NEWS FROM INDIA

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INDIA
The Government of India has brought into force the Patents (Amendment) Rules, 2017 from 1st December 2017.

- **Startup:**
  - In Sub rule(fb) under rule 2 of the Patents Rules, 2003 (hereinafter referred to as the principal rules) the definition of Startup is substituted as,
  - (i) "Startup" means
  - (a) an entity in India recognized as a startup by the competent authority under Startup India initiative.
  - (b) In case of a foreign entity, an entity fulfilling the criteria for turnover and period of incorporation/registration as per Startup India Initiative and submitting declaration to that effect.
  - Explanation: In calculating the turnover, reference rates of foreign currency of Reserve Bank of India shall prevail.
- (i.e. does not have a turnover of more than INR 25 crores in any financial year, during the past 5 years.)
An entity shall be considered as a Startup:

- a) if it is incorporated as a private limited company (as defined in the Companies Act, 2013) or registered as a partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008) in India; and

- b) up to seven years from the date of its incorporation/registration; however, in the case of Startups in the biotechnology sector, the period shall be up to ten years from the date of its incorporation/registration; and

- c) if its turnover for any of the financial years since incorporation/registration has not exceeded Rupees 25 crores; and

- d) if it is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

Provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a ‘Startup’. 
Explanation

i. An entity shall cease to be a Startup on completion of seven years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rupees 25 crores. However, in respect of Startups in the biotechnology sector, an entity shall cease to be a Startup on completion of ten years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rupees 25 crores.

ii. Turnover is as defined under the Companies Act, 2013.
IPO-user friendly approach

- **SMS Alert:**

  The Indian patent office user friendly approach is further extended to the applicants in the form of SMS alert system i.e. an SMS will be forwarded to the applicant at the time of generation of first examination report (FER) itself and in the end after grant of patent an electronic letter patent will be generated and forwarded to the patentee via E-mail, which was appreciated by the stakeholders at large.

  (As per the Rule 5 of amended Rules, 2016, every person including patent agent shall furnish a mobile number registered in India, E-mail id along with the address for service in India)
IPO-user friendly approach

- Mobile App:
  - Indian patent office (IPO) has also launched the official Mobile APP for intellectual property rights, so that all the details related to their applications applicants can view in their mobile phones.

- IPO reinforces its commitment to quality as International Searching Authority by sharing full Search Strategies also along with the International Search Reports established since 1st January 2018 for publication on Patent scope (www.wipo.int/patentscope).

- IPO is the seventh among 22 ISAs under the PCT to start this service.
Indian patent office (IPO) has started WIPO Digital access service (DAS) with effect from 31/01/2018 for priority documents submitted by the applicants from the participating patent offices.

The following offices are participating patent offices:

Australia, Bruneldarussalam, Canada, Chile, China, EPO, India, Israel, Japan, Newzeland, Republic of Korea, Singapore, IB of WIPO, UK, and USA.
Salient features of WIPO-DAS

- Applicant’s can simply request the office of first filing to deposit/add the priority document in to the WIPO DAS system, and request offices of second filing to use the service for obtaining access of such documents.
- Use of an access code provided by WIPO DAS to authorize access.
- Documents are exchanged via secure channels.
- No need to pay for multiple copies of paper priority documents.
Salient features of WIPO-DAS

- IPO as depositing office will upload certified copies of patent and industrial design applications as priority documents, including international applications under PCT filed at the office (RO/IN) filed on and after 31/01/2018 which the applicant specially requests to make such priority documents available to the WIPO DAS.
Procedure for depositing the priority document.

- A request may be made by the applicant to the IPO with the applicable fee as per the rules, 2003 for depositing the certified copy of priority documents to the WIPO DAS.

- In case of designs such requests should be made in form 16 as per the Design Rules, 2001.

- Once the applicant requests the depositing office to provide the copy of the priority document to be submitted under the DAS, an access code will be sent to the applicant to the given e-mail id, the same can be shared with the accessing office for retrieval.
Procedure for making available the priority document through DAS

- In case of patents and designs the applicant is required to send a letter to the patent office(s) where the priority document is required to be submitted (http://www.wipo.int/das/en) by mentioning the application number and access code received by the applicant through from DAS.

- In case of PCT international applications the applicant should check the relevant box no. VI next to the priority claim on the pct request form mentioned in the access code received through mail from DAS for each specific priority document.
IPO has accessed the system from WIPO under WIPO-INDIA cooperation agreement.

It enables patent offices to securely share search and examination documentation related to patent applications in order to facilitate work sharing programs.
The first TISC (technology and innovation support center) center has been established at Patent Information Center (PIC), Punjab.

The second TISC has been established at CIPR (center for intellectual property rights) Anna University, Chennai.

The objective of the TISC is to stimulate a dynamic, vibrant and balanced IPR system in India to foster creativity and innovation, thereby promoting entrepreneurship and enhancing social, economic and cultural development by establishing a network of TISCs in India.
Services offered by TISCs

- Access to online patent and non-patent (scientific and technical) resources and IP-related publications;
- Assistance in searching and retrieving technology information;
- Training in database search;
- On-demand searches (novelty, state of art and infringement);
- Monitoring technology and competitors;
- Basic information on IPR law and management and technology commercialization and marketing.
Examination and disposal of patent applications during the year 2017-18

1. The Number of Patent Applications filed during the year 2017-18 is: 47,854

2. The number of Request for Examination (RQ) filed during 2017-18 is: 37,208

3. First Examination Report (FER) issued during 2017-18 is: 60,329
4. Number of cases disposed during 2017-18 including abandonment is: 47,695

5. Cumulative RQs pending for disposal i.e for FER issuance (where Controller to issue FER only) by the end of the year 2017-18 is: 1,67,402.
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Thank You!