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## Pharma pips IT in local patent filings

Gaurie Mishra / New Delhi February 13, 2006

5 top drug firms have 1100 filings against 5 IT majors' 38.

Despite huge research and development facilities in the country, the five Indian information technology majors — Infosys, TCS, Wipro, Satyam and HCL Technologies — have together filed only 38 patent applications till mid-2005.

While IPR experts feel that the number is much higher than their US filings, these are negligible compared to the top five domestic drug companies that together have around 1,100 filings.

"The top five IT companies in India have only 38 patent filings, a response to the patent law in the country where only software with technical effects are patentable. The number is still abysmal compared with around 1,100 filings of the top five drug companies in India," said H Subramaniam, a practising patent attorney.

Even among these top five companies, there is great variation with TCS filing 23 of the 38 applications. HCL has not filed even a single application during the period.

A total of about 400 internet-related applications have been filed since 2000, of which 100 pertain to software only.

The Indian Patents Act does not allow patents for software per se, whereas the US law allows even business methods and business processes linked to software to be patented.

"Unlike India, anything pertaining to software is patented in the US, a reason why the number of filings for TCS, Wipro and Infosys are much higher there," Subramaniam said.

In India, software patents are also more difficult to protect, increasing the chances of infringement and lowering the number of filings.

"It is very difficult to prove infringement of software patents, a primary reason for the low filings in the country. Since drug research is easier to police and monitor, infringement of patents is much lower," said Vivek Kathpalia, associate, Nishith Desai & Associates.

Most experts feel that since the Indian patent law is ambiguous about the definition of software, the number of patents granted may be even lower than the filings.

"The gap between the filings of the pharma and IT companies may widen as the patent office will take a conservative view of what is patentable in software," said an industry expert.

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