Consider the case of a man sitting on an ergonomically designed chair that reduces fatigue. He clicks away on a key-pad technologically enhanced to “sense” the touch of his fingers enough to type the letter just once (not twice) on his laptop screen, which has the right resolution of horizontal and vertical lines to perfect the illumination on his screen so that his eyes are better protected. He finishes typing, checks spelling and grammar on a word-processing software, which has a thousand features, and saves his document on his miniscule thumb drive, using a high-speed universal serial bus port through a gigabyte processor. He E-mails this to his publisher, who will soon use the fullest of the available technology to make the article reach to the readers within the shortest time, with best-quality print or even a web-cast. He sits back and sips his drink, which has sugar-free “Equal,” nondairy creamer, and decaffeinated coffee. He has just written an article criticizing intellectual property rights (IPRs), patents, and innovations—ironically, the key drivers which made all of the above possible. According to him, patent holders are profiteers. R&D creates more wealth for the wealthy, and as long as there are patents and IPRs, the poor will suffer. He takes his tablets for blood pressure and diabetes and looks at his screen once again. Somehow, his criticism lacks conviction. He seems to be biting the hand that feeds him. Next time he wants to criticize innovation, inventions, and patent rights, he should go back to his cave and engrave it on the walls of his cave.

Punish the good people?

Whether our critic is working on a laptop, traveling in his car with turbo power (>20 patents) and fuel injection (>50 patents), protected by airbags (>50 patents), sitting in his office with air-conditioning having plasma cluster (>26 patents), using his Canon (31,388 patents) photocopier, or watching Hitachi (32,834 patents) TV, we are increasingly becoming aware that inventions, innovations, and patent rights improve the quality of life. Therefore, we support patent rights for computers, photocopiers, automobiles, air-conditioners, and many more industries, except pharmaceuticals. Why is it that all companies that spend money on R&D can recover their investments except pharmaceutical companies? It appears that we are discriminating against pharmaceutical companies who discover new drugs. Pharmaceutical companies are investing in R&D to save lives and reduce human suffering. So what if they are trying to make some money from it? The companies which invented plasma-screen TV and quieter air-conditioners made money from it, but no one objected. Should we reward entertainers and punish life-savers? Besides, if pharmaceutical companies do not benefit from their investments in a drug, they will neither have the incentive nor the resources to invest in the R&D for the next life-saving drug.

R&D is the lifeline of a company. New products are the company’s differentiators. Without innovation, invention, and discovery, a company will not be able to stay ahead of competition. Leading companies recognize the value of R&D and invest heavily in this. Specifically, in pharmaceutical industry, it takes about $500–$900 million to develop a successful, new drug. Obviously, the pharmaceutical company invests this amount to make a profit, not to give away its invention to its competition. It would be unwise for Pfizer to give away its block-buster drug to Merck for free after spending a billion on R&D. Then, why do we think Pfizer should give it away to a company in India? Competition is competition, be it in USA or Antarctica. Actually, no company in India has asked Pfizer to give away its block-buster drug without any licensing arrangement. Then, re-engineering the drug and manufacturing and selling it without license amounts to the same, if not worse.

Business or charity?

Suppose I intend to meet the CEO of Pfizer, I would invite any interested company in India or any other country to join hands with me, and would personally convince Henry McKinnell, hoping that he would agree. The deal would be this: Pfizer would allow unrestricted use of its patent without royalties, license, or any payment of any kind by the Indian pharmaceutical company. In return, the Indian company would manufacture and sell the drug in their home country to the patients “at cost.” There would be no profit for both Pfizer and the Indian company. Deal?

If we are concerned about patients’ lives and well-being, then let us work for their cause. Let all the pharmaceutical companies of the world come together and form one big charitable organization. Red Cross can eat its heart out. Generic medicines will be distributed free, because there are no patents involved anyway. Marketing managers’ incentive compensation will be based on lives saved, not on sales booked. Okay, we can all wake up now. In reality, businesses do serve charitable causes, but their philanthropy department is very far from their R&D department, and it is going to be that way until their R&D managers prove accurately that the end of the world is nigh.

Ways to make drugs cheaper

We need not target the pharmaceutical companies. There can be other ways to make drugs cheaper for patients. Government can fund R&D

If Government sponsors R&D of a drug which targets a certain disease, the equation will change completely. The Government, in association with private companies who have
the required expertise, can jointly pursue a drug which can cure a life-threatening disease. If the Government is “vocal” about public health, this is one good way to subsidize the cost.

**Government can subsidize the cost**

Another way the Government can help is by subsidizing the cost of life-saving drugs. If the Government can subsidize the price of rice, petrol, etc., they can also subsidize the cost of life-saving drugs. Perhaps there are not enough dying patients to form a “vote bank,” or perhaps the cost of drug subsidy vs the number of vote generation does not seem to be a viable proposition.

**National Pharmaceutical Pricing Authority should be more aggressive**

The National Pharmaceutical Pricing Authority should aggressively follow the agenda of lowering price of life-saving drugs through participation in technology transfer or licensing arrangements. India is a big market, and foreign pharmaceutical companies will definitely fall in line when new drug pricing is seen to be connected with the purchasing arrangements on the generics.

**Compulsory licensing should be invoked**

A serious approach to compulsory licensing with a sincere resolve can be a good deterrent to overpricing of drugs. The Government should force licensing whenever it sees a foreign company unwilling to consider Third-World pricing.

**Government can acquire the patents**

The Central Government can acquire a patent or invention for a public purpose, paying a suitable negotiated compensation. What is needed for this is a conclusive argument that a certain drug is essential for life-saving and the suffering is of certain magnitude.

**India can develop its own new drugs**

India can use its cost advantage to develop new drugs at a cheaper rate and a faster pace. In this manner, India will soon have its own, patented, new drugs to dominate the global markets in research and new drug discoveries, too. According to Syngene, India’s highly successful contract research firm for pharmaceuticals, the cost of carrying out R&D in India is five times lower than the cost involved in new drug discovery in a developed country. The launch of a new molecule in India costs only about $100–200 million as against the USA, where it is estimated that the average cost to develop a successful new drug is nearly $500–900 million (sometimes close to $1 billion). New drugs developed by India can be priced lower for Indian consumption.

Indian pharmaceutical industry has already embarked on the journey to benefit from the product patents. Earlier, Indian companies invested only around 1% on R&D, but now they are investing huge amounts on this. In 2003–04, the top 10 Indian pharmaceutical companies spent about $400 million on R&D. The shift in the patent regime from process patents to product patents will prove to be a blessing in disguise for India in the long run, as it will encourage more Indian pharmaceutical companies to focus on R&D and compete with their global counterparts. Dr. Reddy, DRL Chairman, says, “Excelling in the basic business operations will be necessary, but not sufficient. To maintain a long-term presence in the global pharmaceutical markets and to grow profitably will require companies to be even more focused on R&D and creation of successful IPRs (intellectual property rights - What’s Driving India’s Rise as an R&D Hub?—www.knowledge.wharton.upenn.edu”).

**Justice, equality and patents**

Contrary to popular belief, especially in the pharmaceutical industry, no harm was done to India in the Patents (Third Amendment) Act of 2005. Neither it says that pharmaceutical patents will only be granted to foreign companies, nor does it say that Indian companies will not be allowed to conduct R&D or that there will be discrimination against India. On the contrary, it said that India will have equal rights and equal opportunities—equal to USA and all countries of the world. India can invest in R&D, and the actual spending in India will be lower than USA. India can sell their new drugs in the whole world and have patent protection in most countries. India will have full legal protection of its rights which are now equal to USA and all other countries. So, why this hue and cry? Since when has equality become such a cruel punishment and a dreadful nightmare? Why is India trying to show equality as unjust or unfair? Is India unsure of its quality in equality? I would have thought that India deserved to be equal. In fact, the “equal” position is always the start of a race. If India does it right, it can win this race.

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