Monsanto verdict - A historic victory for Patent and Biotechnology

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Monsanto's Indian Joint Venture Partner i.e. Mahyco Monsanto Biotech (India) Pvt. Ltd [MMBL] had entered into a licensing agreement with Nuziveedu Seeds Ltd. and its subsidiaries. Upon termination of the agreement when the latter continued to use Monsanto's technology, a suit for patent and trademark infringement was filed. Monsanto uses a patented artificial gene which when inserted in a cotton plant produces fusion protein that resists bollworm. By its order dated 28 March 2017, the Single Judge held that the termination of the license agreements was unlawful and at the interim stage found Monsanto's patent valid. On cross appeal, the Division Bench held that the gene was not a patent-eligible subject-matter under the Indian Patent Act, 1970. The matter then reached the Supreme Court. Anand and Anand used its extensive legal and technical IP know how and adopted a conscious strategy towards the case. The submissions in the Apex Court were followed by intensive arguments. The bearings of the above may be briefly mentioned here:

- The Delhi High Court, by failing to understand the technology, held the patent invalid under Section 3(j) of the Patents Act.
- The Delhi High Court held the patented invention – to be a "plant variety" under the Protection of Plant Varieties and Farmers' Rights Act ("PPVFRA"). This was the first case in India – where the difference in IP protection provided by the Patents Act, 1970 and the PPVFRA – was discussed in the Supreme Court.
- The Judgment to revoke Monsanto's patent not only impacted Monsanto and the cotton industry in India, but also unsettled patent law development in India covering biotechnological inventions, including synthetic DNA, RNA, Protein sequences, demotivating researchers, inventors, and companies researching in this sector.

By its order dated 8 January 2019, the Supreme Court set aside the order of the Division Bench, restored the interim arrangement of the Single Judge *till the pendency of the suit*, and sent the matter back to the Single Judge for trial on all issues. This is a historic win which not only validates patents are integral to innovation but will also encourage investment in the biotechnology sector in India. Please read further views of our practitioners by accessing the link: https://www.anandandanand.com/wp-content/uploads/2019/03/Monsanto-Press-Note.pdf The case received heavy media coverage. [gallery type="slideshow" size="medium" ids="4233,4234,4235,4236,4237,4238,4239,4240,4241,4242,4243,4244" orderby="rand"]

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