Should India protect USA's I.P. interests also?

India continues to be on US priority watch list on IPR

Chief Concern Is Over Indian Patents Act

While noting the steps taken by India to strengthen its intellectual property (IP) regime, USTR said progress

jors, as well as the flexibility it allows govt. Long pendency has been a pet peeve in successive reports, and the latest one is no different.

"Stakeholders also continue to raise concerns as to

US Flags India's High Customs Duties on IP-intensive Goods

ON THE TRADE FRONT Report expresses concerns over India's AI copyright paper proposing blanket licensing for developers

2026 Special 301 Report

Office of the United States Trade Representative

India Supplies 20% of Global Generic Medicines: GTRI

PTI

New Delhi: India primarily exports generic medicines to a large number of countries, including developed nations, helping reduce healthcare costs globally, and the country's intellectual property rights regime is fully compliant with global trade rules, think tank GTRI said on Friday. India supplies nearly 20% of global generic medicines, making its IP stance globally significant, it said.

India has again been placed on the Priority Watch List in the 2026 Special 301 Report released on April 30 by the Office of the United States Trade Representative (USTR), reflecting continued US pressure over pharmaceutical-related intellectual property protection and enforcement in India, it said.

The Special 301 process is not legally binding as it is an administrative review used by the US as a pressure tool.

It does not impose immediate

CONTINUED US PRESSURE

India has again been placed on Priority Watch List in 2026 Special 301 Report released by USTR

standards," GTRI founder Ajay Srivastava said. He added that India supplies nearly 20% of the world's generic medicines, and generics typically reduce drug prices by 80-90%.

"Provisions like Section 3(d) and compulsory licensing are therefore essential, and evidence shows India has balanced innovation with access. India should continue to defend these principles to protect affordable healthcare and policy sovereignty," Srivastava said.

He stated that the US pressure on India's pharma IP regime dates back to the 1990s, driven by strong industry lobbying for stricter protections.

This continues even though India exported USD 9.7 billion worth of medicines to America in 2025, mostly low-cost generics that help reduce healthcare costs.

"Accepting US demands would weaken India's generics industry — often called the 'pharmacy of the world' — and harm patients globally, including in the

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While scrolling today's newspapers, I found that both The Times of India and The Economic Times have covered "2026 Special 301 Report of the United States Trade Representative", adversely

commenting on intellectual property regime in India. The press clippings are reproduced above. The links for accessing the full length of these clippings and the 301 Report are also shared with you so that you may read the full text (link-1; link-2; link-3 and link-4). The question being discussed here is whether it is necessary for India to go by criticism of US authority about Indian affairs.

After the TRIPS Agreement in 1994, India carried out extensive changes in 2003 to amend the Patents Act, 1970, apparently to fulfil its TRIPS obligations. However, it cleverly protected its status as pharmacy of the world. India is one of biggest suppliers of generic drugs to the world, and through the jugglery of definitions in patent law, India managed to protect its pharmaceutical industry manufacturing generic drugs, to make sure that patent regime does not become hypersensitive. This is one of the sore points between India and US.

The other thing which India did was not allow software applications to be patented. Only copyright could be claimed. Apparently, the protection is limited to idea-expression dichotomy in copyright law. This is also not good from US point of view.

The question is why these conflicts arise. Intellectual property laws these days are not based on morals. They are driven by industrial needs of a country. Even the World Trade Organization (WTO) and the TRIPS Agreement are the outcome of efforts of technologically advanced countries to protect their intellectual property rights, and at the same time, to extend their trading activities globally. Everyone familiar with the patent law, knows the liberal approach of the US courts to protect patents of that country. One typical example is decision of US Supreme Court in *Diamond* v. *Chaktrabarty*, 447 US 303 (1980). The Chief Justice, Burger, while referring to patent legislation, noted, "The Committee Reports accompanying the 1952 Act inform us that Congress intended statutory subject matter to include anything under the sun that is made by man." It was so held because in 20th century, USA was most technologically advanced country, and its innovators needed

protection. On the other hand, countries like India, needed technology for its development and that too at affordable costs. This is how India navigated its patent regime through the Indian Patents and Designs Act, 1911 and now the Patents Act, 1970.

However, there are instances where Indian courts too have missed opportunity to strike a fair balance between innovation and affordability of pharmaceutical products. The glaring instance which comes to our mind is the Supreme Court decision in *Novartis AG* v. *Union of India*, (2013) 6 SCC 1. It was a tug of war between internationally reputed drug manufacturing company, Novartis, and our Indian generic manufacturer, Natco Pharma over medicine developed by Novartis for cancer treatment. As usual, Novartis' infringement action against NATCO was greeted with invalidity of Novartis patent. The Supreme Court through its legal craftsmanship denied patent protection to Novartis. We in TheLawyerics feel that the Supreme Court should have devised some via media. The patent ought to have been protected and the Central Government had been directed to invoke its extraordinary power under the Act to make available patented drug at affordable price in India. Innovation ought not have been discouraged by invalidating the patent itself. It was open to the Supreme Court to invoke its Article 142 power also.

In any case the situation is that every stakeholder, whether the innovator or the user tried to pull the situation in its favour by interpreting patent law in its own. But certainly, the US cannot be the international policeman to tell India what it should do or not to do to protect intellectual property. Our respect for innovation from all direction of the world in India should come from within.