

Annex 3

**Traditional Knowledge Digital Library
(TKDL)**

Access Agreement

This Agreement is made between the Council of Scientific & Industrial Research, a Society registered under the Societies Registration Act XXI of 1860 having its registered office at Anusandhan Bhawan, 2 Rafi Marg, New Delhi -110 001 (hereinafter CSIR or Provider)

And

The United States Patent and Trademark Office, having its principal office in Alexandria, VA 22314 (hereinafter USPTO or User).

Whereas the Traditional Knowledge Digital Library (TKDL) has been developed jointly by the Council of Scientific & Industrial Research and the Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (called AYUSH) and is a proprietary and original database on behalf of the Government of India.

Whereas CSIR has been involved in the development of TKDL and is the implementing agency of the project.

Whereas CSIR, which is the provider of TKDL, is the sole custodian of the TKDL.

Whereas the TKDL is a database in five international languages (English, French, German, Spanish and Japanese), which converts Indian Traditional Knowledge (Ayurveda, Unani, Siddha, Yoga, etc.) from existing *prior art*, traditional knowledge formulations or know-how available in Hindi, Sanskrit, Arabic, Persian, Urdu, etc. to five international languages and is not an exhaustive compilation of Indian Traditional Knowledge.

Whereas the TKDL contains images of Ayurveda, Unani and Siddha formulations and Yoga practices with an objective to prevent misappropriation of Indian Traditional Knowledge already available in the public domain.

Whereas the TKDL is a bridge between ancient Sanskrit Slokas (verses) (existing *Prior Art*) and a Patent Examiner at a global level, the TKDL provides information on modern as well as local names in a language and format understandable to Patent Examiners.

Whereas the Government of India has duly authorized CSIR to execute this Agreement.

And Whereas the USPTO has expressed its interest to enter into an agreement for the purpose of having access to the TKDL.

Now Therefore, this Agreement witnesses as follows:-

1. That CSIR hereby grants to the USPTO full access to the TKDL website for a period of 3 years, automatically extendible for additional consecutive three year periods, subject to termination of the agreement by either party.
2. It is hereby agreed and declared between the parties that aforesaid access is on non-exclusive basis and is subject to the following conditions:

B. Subrah

- (i) CSIR shall provide uninterrupted access to its website to use the TKDL by USPTO's examiners and staff, and by contractors engaged in search of Patent Cooperation Treaty (PCT) applications, for search, examination and analysis of the information available in the TKDL.
- (ii) CSIR shall provide training to the USPTO to use TKDL tools for search and examination as and when needed.
- (iii) CSIR shall render assistance through the TKDL in search and examination as and when needed by the USPTO.
- (iv) CSIR shall remain free to grant access of the TKDL to other patent offices on a non-exclusive basis for search and examination purposes.

Responsibilities and Obligations of USPTO

- (i) The USPTO shall not disclose any information of the TKDL contents to third parties unless and only to the extent that it is necessary for patent search and examination. Apart from such necessary disclosure, the USPTO undertakes the obligations to preserve the secrecy and/or confidentiality of the TKDL. The USPTO, whenever required may give printouts from TKDL contents to patent applicants and/or their legal representatives only for the purpose of citations of prior art, and may publicly post the search results on the USPTO's Patent Application Information Retrieval system and on other search and examination results digital access systems.
- (ii) The USPTO shall use TKDL information only for patent search and examination and for their internal purposes such as statistical and technical analysis, training, developing classification schedules, definitions and planning, etc. but for no other purpose.
- (iii) The USPTO shall on a quarterly basis send general statistical information such as the number of times TKDL was cited by USPTO examiners during the search process related to published patent applications.
- (iv) Survival of obligations for maintaining the secrecy and confidentiality of the TKDL shall remain even after the termination of this agreement.

Annual Periodic Review

Provider and User shall review the status of access to the TKDL once annually at mutually convenient date and location for identifying the impediments and issues that may need corrective action.

User Access Details:

The User will provide a range of authorized IP Addresses to the Provider. The User expects no more than 30 IP Addresses will be simultaneously accessing the TKDL website at any particular time.

B. Subramanian

If any covenant or provision of the Agreement is determined to be void or unenforceable in whole or part, then such void or unenforceable provision shall be deleted from this Agreement and shall not affect or impair the enforceability or validity of any other provision of this Agreement or any part thereof.

4. Modification

Any provision of this Agreement can be modified only by the express consent of both parties and in writing signed and acknowledged by both parties thereof.

5. Supersession

This Agreement represents the entire understanding between the parties and supersedes all other agreements expressed or implied between the parties herein regarding disclosure.

6. Waiver

No delay, indulgence or failure to act by either party regarding any particular default or omission of the other Party shall affect or impair any rights or remedies regarding that or any subsequent default or omission unless it is waived in writing.

7. Settlement of disputes

All disputes arising out of or in connection with this agreement, parties to the agreement shall seek an amicable agreement.

8. Disclaimer

8.1 The provider/user reserves all rights in its confidential information and no rights or obligations other than those expressly written therein are granted or to be implied from this agreement.

8.2 Information has been compiled on the best effort basis; provider of database would not be responsible for any inadvertent error or otherwise in the content of TKDL.

9. Termination

This Agreement can be terminated by either of the signatories by giving three months notice to the other signatory.

10. Nothing in this Agreement shall affect the rights and obligations relating to any prior art, traditional knowledge formulations or know how which are not listed in the Traditional Knowledge Digital Library.

11. Execution Authority

The persons whose signatures appear below certify that they are authorized to enter this agreement on behalf of the party for whom they sign.

B. Subrah

United States Patent
and Trademark Office

Council of Scientific & Industrial
Research

David Kappos

David Kappos
Under Secretary and
Director

Samir K Brahmachari

Professor Samir K Brahmachari
Director General

Dated: 11/23, 2009

Dated: 23rd Nov, 2009

USER	CSIR (Provider)
Signature <i>James C. House</i>	Signature <i>V. K. Gupta</i>
Name James C. House	Name: V. K. Gupta
Designation Patent Attorney	Designation: Chairman, TKDL Task Force
Address	Address:
Office of Intellectual Property Policy & Enforcement, United States Patent and Trademark Office	Council of Scientific and Industrial Research
e-mail : James.House@uspto.gov	e-mail : vkg@csir.res.in
Phone: 1-571-2729300	Phone: 91-11-23738174
Fax:	Fax: 91-11-23738173
In presence of (witness)	In presence of (witness)
1. _____	1. _____
2. _____	2. _____

B. Subramanian

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Logno.: 2008/0387