

US under pressure to act against India

Senate Panel Wants Action At WTO For Violation Of Intellectual Property Rights

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New Delhi: The US government is coming under intense pressure from lawmakers to act against India at the World Trade Organization (WTO) for what they say are violations of patent rules. The tough stance adopted by US lawmakers raises the pressure on the new Indian government to swiftly swing into action to check against potential damage to bilateral trade ties, which have taken a knock in recent months.

The demand to move the WTO was made during a meeting of the Senate finance committee on the US administration's trade policy agenda last Thursday, a day after the US Trade Representative released a report where it refused to downgrade India for its intellectual property rights (IPR) regime. Clearly, the US senators were

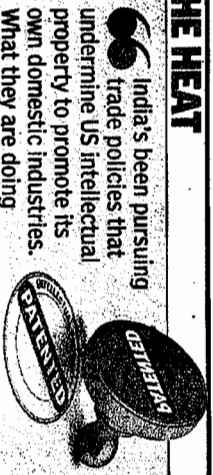
not satisfied with the response and attacked their government for letting several developing countries, including India, China and Brazil, steal a march. "In 1990s, India and China had limited technical capacity. Now, they can use highly technical standards to advantage their domestic firms and extract American company's intellectual property for their own use. And it's a shakedown, plain and simple," said Ron Wyden, who chairs the US Senate finance committee.

Some others went a step further and attacked India. "India's been pursuing trade policies that undermine US intellectual property to promote its own domestic industries. What they are doing seems to me to be a clear violation of their WTO obligations... enforcement action at the WTO may be the most effective tool that we have to get India to change its

behaviour," said Orrin Hatch, a Republican from Utah. Similarly, Democrat Robert Menendez pointed to specific concerns over "India's pharmaceutical patent violations". In response, US Trade Representative Froman said the authorities were concerned "about the deterioration of the innovation environment in India" but was awaiting a dialogue with the new government so that the con-

FEELING THE HEAT

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cerns could be addressed. He specially flagged two concerns, patents and compulsory licensing, issues that are of special interest to global pharmaceutical giants, which have been lobbying with the US authorities as well as with lawmakers. "We've been encouraging them to enter into a dialogue about other mechanisms for addressing legitimate con-

cerns about healthcare in India and about access to medicines that do not violate our IPR," Froman said. Although the Indian government has indicated that it is open to a dialogue, it wants the agenda to include other areas of interest as well. At the same time, officials have ruled out any violation of India's international commitments on IPRs, arguing that it issued a compulsory licence, which means it waived a company's patent rights, over a cancer drug for affordability. Similarly, the government maintains that denial of patents was allowed under section 3(d) of Indian Patent Act and did not violate WTO's Agreement on Trade-Related Aspects of IPR (TRIPS) if there was no genuine invention or discovery and there was an attempt to merely tweak an existing product to continue with the patents.

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