- Perform Quality Assurance
- Perform Quality Control

#### Procurement Management

- Plan Purchases and Acquisitions
- Plan Contracting
- Request Seller Responses
- Select Sellers
- Contract Administration Contract Closure



the provisions of the TRIPS Agreement. The Copyright Act, 1957 prescribes mandatory punishment for piracy of copyrighted matter commensurate with the gravity of the offence with an effect to deter infringement, in compliance with the TRIPS Agreement. The sound legal system of protection of intellectual property in India has attracted several foreign IT companies to either outsource or establish themselves in India. But, with the advancement of technology, it is very important that the existing laws be constantly revised.

### Intellectual Property in the Pharmaceutical Sector

New medicines introduced in the market are the result of lengthy, costly and risky research and development (R&D) conducted by pharmaceutical companies, particularly biopharmaceutical businesses. The pharmaceutical industry consists of 'two worlds'. The first includes innovative medicines, original ones, introduced to the market for the first time. The 'other world' includes generic medicines, that is, counterparts of those innovative medicines, whose patent protection has expired.

Patent protections encourage R&D by offering the possibility that a pharmaceutical company's investment will be repaid, a powerful incentive to companies to invest millions and millions of dollars into risky R&D of these medications. Without patent protection, other manufacturers could copy new drugs immediately and offer their versions at a reduced price, seriously hurting the ability of the company that developed the drug to recover its costs.

Violating or bypassing patent protections is a short-term solution that threatens the long-term health of the world's citizens by removing

the incentives and discouraging the innovation we need.

IP is a pharmaceutical or biotech company's most valuable resource, and its protection is a key to that company's future success. Recent challenges over patents for HIV drugs has reminded the industry that progress is still needed in balancing the opposing forces of innovation through protection of IP rights, versus the provision of affordable drugs for the developing world.

Pharmaceuticals companies must face the daily challenge of creating value through the exploitation of IP rights, but avoiding considerable reputational harm by aligning the balance between IP protection and the urgent needs of patients.

In relatively strong emerging markets such as India and China though, additional issues prevail. Multinational pharmaceuticals companies require and expect IP rights to be strictly enforced in countries where there are countless local manufacturers with the ability to produce cheap counterfeit copies of patented drugs, which often find their way back to western markets. At the same time, the implementation and enforcement of IP laws in India and China is improving. Combined with the ability to leverage lower cost expertise, on the whole, these countries are still very much an opportunity rather than a threat.

### The Importance of Protecting Confidential Information in Industries

TRIPS provides for the protection of trade secrets, by stipulating that natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by or used by others without their consent in a manner contrary to honest commercial practices. Further, parties are required to protect against unfair commercial uses, undisclosed or other data obtained as a condition of approving



the marketing of pharmaceutical or of agricultural chemical products.

Trade secrets are useful information that individuals or companies possess and do not share widely with others. Trade secrets are a form of intellectual property and receive legal protections, most importantly to prevent theft of trade secrets. There is no fixed lifetime to the protection afforded to trade secrets.

However, unlike copyright and patents, trade secrets lose protection once they leak out into the public domain through reverse engineering or disclosure by the owner of the trade secret. Therefore, owners of trade secrets must be vigilant about protecting their secrets and preventing the unauthorized use of those secrets. Lawsuits involving alleged theft of trade secrets are common when employees who have learned valuable trade secrets depart and go to work for rival firms. Trade secrets can be licensed; of course, such licenses must contain provisions to make sure that the licensee does not transmit the secret to third parties without the permission of its owner.

Trade secret protection is weak in that the owner of a trade secret cannot prevent others from using the secret know-how if they discover it independently. Therefore, a company who develops new technology often faces a complex decision whether to keep the new technology secret or file for a patent. If the company elects the trade secret route and prevents the secret know-how from entering the public domain, the law will help it prevent others from stealing its secrets. However, the secret might be rediscovered independently and either enter the public domain (for all to use) or, worse, be patented by the later discoverer, in which case the original innovator could even be forced to

stop using the technology itself or have to buy a license from the patent holder. Alternatively, the original discoverer can file for a patent on its new technology, and if it gets one, will get the right to prevent others from using it. Of course, the quid pro quo for obtaining a patent is the disclosure of the invention to the public, making it more likely that other firms will attempt to use the patented invention, perhaps invent around it, and even built on it to obtain their own patents. Plus, in some cases, the patent may be hard to enforce. For example, for a patent involving process technology, the patent holder may find it very difficult to determine which other firms are in fact using its patented processes. Furthermore, the patent will only last for 20 years, while trade secrets can be kept indefinitely.

In India there is no separate legislation dealing with trade secrets. Common law on the subject is evolving and the courts have provided relief where allegations of wrongful disclosure have been proven.

### Conclusion

In conclusion, it is evident that intellectual property is the foundation of a knowledge-based economy. It pervades all sectors of economy and is increasingly becoming important for ensuring competitiveness of the enterprises. It is well established that the creation and protection of intellectual property advances economic growth, provides incentives for technological innovation, and creates new jobs and opportunities for citizens. Indian industries can take advantage of the internationally streamlined and strengthened intellectual property administration system and build value for themselves and for the country.



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