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## Charting New Legal Frontiers: Unpacking the Inclusion of Complementary and Alternative Medicine (CAM) and Therapeutics within the Intellectual Property Rights Landscape – A Panoramic Analysis

### ABSTRACT

"Charting New Legal Frontiers" successfully handles the critical intersection of Intellectual Property Rights (IPR) and Complementary and Alternative Medicine (CAM). Intellectual property protection becomes very important in a time of fast technological advancement. The article undertakes a thorough investigation of the ever-changing IPR landscape in the digital era, emphasizing its vital function in promoting innovation in a variety of fields.

This article highlights complementary and alternative medicine (CAM) thoroughly analyses it and acknowledges its importance in modern healthcare. It not only emphasizes how important legal protection is, but it also looks outside of traditional legal systems. The story acknowledges the diverse tapestry of healthcare techniques that go beyond conventional norms and adeptly weaves the importance of sustaining various healing traditions while embracing a panoramic analysis.

A major theme is the promotion of CAM's peaceful incorporation under the watchful wing of IPR. The article fervently presents a gripping story of a time when traditional therapeutic knowledge and cutting-edge technology coexist peacefully in the future. This idealized coexistence guarantees a strong and thriving global healthcare paradigm that values, safeguards, and promotes a variety of therapeutic modalities. "Charting New Legal Frontiers" is essentially a lighthouse that points us in the direction of a future in which innovation and tradition combine to usher in an era of enhanced and comprehensive healthcare.

*Keywords:*

*Complementary and Alternative Medicine (CAM), Intellectual Property Rights (IPR) Innovation in Healthcare, Healing Traditions, Global Healthcare Paradigm*

## **INTRODUCTION**

The preservation of intellectual property rights (IPR) is more important than ever in this age of fast technological innovation. Patents, copyrights, trademarks, and other legal tools that protect the results of human ingenuity and creativity are all included in the category of intellectual property rights, these rights, which have historically been based on venerable legal theories, now confront a never-before-seen range of opportunities and threats brought forth by developing technologies.<sup>1</sup>

Intellectual property rights (IPR) have changed significantly in the digital age. Historically, intellectual property rights (IPR) have included patents, copyrights, trademarks, and trade secrets. These legal frameworks have safeguarded people's and organizations' inventions and creative works. But in our data-driven, globally networked society, these well-established ideas are facing new problems and becoming even more important.<sup>2</sup>

Encouraging innovation and creativity still depends critically on the protection of intellectual property.<sup>3</sup> Creators and innovators need to know that their work will be appreciated and protected against unlawful use or duplication. IPR encourages the development of new works, the building of brands, and research and development expenditures.

By guaranteeing an even playing field, it enables companies and artists to contend based on the quality of their concepts and inventions.<sup>4</sup> The significance of intellectual property rights in the digital age is emphasized in this section. These rights are crucial to ensuring that innovation and creativity continue to thrive in our increasingly digital and linked world, even while they face previously unheard-of difficulties.

As biotech develops, ethical issues will become increasingly important. It will be up to policymakers to find a middle path between promoting revolutionary scientific advancement and defending moral standards.<sup>5</sup> Future IPRs about biotechnology will be governed by emerging ethical standards. Like subtle undercurrents, privacy and security issues will never go away.

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<sup>1</sup> Mishra JP, *An Introduction to Intellectual Property Rights* (Central Law Publications, Allahabad, 2005) 45.

<sup>2</sup> Romer, Paul, 'When Should We Use Intellectual Property Rights?' (2002) 92(2) *American Economic Review* 213-216

<sup>3</sup> Hurow, L C, 'Needed: A New System of Intellectual Property Rights' (1997) 75(5) *Harvard Business Review* 94+

<sup>4</sup> Spinello, R A, 'Intellectual Property Rights' (2007) 25(1) *Library Hi Tech* 12-22

<sup>5</sup> Groombridge, B (ed), 'Intellectual Property Rights for Biotechnology' in *Global Biodiversity: Status of the Earth's Living Resources* (1992) 495-99 (Chapman and Hall, London).

For its producers and the global intellectual community at large, the symbiosis of Intellectual Property Traditional Knowledge complementary and alternative medicine has become essential. It appears that for complementary and alternative medicine to survive on its own, for knowledge holders to benefit financially, and to have a competitive commercial advantage, it must be preserved, protected, and promoted.<sup>6</sup> The promotion of complementary and alternative medicine is now well acknowledged, and it is crucial to the livelihood and cultural traditions of communities who rely on it. The rapid expansion of complementary and alternative medicine has spurred the development of new IPR protection strategies, particularly for traditional medicine.<sup>7</sup> The issues with traditional healthcare, the complexity of intellectual property rights in complementary and alternative medicine, and community knowledge are creating massive obstacles to sustainable development, intellectual property, and cultural expression.

### **Overview Of Complementary And Alternative Medicine**

Complementary and alternative refer to methods and products that people select to use in addition to or instead of Western medical methods.

Although complementary medicine is used in conjunction with conventional medical care, it is not regarded as a stand-alone kind of care. One such instance is the use of acupuncture to mitigate some of the adverse effects of cancer treatment. For the most part, fewer studies have been conducted on alternative medicine.<sup>8</sup>

Conventional medical care is replaced with alternative medicine. One such involves treating cancer with a particular diet rather than oncologist-prescribed cancer medications.

Traditional medicine are medicinal technique whose written history stretches back to 200 B.C. Different forms of traditional medicine have been evolved in China, Korea, Japan, India, and Vietnam.<sup>9</sup> Complementary and alternative medicine is the general phrase used to group complementary and alternative medicine together. Whereas alternative medicine is used in

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<sup>6</sup> Shukla, DB, 'Synergy of Intellectual Property and Traditional Knowledge: Holy Grail for Protection and Sustainable Future' in Synergy of Intellectual Property and Traditional Knowledge, Open Conf Proc J (2010) 1:151-6.

<sup>7</sup> Sharma N, Batish S. Product patent versus process patent in pharmaceutical industry. J Pharm Res. 2011;4:133-5.

<sup>8</sup> United States National Institutes of Health, National Center for Complementary and Alternative Medicine, 'CAM at the NIH: Focus on Complementary and Alternative Medicine' (Newsletter, Volume XIV, No. 2, Spring 2007) New Integrative Medicine Consult Service Established.

<sup>9</sup> A Safeguard for Indian Traditional Knowledge, Curr Sci (2002) 82:1070-1.

place of conventional medicine, complementary medicine refers to therapies that are used in addition to traditional Western (or allopathic) medicine. The term "alternative medicine" describes therapeutic modalities used to treat or lessen illness in place of conventional medicine. Integrative medicine is the practice of integrating complementary therapies with traditional medical care. Complementary and alternative medicine's fundamental tenet is holistic treatment, which emphasizes treating each patient as an individual

For CAM, terms like "natural," "holistic," "home remedy," or "Eastern Medicine" may be used.<sup>10</sup> Nonetheless, specialists frequently categorize it into five groups. Below is a list of these along with examples of each.

### 1. *Mind-Body Therapies*

These help to calm the body and mind by combining breathing, physical activity, and mental focus. A few instances include

- **Meditation:** a technique to calm the mind and reduce anxious thoughts and sensations is concentrated breathing or repeating words or phrases.
- **Biofeedback:** with the use of specialized equipment, the patient gains control over bodily processes—like heart rate and blood pressure—that are often unconscious.
- **Hypnosis:** a trance-like condition in which an individual concentrates and becomes more conscious of particular emotions, ideas, pictures, sensations, or actions. Reliability and receptivity to suggestions to promote healing may increase.
- **Yoga:** an age-old discipline that uses poses and stretches, breathing exercises, and meditation to help the body and mind find equilibrium.
- **The practice of Tai chi:** is a type of gentle exercise and meditation that involves breathing exercises and slow, deliberate body motions.
- **Mental imaging:** employing positive mental imagery, such as conjuring up images, scenes, or experiences, to aid in physical healing
- **Creative outlets:** pastimes like dancing, music, or art

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<sup>10</sup> Sharma PV, Ayurveda ka Vajjanika Itihas (2nd ed., Chaukhambha Orientalia, 1981) 1.

<sup>11</sup> Vaidya Yadava Jee, Acharya Trikam Jee (eds.), Rashtriya Sanskrita Sansthan (1st ed., 2002) Acharya Carak, Carak Samhita 167 (Reprinted).

## 2. Biologically Based Practices

This kind of CAM makes use of natural resources. Examples include:

- **vitamins:** which are small amounts of nutrients the body needs to function and remain healthy;
- **dietary supplements:** which are products added to the diet and may contain substances like vitamins, minerals, and herbs, among other things;
- **botanicals:** which are actual plants or plant parts. Cannabis is one kind.
- **certain foods or diets;** Herbs and Spices, such as Turmeric or Cinnamon (See Herbs at a Glance)

## 3. Manipulative And Body-Based Practices

These are predicated on manipulating one or more body components. Examples include:

- **massage therapy:** which involves kneading, rubbing, tapping, and stroking the body's soft tissues;
- **chiropractic therapy:** which involves manipulating the skeleton, joints, and spine; and
- **reflexology:** which involves applying pressure to certain points on the hands or feet that are thought to correspond with particular body parts.<sup>12</sup>

## 4. Energy Healing Practices

The foundation of energy healing is the idea that the body is made up of vital energy. Restoring the patient's energy flow is the aim. The evidence for energy fields' existence is insufficient. Nevertheless, employing these methods has no negative consequences. Among these are:

- **Reiki:** This involves gently placing hands on or slightly above the patient to guide energy and support the patient's natural healing reaction.
- **Therapeutic touch:** lightly stroking a person's body or tracing hands over their energy fields

## 5. Whole Medical Systems

These belief systems and methods of healing have developed over time in various cultures and regions of the world. A few instances include

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<sup>12</sup> Sen Govinda Das, Ratnawali Bhaishjya in Siddhi Prada Commentary, Mishra Siddhi Nandan (ed., 1st ed., Chaukhambha Surbharati Prakashan, Varanasi, 2007) 936.

- **Ayurvedic medicine:** an Indian system whose aim is to purify the body and bring the body, mind, and soul back into harmony. It makes use of a variety of techniques, including physical therapy, breathing exercises, diet, herbal remedies, and exercise.
- **Traditional Chinese medicine:** based on the belief that qi (the body's vital energy) flows along meridians (channels) in the body and keeps a person's spiritual, emotional, mental, and physical health in balance. Its goal is to bring the body's yin and yang forces back into equilibrium.
- **Naturopathic medicine:** a method that stays away from medication and surgery. It is predicated on the idea that the body can heal itself with the aid of natural agents like light, heat, water, air, and massage. Herbal products, diet, acupuncture, and aromatherapy may also be used.<sup>13</sup>

After thorough analysis, some complementary and alternative medicine treatments were shown to be usually safe and beneficial. These consist of, among other things, yoga, meditation, and acupuncture. Others, on the other hand, might not function well, be dangerous, or adversely interact with your medications.

Now in the growing trend of these alternative and complementary medicines Not only is it desirable to create a policy of protection for complementary and alternative medicine <sup>14</sup>that was developed in the past and may be in danger of becoming extinct, but it's also critical to think about how to honor and maintain the creation and propagation of new complementary and alternative medicine that results from ongoing use of complementary and alternative medicine systems.

These contemporary aspects of the development of Complementary and alternative medicine demand legal protection to check its (knowledge of Complementary and alternative medicine therapeutics) exploitation from commercial houses or individuals with many other fraudulent objectives.<sup>15</sup>

The regulations designed under IPR to safeguard information of different kinds are more than adequate to prevent inventors and con artists from using it in objectionable ways. The characteristics and attributes of information that an inventor may exploit, either directly or

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<sup>13</sup> Department of AYUSH, Ministry of Health and Family Welfare, Government of India,

<sup>14</sup> Traditional Knowledge and Geographical Indications: Integrating Intellectual Property Rights and Development Policy [Last accessed on 2011 Jun 6].

<sup>15</sup> Intellectual Property and Traditional Knowledge, World Intellectual Property Organization, 34 Chemin des Colombettes, P.O. Box 18, CH-1211 Geneva 20, Switzerland.

through a business, for economic gain are distinguished by IPR regulations. Complementary and alternative therapies are currently receiving more attention under these IPR formulations. In the past, some social groups and narrow-minded individuals attempted to demonize this wisdom under the IPR laws, which eventually led to patents, but in a few instances, knowledgeable citizens and regulatory bodies successfully checked them.

In India to obtain a patent over an intellectual property flows through a chain of steps with includes proper regulatory approval and is granted after properly determining the adequate standards the steps for granting a patent include <sup>16</sup>

- Application submission;
- Application examination;
- Announcement of acceptance of full specification;
- Reluctance to grant the applicant a patent;
- Parties' hearing
- Patent grant and sealing.

Therefore, for an invention to qualify for patent protection, it must:

- Include a creative step that may be applied in the industrial setting;
- Involve technological advancements relative to current knowledge or have economic relevance or both; and
- not be readily apparent to an individual with ordinary artistic ability.

The simple act of discovering a new form for a substance that is already known does not increase its known efficacy. Neither does the simple discovery of a new property or use for a substance that is already known, nor does the simple application of a machine, apparatus, or process that is already known, unless it produces a new product or at least uses one new reactant.

Therefore, the concern for the exemption of (CAM) theories from IPR on the ground that if basic theories are being patented it would lead to social clashes among society and lead to ownership of individuals on institutions on basic remedies or therapeutics would disrupt the economic system is negated

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<sup>16</sup> Step by Step Procedure for Patent Registration in India, Setindiabiz Team, April 20, 2023.

However, the primary economic advantage, though, would come from serving as a quality brand that will help to expand export markets and earnings.<sup>17</sup> Additionally, it has been proposed that certain developing nations who may already possess or be able to acquire a competitive advantage in the production of processed foods and drinks, and medical and agricultural products, may find geographic indications to be of special interest. Seeking and enforcing patent protection against biopiracy in light of exports to other countries may benefit these nations economically. Furthermore, it is essential to develop and safeguard complementary and alternative therapies in the nation of origin before pursuing protection overseas.<sup>18</sup>

The potential benefits of including these therapeutics in IPR can lead to

- Recognition of value and promotion of respect for traditional knowledge systems
- Responsiveness to the actual needs of holders of complementary and alternative medicine
- Repression of misappropriation of complementary and alternative medicine and other unfair and inequitable uses
- Protection of tradition-based creativity and innovation
- Support of complementary and alternative medicine systems and empowerment of complementary and alternative medicine holders
- Promotion of equitable benefit-sharing from the use of complementary and alternative medicine
- Promotion of the use of complementary and alternative medicine for a bottom-up approach to development

Therefore, the harmonious inclusion of CAM therapeutics and IPR could lead to increased synergy advancing the following benefits

**Encouraging Progress:** Some argue that the primary driving force behind the pharmaceutical and biotech industries' significant research and development efforts is the protection of intellectual property rights. The financial commitments made in support of Complementary and Alternative Medicine (CAM) and therapeutic developments may be obscured by the restrictive attitude towards them.<sup>19</sup>

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<sup>17</sup> Traditional Knowledge and Geographical Indications: Integrating Intellectual Property Rights and Development Policy [Last accessed on 2011 Jun 6] [http://www.iprbiopiracy.ch4final\[1\]](http://www.iprbiopiracy.ch4final[1]).

<sup>18</sup> Wegner HC, 'The Indian "Traditional Knowledge" (TKDL) Database: A Bar to Patenting the Known Plants of India

<sup>19</sup> Maiti S, Sridhar G, Geetha KA, 'Intellectual Property Rights for Medicinal and Aromatic Plants in India.'



**Security concerns and safeguarding standards:** It is an indisputable fact that there is an umbilical connection between intellectual property shields and complex regulatory endorsement systems.<sup>20</sup> This mutual reliance serves as a guardian for the promise that new therapeutic approaches will always conform to the strictest standards of efficacy and safety. However the possibility of exclusion raises questions about the validity and safety of these medical procedures.

**Transcontinental Consequences for Commercial and Collaboration:** The decision to release certain medical procedures from legally recognized proprietary rights could have far-reaching effects on commercial relationships on a global scale. A noticeable consequence could be reduced collaboration and hesitation to disseminate the results of extensive studies and cross-border development projects.<sup>21</sup> In such conditions, the delicate dance of collaboration in the field of global health faces a hazardous juncture.

Regarding the domain of encouraging advancement, the discussion considers the vital connection between intellectual property rights and the dynamic core of research and development in the biotechnology and pharmaceutical domains. The stigmatizing stance about complementary and alternative medicine (CAM) and medical advancements seems as a menacing presence, obscuring the unwavering force driving significant financial outlays.

The discussion then navigates the complex labyrinth of regulatory approval processes that are closely associated with the fortifications of intellectual property rights. This mutually beneficial partnership acts as a strong bulwark, guaranteeing that new therapy paradigms consistently meet the high standards of safety and effectiveness. However, the very idea of exemption raises doubts and concerns about the legitimacy and safety of these novel medical procedures.

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<sup>20</sup> Shukla DB, 'Synergy of Intellectual Property and Traditional Knowledge: Holy Grail for Protection and Sustainable Future' in Synergy of Intellectual Property and Traditional Knowledge, Open Conference Proceedings Journal (2010) 1:151-6

<sup>21</sup> Traditional Knowledge and Geographical Indications: Integrating Intellectual Property Rights and Development Policy [Last accessed on 2011 Jun 6] [http://www.iprbiopiracy.ch4final\[1\]](http://www.iprbiopiracy.ch4final[1]).

## **CONCLUSION**

When someone experiences success with one alternative therapy for a minor ailment, it is common for them to believe strongly in its efficacy and extrapolate this to more serious, potentially fatal ailments. Critics consider therapies that depend on the placebo effect to be dangerous and have serious concerns about them. Unproven health practices have the potential to lead people to forego effective treatments, a phenomenon known as "opportunity cost."

This expense includes not just wasted time and money but also the possibility of missing out on therapies that might be more advantageous. Given these dangers, it becomes clear that more research is necessary. Strong data demonstrating complementary therapies' biological and clinical plausibility is necessary before they can be easily incorporated into conventional medical practice. Since human life is so valuable, there can be no room for risk when it comes to a person's health.

Including complementary and alternative therapies under the intellectual property rights (IPR) umbrella is a viable way to reduce these risks. Such protection has advantages that go beyond preserving one's health and improving the state of healthcare as a whole.

India is well-positioned to utilize its abundance of traditional herbal items and a long history of complementary and alternative medicine to improve global healthcare.

The Planning Commission's task force study from 2000 highlighted the return of traditional medicine. We must improve our ability to protect these intellectual assets as we negotiate the new IPR global order. <sup>22</sup>This entails networking with organizations that have important intellectual assets, collaborating, and developing capability. Establishing robust connections between the fundamental public policy tenets that guide the intellectual property system and the demands and desires of international societies is the aim.

India can have a big influence on the global market thanks to its combination of traditional and patented complementary and alternative treatments. In addition to ensuring the efficacy and safety of complementary and alternative therapies, we also advance a global healthcare paradigm that balances conventional knowledge with modern advancements by embracing IPR

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<sup>22</sup> Maiti S, Sridhar G, Geetha KA, 'Intellectual Property Rights for Medicinal and Aromatic Plants in India' [Last accessed on 2011 Jun 6]  
[http://openmed.nic.in/3136/01/Status\\_of\\_Intellectual\\_Property\\_Rights\\_in\\_Medicinal\\_and\\_Aromatic\\_Plants.pdf](http://openmed.nic.in/3136/01/Status_of_Intellectual_Property_Rights_in_Medicinal_and_Aromatic_Plants.pdf).

protection for these treatments. By doing this, we make a big step toward a time when the wise integration of intellectual property rights will protect and improve health.

The incorporation of complementary and alternative medicine (CAM) and treatments opens up new legal avenues for intellectual property rights navigation. This comprehensive examination emphasizes how important it is to have a balanced strategy that harmonizes contemporary legal frameworks with traditional healing approaches. The integration represents a step forward in preserving and confirming the use of different healthcare approaches.