

INNOVATION ≠ FREEDOM TO OPERATE

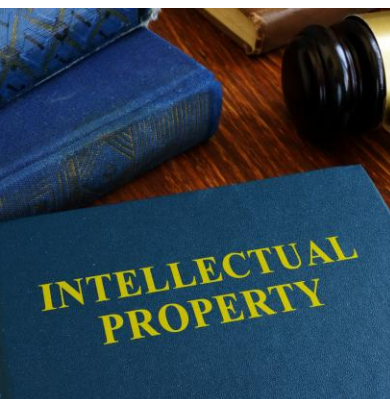


A patent lets you stop others. It does not let you sell. Before a new medicine, chemical or fragrance goes to market, check whether a live patent stands in the way. This note explains why that matters, what a check covers, and what happened to companies that skipped it.



Where Inventions Live Long

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WHY IT MATTERS

Indian courts now decide patent cases quickly. The Delhi High Court has had a dedicated IP bench since 2021. Courts have stopped launches before the first sale and have restrained companies that were already selling. A launch that has not been checked can be stopped.

WHAT A CLEARANCE CHECK DOES

A freedom to operate check takes your actual product, the molecule, its form, the process, the formulation and its use, and compares it with live and pending patents in every market where you plan to sell. It tells you what is clear, what is blocked, and when a block ends.



WHAT HAPPENS IF YOU SKIP IT

An injunction stops manufacture, sale, import and export at once. Stock is written off. Approvals that took years sit idle. The court may order damages or an account of profits. Tenders are lost, and partners ask why the check was never done.



Which Search Do You Need?

Five kinds of search are often confused with each other. Each answers a different question. In pharma and chemicals, the wrong search gives a confident answer to the wrong question.

01 Prior art search

Is my invention new? Done before filing. Looks at journals and databases as well as patents.

02 Invalidation search

Can their patent be knocked down? Finds earlier art against a granted patent you want to challenge.

03 Infringement analysis

Does this product fall inside one known patent? A feature-by-feature claim chart against that patent.

04 Freedom to operate

Can we sell this, here, now? Maps the product against every live claim in each market. The launch question.

05 Landscape and white space

Where is the field crowded and where is it open? Trends, players and gaps that guide R&D and investment.



FTO Has Three Dimensions

A clearance report has to answer three things at once. Leave one out and the answer is wrong.

01 CLAIMS

The legal boundary is the claim, not the patent title or abstract. Each claim has to be read against your actual product or process.

02 TERRITORY

Patents are granted country by country. A molecule that is free in India may be blocked in the EU, the US or the market you export to.

03 TIME

Grant, expiry, opposition, revocation and divisional filings change the picture over the life of a launch. Every risk needs a date.

THREE QUESTIONS TO ASK BEFORE THE BUSINESS COMMITTS

What exactly are we selling: a product, a process, a formulation, a use, a combination or an export offering?

Which live or pending claims could cover that configuration in each target market?

If a risk exists, what is the practical answer: redesign, wait, license, oppose, revoke or restructure the launch?

The purpose of FTO is not a longer patent list. It is a launch decision.

What a Disrupted Launch Can Cost



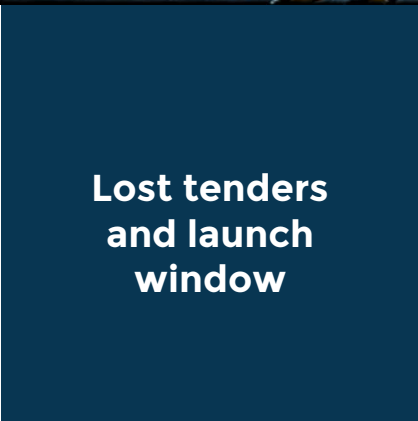
**Inventory
and recall
write-off**



**Regulatory
approvals
that sit idle**



**Damages or an
account of
profits**



**Lost tenders
and launch
window**



**Export and
supply
disruption**

Unclear freedom to operate also weakens the confidence of investors, licensees and distributors. Each of these costs is larger than the report that would have avoided it.

What the Courts Have Done

✓ SITAGLIPTIN, 2015

Glenmark launched its generic in 2013 after an early order went its way. In 2015 the Delhi High Court restrained it. Two years of sales ended and the product came off the shelf.

✓ INSECTICIDE CTPR, 2021

FMC obtained an injunction against Natco on the product patent. On the process patent, Natco's route was held to be different and was allowed. Each claim was read on its own.

✓ RISDIPLAM, 2025

A single judge refused to stop Natco's generic. On appeal, a Division Bench restrained the launch until the case is heard. A first order in your favour is not the end.

✓ DABRAFENIB, 2026

Zydus undertook not to make or sell the drug until the Novartis patent expires, and the court made it a decree. Testing for approval is allowed. Selling is not.



What it costs the business

Stock that cannot be sold.
Approvals that sit idle.
Damages, or an account of every rupee earned.
Tenders and supply contracts lost. Partners and investors who ask why the check was never done. A clearance report costs a small fraction of any one of these.

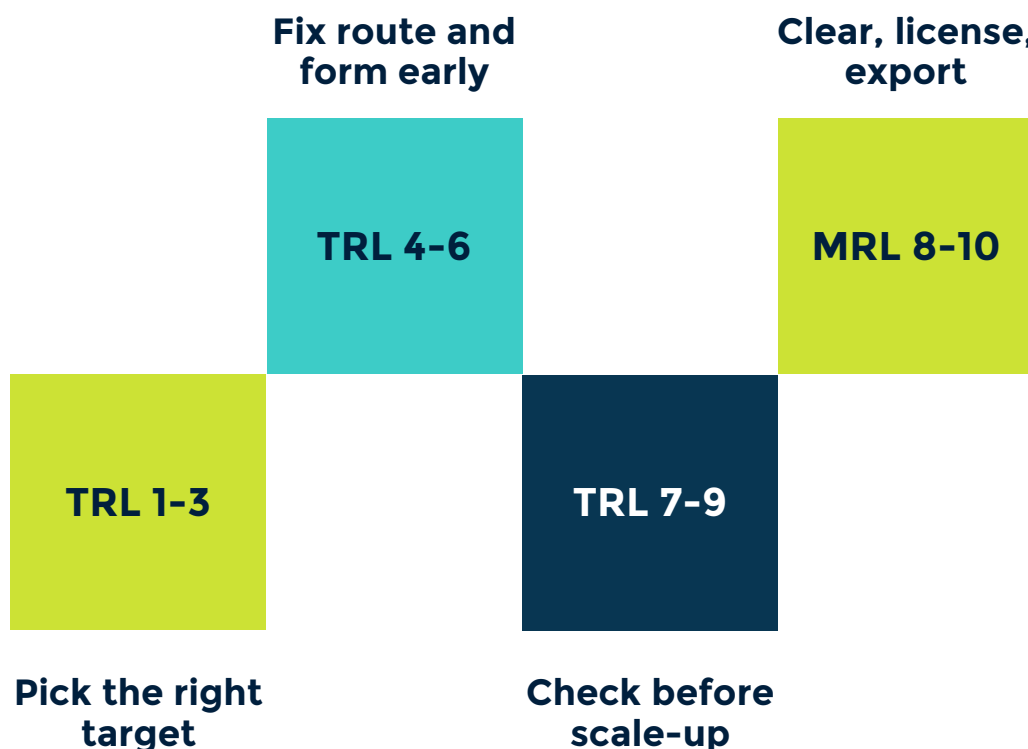
From Search to Growth

THE RIGHT SEARCH AT THE RIGHT STAGE KEEPS OPTIONS OPEN

TRL tells you how mature the science is. MRL tells you how ready the plant is. Patent readiness is the third line: will the market be open when you get there?

Done early, a search changes the route or the form while that is still cheap. Done late, it only tells you what you cannot sell.

IP Bazaar works with the technical team at each stage, so that each step up in readiness is also a step towards a product that can be sold, licensed or exported without dispute.



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**Stuck between mind & market?
Let's find the missing link.**

IP Bazaar prepares freedom to operate and clearance reports for pharma, chemical, agrochemical and fragrance companies, for India and for the markets they export to. Reports are delivered with Patentwire IP Attorneys, who have completed more than 150 such studies. Send us a product name and a target market and we will tell you what the first look shows.



Where Mind Meets Market



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