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**GLOBAL INTELLECTUAL PROPERTY RIGHTS REGIME, ‘DISCIPLINARY  
NORMATIVE ORDER’ AND EMERGENT SUBJECTIVITY**

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Abstract

Recently, a number of legal scholars have pointed out the contextual complexity and expansive web of relations in which contemporary international economic law and institutions operate, which traditional or formalistic accounts of international law fail to adequately capture.<sup>1</sup> Accordingly, in this paper, taking inspiration from the works of Michel Foucault and Felix Guattari, I attempt to demonstrate that the underlying rationale behind the WTO-TRIPs regime is not just to govern trans-boundary trade in intellectual properties, but rather to establish a ‘disciplinary normative order’, the purpose of which is to discipline the economic and normative behaviours of third world subjects. In other words, while the TRIPs Agreement is intended to protect the property rights of natural and juridical persons globally in a seamless web, what remains enveloped in prescribed norms is a process of subjection – transforming legal practices and economic behaviours of the subjects. Put differently, the subjects must transform themselves according to the prescribed norms of the TRIPs Agreement in order to align with the global intellectual property regime. Thus, the paper observes that the norms and practices prescribed by the WTO-TRIPs are designed to

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<sup>1</sup>Tan, C (2012) ‘Navigating new landscapes: Socio-legal mapping of plurality and power in international economic law’ in Perry-Kessaris, A (ed.) *Socio-Legal Approaches to International Economic Law: Text, Context, Subtext*, London: Routledge, pp 19-35; Perry-Kessaris, A (2015) ‘Approaching the Econo-Socio- Legal’, 11 *Annual Review of Law and Social Science*, pp 57-74.

discipline the subject, to produce transformed subject – an emergent subjectivity, that is, subjectivity in its nascent state. To substantiate this observation, the paper, first, dwells upon the changes made in India's Patent Act through successive amendments and, then, narrates the proprietary claim over Bt. brinjal by Mahyco/Monsanto, two global/local bio-tech corporations, to reveal how subjectivity emerges.