



SINGH & ASSOCIATES
Founder - Manoj K. Singh
ADVOCATES & SOLICITORS

Intellectual property and Tech. law updates

S&A IP-Tech

February 2017

Contents

Let us “Start-Up” India.....	3
Trending in IP: #Hashtags	6
Evergreening – a misuse of Patent System	9
Embracing Digital Era – Online Dynamic Patent Utilities.....	12
NEWSBYTE – THE TRADE MARKS RULES, 2017.	18

Let us “Start-Up” India.

- *Shrimant Singh*

In last couple of years, the buzz-word across businesses as well as industrial sectors is Startups. So much so that the Government of India has put in and allocated considerable effort, time and revenue for infusing and nurturing entrepreneurs and facilitating them to execute their innovative business ideas.

The Startup wave formally launched in January 2016 when the Government of India published an Action Plan for Startups terming “Startup India” as a flagship initiative intended to build a strong eco-system for nurturing innovation and Startups in the country. The Action Plan projects the Start Up initiative as one of the key drivers for achieving sustainable economic growth and generate large scale employment opportunities.

While the Startup initiative of the Prime Minister was much applauded and widely appreciated across sectors, there were few shortcomings in the execution of the plan. However, launching a project on such an extensive and exhaustive scale for boosting small scale industry and delivering the same to the Indian public is certainly considered as a commendable effort by the Government Executives and Ministers. Today, after about a year of its launch, one can safely consider that most of the discrepancies and/or hiccups in the processes and action plan have been resolved. For instance, the startupindia.gov.in government portal has seen regular and substantive updates, and proactive measures were diligently taken to make this ambitious initiative a success.

The present article is an effort to collate salient features of the Startup India initiative and also tries to answer questions that we as Facilitators receive from entrepreneurs.

What exactly is a startup in legal terms: The qualifiers for getting the “Startup” certification from the Government are-

- The entity should be incorporated or registered in India for not more than 5 years as either a Private Limited Company or a Registered Partnership Firm or a Limited Liability Partnership;
- The annual turnover shall not exceed INR 25 Crores in any preceding financial year;
- The entity should be involved in innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

Provided that such an entity is not formed by splitting up, or reconstruction of a business already in existence. Further, an entity shall cease to be a Startup if its turnover for the previous financial years has exceeded INR 25 Crores or it has completed 5 years from the date of incorporation or registration.

The key benefits of Registration:

- Startups are entitled to have self certification and auto compliance under nine Environmental & Labour laws;
- To facilitate protection of inventions / innovations, the Startups enjoy 80% rebate on fee while filling an application for patent and the applications so filed by Startups are expeditiously examined and disposed off in fast track;
- Startups can avail a faster public procurement under the criteria of "prior experience / turnover" in all Central Government ministries or departments;
- Startups are allowed to exit business in a swift manner as they can undergo winding up of company in 90 days as per provisions of Insolvency & Bankruptcy Code, 2016;
- The Government of India has announced a fund of INR 10,000 Crore for investments in to Startups through Alternate Investment Funds;

- Further, INR 2,000 Crore Credit guarantee fund for Startups is also announced through National Credit Guarantee Trust Company / SIDBI over 4 years tax exemptions on Income tax for 3 years;
- Tax Exemptions on capital gains and on investments above Fair Market Value.

In addition to above, the process of conducting inspections of Startups is simpler and effected without delay. Startups shall be allowed to self-certify compliance on environmental laws through the Startup mobile application of the Government. In case of the labour laws, no inspections will be conducted for a period of 3 years. However, Startups may get inspected by the relevant Government Authority on receipt of credible and verifiable complaint of violation, filed in writing and approved by at least one level senior to the inspecting officer. In case of environment laws, Startups which fall under the 'White Category' as defined by the Central Pollution Control Board.

How to apply for registration as startup: The online application form is made available on the Government website startupindia.gov.in.

Applicant Details: Below listed information is required to be provided by the applicant:

- a. Name of the Entity;
- b. Nature of the Entity – Private Limited Company / Limited Liability Company / Registered Partnership;
- c. Incorporation/Registered No.;
- d. Date of Incorporation/Registration;
- e. Address of Registered Office;
- f. Details of authorized representative;
- g. Details of Directors/Partners.

Following supporting documents are required to be filed in the Application for the Certificate.

- a. Letter of Recommendation, in a form specified by the Department of Industrial

Policy and Promotion (DIPP) from an incubator recognized by Government of India; or

- b. Letter of support by any incubator which is funded, in relation to the project, from Government of India or State Government as a part of specified scheme to promote innovation ; or

- c. Letter of recommendation from industry association recognized by DIPP; or

- d. Recommendation (with regard to innovative nature of business), in a format specified by DIPP, from any Incubator recognized by Government of India; or

- e. Letter of funding of not less than 20 percent in equity by any Incubation Fund/ Angel Fund/ Private Equity Fund/ Accelerator/ Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. Department of Industrial Policy and Promotion may include any such fund in a negative list for such reasons as it may deem fit; or

- f. Letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or

- g. Details of applications for patents filed at the Indian Patent Office (IPO) and published in the Journal by the IPO in areas affiliated with the nature of business being promoted.

Supporting document based on the nature of recommendation selected above. Applicant needs to ensure that the document being uploaded is as per the nature of recommendation selected and is in the prescribed format on the said Government website.

The applicant also needs to upload - Incorporation/ Registration Certificate for the Company / LLP / Partnership Incorporation.

A brief note on innovativeness of products /services offered by the entity is also required to be uploaded along with supporting document on the innovativeness of idea.

In case the applicant applies for tax benefits, the application is shared by the Authority with the Inter-Ministerial Board for evaluation. It is pertinent to note that the entity would be able to avail the Tax benefits only on certification from the Inter-Ministerial Board (IMB). Start-ups recognized by DIPP, Govt. of India can now directly avail IPR related benefits without requiring any certification from IMB.

Based on the declarations made in the application form and the support documents uploaded on the said website, the application

are examined and the registration certificate as the entity being a “Startup” is duly issued by the Government.

To conclude, as a Facilitator for Startups, we can vouch that the process for applying for and award of Startup certificate to an entity is uncomplicated and straightforward. Further, all the involved Government Authorities and Offices are cooperative towards the applicants seeking Startup status. Hence, as stated in the title of this article, we encourage the innovators to come forward and “Let us Start Up” with your entrepreneurial journey in India.

Please feel free to contact the author at:

ipr@singhassociates.in

Trending in IP: #Hashtags

- Himanshu Sharma

Introduction:

The emergence of liberal markets across the world has become a feeding ground for the new marketing techniques and key players in market are now coming up with fresh approaches in the field of marketing their products. In the recent times, the classical methods of marketing are proving to be redundant as consumers have become tech savvy and that they can only be catered by the methods which are more novel and unique. The technology also have played a big role in the transformation of marketing techniques and has provided new marketing platforms such as social media, web portal etc. One of the recent and most unique methods of marketing products is through # hash tags.

Hash tags is a word or phrase preceded by a hash sign (#), used on social media websites and applications to identify messages on a specific topic. The initiator of a hash tag has an intention to maximize the reach of the topic to the people and it also serves as a common platform for a topic. The content become viral and results in the generation of a #tag, which then garners the attention of a wider audience. The companies then try to en-cash upon these moments of publicity and promote their product while increasing their association with the consumers.

Hash tags as trademarks under Indian Trademark Law:

Now the question is, whether a hash tag can be registered as a trademark under the Indian Trademark Act, 1999.

The definition of a mark is provided under Section 2 (m) of the Indian Trademark Act, 1999 which states that

“Mark includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof”

Now as per the above definition a hash tag can qualify as a mark under a combination of words and numeral but in order to qualify as a trademarks the same has to qualify the definition of a trademark provided under the Indian Trademark Act, 1999 under section 2 (zb) which states as below:

“Trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods or their packaging and combination of colours”

The two conditions mentioned under the Act for a mark to be qualified as a trademarks are as mentioned below:

1. Capable of being represented graphically;
2. Capable of distinguishing goods and services of one person from other person.

When we put these two conditions to a hash tags which is applied for the registration as a trademarks, we see that first condition is met instantly as a hash tag is a combination of words and numerals which can definitely be represented graphically.

Now the second condition, which is the ultimate test for a hash tag to qualify as a trademark should be analyzed. As the hash tags have a limited life because topics which trends for a brief period die their own death in a short span of time and the trending topic easily fall in to oblivion. There are numerous hash tags trending in a very short period and the second condition, which is also interpreted as distinctiveness under Indian Trademark Law, is not easy to achieve and rallied over a longer period of time in case of hash tags. The trademarks are a source identifier and the hash tags which can fulfill this criterion can qualify for registration under the Act.

Under Section 9 of Indian Trademark Act, 1999, the absolute grounds of refusals are given and under sub-section (1) of section 9 states that:

"The trademarks -which are devoid of any distinctive character, that is to say, not capable of distinguishing goods or services of one person from those of another -shall not be registered"

Considering the above section, it is easy to deduce from the above section that only hash tags which are distinctive in nature can be registered as a trademark under the Indian Trademarks Act, 1999. Hash tags which are distinctive in nature or have become distinctive with the passage of time can only be qualified for registration as a trademark.

The distinctiveness mentioned under the Act may be classified in two:

1. Inherent distinctiveness;
2. Acquired distinctiveness

A hash tag can easily fall under any of abovementioned two categories, it may either be inherently distinctive in nature due to it being an invented word or it may be something which trends for a longer period of time such that the people start to identify the source through hash tag only. Further it shall also be kept into the mind that applying a hash tag to a common word or generic word would not make it a trademark as putting a hash tag will not make it distinctive. The trademark needs to pass the test of distinctiveness of trademark provided under the Act.

Situation in USPTO:

The registration of hash tags as a trademark is catching up in the US market and there are numerous trademarks filed in USPTO. The USPTO in 2013 under TMEP §1202.18 of Trademark Manual of Examining Procedure recognized that only a term containing the hash symbol or the term "hash tag" which can function as a source identifier of an applicant goods and services can be registered as a trademarks. The USPTO has already granted over 100 hash tag registrations since 2013. Further there are other important notes under the TMEP such as TMEP § 1202.18 which

provides that a hash tag may be registrable as a trademark if it includes a disclaimer of the wording "hash tag" or the hash symbol "in cases where they are separable from other registrable matter." Further it is also provide that USPTO will not allow registration of marks which consist only of the hash symbol or the term "hash tag" combined with merely descriptive or generic wording for goods or services.

Although the USPTO is providing the protection to the hash tags as trademarks but a US federal District Court has certainly put the hash tags trademark applicant's in to quandary. In case of Eksouzian v. Albanese, the court held that *"because hashtags are merely descriptive devices, not trademarks, unitary or otherwise, in and of themselves."* *Id.* at 15 (emphasis added). The court also held that that the term "pen" was merely a descriptive term for the products at issue and cited the TMEP provision stating "[t]he addition of the term HASHTAG or the hash symbol (#) to an otherwise unregistrable mark typically cannot render it registrable." *Id.*¹

This judgment of the court has put a question mark over the registrability of hash tags as trademark in USA for the time being but same decision is under review by higher Court. Still the USPTO is providing the registration to the hash tags as trademarks which are capable of serving as source identifier of the goods and services of the Applicants.

Conclusion:

Although the registration of hash tags as trademarks is still not very popular in India but the craze of social media is catching up with the mass due to availability of cheap data for usage due to the telecom war started with the entrance of 'Reliance-Jio' in the market. The market has suddenly expanded beyond imagination and people who earlier only heard about the power of internet, are now have easy access to the same. This will

¹ No. CV 13-00728-PSG-MAN (C.D. Cal. Aug. 7, 2015)

certainly lead to the emergence of hash tags as trademarks in order to cater the new consumer force and companies will definitely

wants to take advantage of new consumers available in market.

Please feel free to contact the author at:

ipr@singhassociates.in

Evergreening – a misuse of Patent System

- Monika Sailesh

It is believed that the patent system came into existence as early as in 500 BC. There are evidences that suggest that some form of patent rights were granted in the ancient Greece. The underlying philosophy of patent system was to make available some sort of encouragement to all who discovers any new concept which facilitates in refinement of luxury, and the said philosophy has not changed much from the ancient Greece. Henry VI of England granted the earliest known English patent to Flemish-born John of Utynam through an open letter marked with King's great seal. The above philosophy was shaped in the light of belief that without some sort of protection an inventor has no incentive to spend both time and wealth in creating something that cannot fetch profit. A discovery that is not protected from being copied cannot become an asset. This market failure can be corrected by providing some kind of temporary monopoly to the inventor. While some believe this monopoly may come at the cost of social welfare, on the contrary, some believe that such monopoly stimulates innovations and encourages inventors to strive for making new discoveries that ultimately helps in better utilization of resources with minimal wastage, in effect supplementing social welfare. This grant of temporary monopoly also helps to suffice and constantly improve upon the basic needs of the society like medical health in general, for example medical research may provide new diagnostic techniques and medicines to aid the community health.

Just as in physics- "every action has an equal and opposite reaction", the patent system also has a "reactionary" flip side, wherein the patents can be used as a disturbing anti-social tool. One of the most prominent examples of patents being a disturbing tool is in case of Patent Trolls. In contemporary times, it is evident that big-tech companies are more involved creation of patents along with

litigations over the same and often the effort for litigation supersedes the effort for actually inventing new products. While the patent system has been envisaged to stimulate the growth of the IPR, some of the entities use it to suppress the competition and new entrants in the market. Intellectual Property laws admittedly are set of complex laws and the techno-legal issues that in validating or invalidating a patent lie with the Court. The burden of proving the infringement lies with the patent holder. Further, in most of the jurisdictions, the patent office is not held responsible for the failure to discover a known art or in fact conflicting prior patents and/or claims. The Patentee for pure commercial gains tries for an extended time of the patent protection over an invention beyond the stipulated period by applying and having patents over effective the same invention(s) or minor variations thereof. Such dishonest extension of patent monopoly by the Patentee to the exclusion of others is termed as "Evergreening". This practice is particularly prevalent in pharmaceutical industry where patents are extended by minor variations like making minor variation or new form of a known drug, new release method, new dosage, new combination or variations which in effect is lacking inventive step. The Big Pharma players term this as the Life Cycle Management. To understand the concept of evergreening let us take a popular example of an anti-depression drug called venlafaxine. The initial patent was for a medicine named Efexor which had certain side effects, while the patent for Efexor was on the verge of getting lapse the patent owner came up with new drug called Efexor –XR with the only change from the original patent was that this new medicine had extended release and showed less side effects because of extended release mechanism, so practically the patent for Efexor was renewed for another 20 Years in the form of Efexor-XR that had a very low patentability. So the company managed to keep the generic medicine makers at bay by extending the patent for Efexor-XR. Wyeth filed a lawsuit against the Indian drug manufacturer Cadila Healthcare Ltd. of patent

infringement and prevented the generic pharma companies including the Indian generic industry from manufacturing the Effexor-XR for another two and a half year, while the legal proceedings continued. Although the Evergreening Patent was declared invalid but it costed \$290 million because of the delay.²

Evergreening creates private monopoly resulting in patent abuse and finally ends up hurting the public interests at large. The practice of Evergreening is more prevalent and acutely affects public health in the developing countries. It impacts the ability of the poor and underprivileged to afford better health care services. Even few of the developed nations do not have adequate means to counter the menace of Evergreening, hence the said misuse of patent monopoly can be found in the developed nations also. As per the National Institute of health Care Management on Pharmaceuticals Innovations, about 75% of the patented drugs are new forms of the already known substance.

CASE OF EVERGREENING IN INDIA

In the last decade India has experienced some criticism from countries like US over the issue of protection of pharmaceutical innovations. USTR special 301 report placed India on the Priority Watch List. The USTR's special 301 report is a congressionally mandated annual report which started back in 1989 and the major role of this is to identify trade barriers to US companies and products in foreign land³. The basis of this identification is by assessment of registration process and protection of intellectual properties including patents, trade-marks, copyright and trade secrets in the foreign countries. The US government has put forth stress on the nations featuring in the "watch list" to address and resolve both evolving and ongoing apprehensions amongst US companies. It is

stated that the US government may also impose financial sanctions on the nations that continuously fail to move out of the "Priority Watch List". It is believed that this step was taken by USTR 301 over the continuous concerns shown by the Big Pharma companies in reference to provisions of compulsory licensing and the amended Indian Patents law and special emphasis on Section 3(d) of the Indian Patents Act. Section 3(d) identifies inventions that are not patentable:

"The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

Explanation.—For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy".

Section 3(d) is an effort by Indian legislature to avert Evergreening attempts in the name of life cycle management. The Indian Constitution has placed ensuring good health of citizens as a fundamental duty of the State, accordingly, Section 3(d) by the Legislatures can be regarded as an effort to maintain the critical balance between patent protection for an innovative pharmaceutical composition and the need to provide affordable and easily available quality health care services and medicines to the poor of India.

India played a noteworthy part in the pre-TRIPS establishment and has evolved to become one of major manufacturer and provider of drugs globally. India has been the frontrunner in the international supply of affordable antiretroviral drugs and other essential medicines prior to the conclusion of

² injurylawyer-news.com/effexor/lawsuit

³ <https://ustr.gov/issue-areas/intellectual-property/Special-301>

TRIPs Agreement. It was supplying 50 per cent of the most affordable drugs in the world to places like Papua New Guinea, Laos, Kenya, Africa, etc. India has also taken leadership in promoting access to and supplying affordable essential generic HIV medicines to those most in need. In the famous Novartis Glivec Patent litigation, Novartis prayed to the Court that Section 3(d) of the Indian Patents Act is not in compliance with TRIPS. Further, Section 3(d) was also alleged to be violative of Article 14 of the Constitution stating that the same confers arbitrary discretionary powers to Controller in the determination of “enhanced efficacy”. Honorable Supreme Court of India clarified upon the term “efficacy” and observed that Section 3(d) is necessary in India so as to prevent Evergreening and to provide affordable life saving drugs to the citizens. With the said Novartis case, India has clearly established its stand against evergreening and refused to succumb under the international pressure. Shortly after the 301 report was published, philanthropic aid organization *Medicines Sans Frontiers* counseled the Indian Government to continue to uphold, and even to intensify efforts, to align India’s patent law and practice with access to treatment and public health needs. The organization urged to India—often referred to as “*pharmacy of the developing world*”—to resist pressure from US lawmakers and the pharmaceutical industry and protect access to affordable medicines. Millions of people across the globe who rely on Indian low-cost quality generics are at risk of having their lifelines cut as pharmaceutical lobbying groups and US lawmakers aim to change India’s intellectual property (IP)

policies to favor excessive pharmaceutical monopolies.⁴

CONCLUSION

India has been facing criticism by the big Pharma companies over not aligning its IPR policies with the TRIPS agreement. India is also blamed by some for not providing IPR protection to the patents over the scientific advancement of the existing product; however, it is pertinent to note that under Section 54 of the Patents Act, a patent of addition can be granted for an improvement in or modification of an invention in respect of the main invention. However, such patents of addition would have the lifecycle parallel and same as that of the parent invention. Therefore, India does grant of patents for incremental inventions. It has been seen that time and again it has been established that India indeed has an IP regime keeping with the spirit of WTO while also making due provisions, exceptions under WTO, for providing affordable access to medicines to the world. As per *Medicines Sans Frontiers*: “*By striking a balance between industrial production of generic drugs and the patent system, India’s policies have saved and improved millions of lives*”.⁵

Please feel free to contact the author at:

ipr@singhassociates.in

4

<http://www.doctorswithoutborders.org/article/ahead-prime-minister-modis-visit-doctors-without-borders-urges-india-put-peoples-health>

5

<http://www.doctorswithoutborders.org/article/ahead-prime-minister-modis-visit-doctors-without-borders-urges-india-put-peoples-health>

Embracing Digital Era – Online Dynamic Patent Utilities

- **Aayush Sharma**

In this era of the “Digital India” the Government has launched various schemes for empowering digitisation of official records in the country and numerous measures have been taken for bringing the Government Departments on the digital platform to better serve the citizens. Due to its vast population and geographical extremes the digitization move by the Government is proving to be a major step that has been undertaken in recent past so as to provide easy access and facilitation of the public. Processes like registration of companies, starting and doing a business, opening of bank accounts, beneficentations through government policies, promotion of trade and industry, education system and even taxation have been made considerably easy and effective by the digitization drive. Digital era is here to stay, not only because of its rapid growth but also because it is essentially the future of any country.

One of the Government Offices which has undergone a sea change on digitization is the Indian Patents and Trade Marks Office. One of the major advancements on the digitization front is adoption of e-Filing systems and access to the files and real time application statuses over the internet. The said technological improvements enable the Patent Office in: making faster and better decisions, becoming more transparent, and assuring trust and quality over internal as well as external interactions over a subject matter. Some of the notable developments on the IPO website are: e-filing portals for respective IP protections, Dynamic Patent Utility, real time and extensive application and/or patents, trademarks search modules, upload of official circulars/decision and/or tenders, and recent notifications.

In the present article we try to discuss the online public tools now available to applicants

for patent, namely, the dynamic patent utilities. On the official website of the IPO, dynamic utilities are made available with an aim to provide ease of access to the public, to conduct search and to ascertain the current status of a patent application filed in India. The freely available details include expired patents, disposal of patent applications, issuance of office action status, working statements, dynamic status of patent applications as per field of invention, Stock and Flow of Patents. This online tool will greatly help to the extent that one can access the details and patent office records of patent applications and/or grant patents at the Patent Office.

The above mentioned Dynamic Utilities have been detailed / described below:

1. Dynamic FER View: This utility enables one to seek information related to FERs being issued for any given month from the year 2013. This utility gives output of each of the four examination groups for any of the four patent offices in India. As per this utility, one can seek information issued in any month from the four examination group viz. Electrical/ electronics, Biotechnology, Chemistry and Mechanical. For example if we select the February, 2017 months, the details obtained as:

GROUP	Delhi	Mumbai	Kolkata	Chennai
Electrical/Electronics	525	127	226	588
Biotechnology	92	4	37	73
Chemistry	325	18	133	497
Mechanical	338	137	320	230

Now, one can click any of the patent application view tab and can see the FER report accordingly. Please see below.

Application Number	APPLICANT NAME	FER DATE	view
10177/DELNP/2011	WYETH LLC	15-Feb-2017	View
11/DELNP/2011	SUMAVA BIOTECH & Co KG	23-Feb-2017	View
1112/DELNP/2011	BOEHRINGER INGELHEIM PHARMA GMBH & CO. KG	17-Feb-2017	View
1218/DELNP/2011	E. I. DU PONT DE NEMOURS AND COMPANY	24-Feb-2017	View

2. Information on Working of Patents:

This dynamic utility gives information on the working on patented information on commercial scale in India as required to be furnished by patentee or licensee under Section 146 of the Patents Act, 1970. However, the utility only provides data for 2012 and 2013.

3. Disposal of Patent Applications: This utility lays an important function for generation of report for total number of patent applications granted, refused or abandoned for each examination group at respective patent offices. With this utility one can also understand the disposal rate of

patent applications. The data obtained in this utility is on the real time basis.

Say when we searched for February, 2017 we came to know about following details as mentioned below:

Granted cases in Four Jurisdictions

Dynamic Patent Utilities

DISPOSAL REPORT

[Click For Month Status](#) [Click For Search with dates](#)

Disclaimer: The utility displays the disposal of the respective examination groups during the specified period. The display is dynamic (Real time basis) in nature and actual output should be referred in RFD documents published by CGPDITM. Discrepancy if any should be communicated to respective Patent Office at: delhi-patent@nic.in, mumbai-patent@nic.in, chennai-patent@nic.in, kolkata-patent@nic.in

Month
FEBRUARY

Year
2017

Submit Please Select Year
First

Disposal For year 2017 of month FEBRUARY

GRANTED

GROUP	DELHI	MUMBAI	KOLKATA	CHENNAI
Electrical/Electronics	62	39	73	103
Biotechnology	23	5	3	7
Chemical	242	41	46	90
Mechanical	157	11	50	36


Refused and Abandoned cases in Four Jurisdictions


REFUSED				
GROUP	DELHI	MUMBAI	KOLKATA	CHENNAI
Electrical/Electronics	30	16	23	17
Biotechnology	11	4	5	23
Chemical	16	13	34	22
Mechanical	33	6	4	6

ABANDONED U/S SEC 21(1)				
GROUP	DELHI	MUMBAI	KOLKATA	CHENNAI
Electrical/Electronics	85	19	182	38
Biotechnology	22	4	7	7
Chemical	40	17	122	31
Mechanical	48	16	103	30

4. Expired Patents: With this utility, one can search for the patents for which term has been expired.

at...


Government of India


PROPERTY INDIA
PATENTS | DESIGNS | TRADE MARKS
GEOGRAPHICAL INDICATIONS

Dynamic Patent Utilities

EXPIRED PATENTS

Term Expired
Ceased Due To Non Renewal
Search By Patent Number
Search By Title Of Invention

Disclaimer : The utility displays the Patents that have ceased to be in effect u/s 53(2). The displayed list is dynamic (Real time basis) and may be updated upon official actions u/s 60 (Restoration). Actual legal status may confirmed from the respective Jurisdiction of Patent Office. The list also depends upon the digitization status of Patents. Therefore, discrepancy, if any should be communicated to respective Patent Office at: delhi-patent@nic.in, mumbai-patent@nic.in, chennai-patent@nic.in, kolkata-patent@nic.in

* Note: Please select 'ALL' in Field of Invention to return the complete list. Data in other fields is subject to availability of Field of Invention in the database

TERM EXPIRED

FIELD OF INVENTION

All

Search of Term Expired Patent in the Biotech Field

TERM EXPIRED						
<div> <div>FIELD OF INVENTION</div> <div>BIOTECHNOLOGY</div> </div>						
Sr.No	Application Number	PATENT NUMBER	DATE OF PATENT	DATE OF CESSATION	TITLE OF INVENTION	STATUS
1	584/MAS/1997	212630	19-Mar-1997	19-Mar-2017	A COMPOSITION OF MATTER CONTAINING BEADS CONTAINING CELLS AND PROCESS FOR PREPARING THE SAME	TERM EXPIRED
2	535/MAS/1997	198844	14-Mar-1997	14-Mar-2017	SPOT-TYPE DISC BRAKE	TERM EXPIRED
3	497/MAS/1997	198904	11-Mar-1997	11-Mar-2017	OPTICAL INFORMATION RECORDING MEDIUM AND A METHOD OF PRODUCING THE SAME	TERM EXPIRED
4	92/MAS/1997	229905	20-Jan-1997	20-Jan-2017	A METHOD FOR IN VIVO PRODUCTION OF A LIBRARY OF VARIANTS OF A GENE ENCODING A POLYPEPTIDE	TERM EXPIRED
5	2863/DEL/1996	214871	18-Dec-1996	18-Dec-2016	"A PROCESS FOR THE PRODUCTION OF CELLOLOSE	TERM

Search for Patent ceased due to Non payment of Renewal in Biotech Field

RENEWAL DISCONTINUED						
<div> <div>FIELD OF INVENTION</div> <div>BIOTECHNOLOGY</div> </div>						
Sr.No	Application Number	PATENT NUMBER	DATE OF PATENT	DATE OF CESSATION	TITLE OF INVENTION	STATUS
1	819/KOLNP/2006	236369	20-Sep-2004	20-Mar-2017	HEMOGLOBIN ASSAY FOR NEONATAL SCREENING	RENEWAL DISCONTINUED
2	1631/CHENP/2007	247480	20-Sep-2005	20-Mar-2017	IN VIVO INCORPORATION OF ALKYNYL AMINO ACIDS INTO PROTEINS IN EUBACTERIA	RENEWAL DISCONTINUED
3	2159/DELNP/2007	258986	19-Sep-2005	19-Mar-2017	"ISOPENTENYL TRANSFERASE SEQUENCES AND METHODS OF USE"	RENEWAL DISCONTINUED
4	446/DELNP/2005	242275	16-Sep-2003	16-Mar-2017	"AN IN VITRO METHOD OF DECREASING MYOSTATIN ACTIVATION"	RENEWAL DISCONTINUED
5	2043/DEL/2006	241675	15-Sep-2006	15-Mar-2017	"A PROCESS FOR PREPARING LIPOSOMES"	RENEWAL DISCONTINUED

Search by Patent Number

Term Expired

Ceased Due To Non Renewal

Search By Patent Number

Search By Title Of Invention

Disclaimer : The utility displays the Patents that have ceased to be in effect u/s 53(2). The displayed list is dynamic (Real time basis) and may be updated upon official actions u/s 60 (Restoration). Actual legal status may confirmed from the respective jurisdiction of Patent Office. The list also depends upon the digitization status of Patents. Therefore, discrepancy, if any should be communicated to respective Patent Office at: delhi-patent@nic.in, mumbai-patent@nic.in, chennai-patent@nic.in, kolkata-patent@nic.in

* Note: Please select 'ALL' in Field of Invention to return the complete list. Data in other fields is subject to availability of Field of Invention in the database

PATENT NUMBER

Submit

Exit

Sr.No	Application Number	PATENT NUMBER	DATE OF PATENT	DATE OF CESSATION	TITLE OF INVENTION	STATUS
1	IN/PCT /2002/00139/MUM	202868	10-Aug-2000	10-Feb-2017	EQUIPMENT FOR THE LEACHING OF SOLID MATTER FROM SLUDGE	RENEWAL DISCONTINUED

Search By Title

Term Expired

Ceased Due To Non Renewal

Search By Patent Number

Search By Title Of Invention

Disclaimer : The utility displays the Patents that have ceased to be in effect u/s 53(2). The displayed list is dynamic (Real time basis) and may be updated upon official actions u/s 60 (Restoration). Actual legal status may confirmed from the respective jurisdiction of Patent Office. The list also depends upon the digitization status of Patents. Therefore, discrepancy, if any should be communicated to respective Patent Office at: delhi-patent@nic.in, mumbai-patent@nic.in, chennai-patent@nic.in, kolkata-patent@nic.in

* Note: Please select 'ALL' in Field of Invention to return the complete list. Data in other fields is subject to availability of Field of Invention in the database

TITLE OF INVENTION

Submit

Exit

5. Dynamic Status of Patent Applications as per field of invention: With this utility, one can search for the patents classified according to their respective field of the invention. In this section, there are 23 different domains has been given for which the public can identify the patent application under in process/ granted/ refused under Section 15, abandoned under Section 15 and withdrawn after 15 months. Upon selecting the desired domain out of 23 domains, one can extract the details viz. Patent in process, Granted, Refused, Abandoned and Withdrawn after 15 months.

Dynamic Patent Utilities								
<div>BIOTECHNOLOGY</div>								
Disclaimer: Listed Applications Have Been Classified According To Their Respective Field Of Invention. Discrepancy, If Any, May Be Reported at delhi-patent@nic.in , mumbai-patent@nic.in , chennai-patent@nic.in , kolkata-patent@nic.in								
DATA AFTER 1st JULY 2012								
<div>IN PROCESS</div> <div>GRANTED</div> <div>REFUSED U/S (15)</div> <div>ABANDONED U/S 21(1)</div> <div>WITHDRAWN AFTER 15 MONTH</div>								
Sr.No	APPLICATION NUMBER	PATENT NUMBER	DATE OF GRANT	DATE OF FILING	TITLE OF INVENTION	APPLICANT NAME	APPLICANT ADDRESS	PUB-U/S 43(2)
1	522/MUMNP/2009	253208	04-Jul-2012	16-Mar-2009	AN ASSAY FOR IDENTIFICATION OF A PROTEIN KINASE INHIBITOR WITH A FLUORESCENT PROBE	UNIVERSITY OF TARTU	ULIKOOLI 18, EE50090 TARTU, ESTONIA	06-Jul-2012
2	229/MUMNP/2009	253210	04-Jul-2012	30-Jan-2009	RECOMBINANT HUMAN INTERFERON-LIKE PROTEIN	NOVAGEN HOLDING CORPORATION	C/O HSBC INTERNATIONAL LIMITED, P.O. BOX 484 GT, STRATHVALE HOUSE, NORTH CHURCH STREET, GEORGE TOWN, GRAND CAYMAN.	06-Jul-2012
3	1966/MUMNP/2007	253211	04-Jul-2012	22-Nov-2007	ANTI-CD16 BINDING MOLECULE	AFFIMED THERAPEUTICS AG	NEUENHEIMER FELD 582, 69120	06-Jul-2012

For example: Select the Biotech domain out of 23 different domains and the result obtained under Granted Patent tab are as below:

BIOTECHNOLOGY

Disclaimer: Listed Applications Have Been Classified According To Their Respective Field Of Invention. Discrepancy, If Any, May Be Reported at delhi-patent@nic.in, mumbai-patent@nic.in, chennai-patent@nic.in, kolkata-patent@nic.in

DATA AFTER 1st JULY 2012

IN PROCESS

GRANTED

REFUSED U/S (15)

ABANDONED U/S 21(1)

WITHDRAWN AFTER 15 MONTH

Sr.No	APPLICATION NUMBER	DATE OF FILING	TITLE OF INVENTION	APPLICANT NAME	APPLICANT ADDRESS	PUBLICATION DATE
1	2856/DEL/2015	11-Sep-2015	METHOD OF UTILIZATION OF CARBON CONCENTRATION MECHANISM IN MICRO-ALGAL SPECIES TO INCREASE PRODUCTION OF LIPIDS AND OBTAIN BIO-FUEL	International Centre for Genetic Engineering and Biotechnology	Aruna Asaf Ali Marg, New Delhi-, India	17-Mar-2017
2	201617039872	22-Nov-2016	METHODS FOR PURIFICATION OF MESSENGER RNA	SHIRE HUMAN GENETIC THERAPIES INC.	300 Shire Way Lexington Massachusetts 02421	17-Mar-2017
3	201617039874	22-Nov-2016	RECOMBINANT LISTERIA VACCINE STRAINS AND METHODS OF PRODUCING THE SAME	ADVAXIS INC.	305 College Road East Princeton New Jersey 08540	17-Mar-2017
4	4882/CHE/2015	14-Sep-2015	REAL TIME SENSING OF ANALYTES BY ON-CHIP INTERFERENCE-SYNTHESIS OF NOBLE METAL NANOPARTICLES	Indian Institute of Science	C V Raman Road, Bangalore, Karnataka 560012, India.	17-Mar-2017
5	3420/DEL/2015	21-Oct-2015	MANUFACTURING METHOD OF FRAME STRUCTURE FOR PORTABLE DEVICE	KHVATEC CO., LTD.	53-12, 1gongdan-ro 10-gil, Gumi-si, Gyeongsangbuk-do,730-906, Republic of Korea	17-Mar-2017
6	201637035389	17-Oct-2016	APTAMER FOR FGF2 AND USE THEREOF	RIBOMIC INC.	16 13 Shirokeadai 3 chome Minato ku Tokyo 1080071	10-Mar-2017
7	201637033525	30-Sep-2016	ANTIBODIES AGAINST IMMUNOGENIC	MACKAY MEDICAL EQUIPMENT	No. 07 Sec. 2 Zhongshan N. Rd Taipei	10-Mar-2017

The Dynamic Patent Utility tool is the outcome of the Digital India. The IPO has launched this tool to facilitate the user to know the details on the real time basis. This move of transparency is best utilised by the Applicants and interested parties alike. As all the above utilities are available for free at the Indian Patent Office website, the researchers,

students, scientists, patent practitioners, applicants, and/or all interested parties are making most out of it.

Please feel free to contact the author at:
ipr@singhassociates.in

NEWSBYTE – THE TRADE MARKS RULES, 2017

The Ministry of Commerce and Industry on the 06th March, 2017 marked the end of The Trade Marks Rules, 2002 which has now been replaced by more comprehensive and effective Trade Marks Rules, 2017.

A brief of the salient features of the TRADE MARKS RULES, 2017 are:

1. Categorization Of Application Forms:

As per the new rules, forms are now categorized as per the functions and all the categories as per the function performed are mentioned as below:

1.	TM-A	Application for the registration of trademark of different categories;
2.	TM-M	Application / Request for miscellaneous functions in respect of a trademark Application / Opposition / Rectification under the Trade Marks Act.
3.	TM-C	Request related to the copyright search under Rule 23(3) of The Trade Marks Rules, 2017;
4.	TM-O	Notice of Opposition / Application for Rectification of the Register by cancelling or varying registration of a trademark / Counter-Statement / Request to refuse or invalidate a trade mark;
5.	TM-R	Applications for the renewal/restoration of trademarks;
6.	TM-P	Applications for the post registration changes in the trademarks;
7.	TM-U	Application for the registration / cancellation /

variation of registered user and notice of intention to intervene in the proceedings in cancellation/variation;

8. **TM-G** Applications for the registration as trademark agents;

2. Changes In Official Fee:

- An extensive overhaul has been carried out in the Fee Structure for registration of Trademark Application. Where, the fee for application for the registration of trademark applicants under the categories of Individuals / Start-ups / Small Enterprises, has been fixed at INR 5000; meanwhile, the applicable fee for all other categories of applicants would be INR 10000.

- Apart from the application fees, all the other categories fee are also changed and importantly, Official fee for the additional class for the post registration changes in a multi-class application is now removed and only fee for a single trademark will be charged in cases of post registration.

3. E-filing Discount:

As an attractive incentive to encourage users to avail the digital filing facility, a 10% rebate on the official fee for all applicable office actions has also been incorporated.

4. Email Communication from Indian Trademark Office:

In order to cut down on the time gap created due to delay in communication, the email communication from the Indian Trademark Office, shall now be treated as Official Communication and shall also act as applicable deadline in matters concerning the filing of Reply to the Official Examination Report, etc.

5. Recognition of Well-Known Trademarks:

Recognizing the need for an established process to help an applicant get a trademark declared as Well – Known Trademark, inclusions have now been made in the Trade Marks Rules, 2017; where in the applicant with prescribed paperwork and Official Fee can attain the same.

6. Renewals:

The effective time span for filing for renewal of a registered trademark has now been extended to 1Year against the earlier

prescribed time span of 6months, before the expiry of the mark.

Several other minor procedural changes have also been incorporated which aim at creasing out the irregularities of the application process, and at the same time adapt according to the needs of the hour.

Our detailed reports and commentaries specific of the amendments and new provision of the Trademarks Rules, 2017, will be shared with our readers in upcoming editions. Stay tuned.

Please feel free to contact the author at:

ipr@singhassociates.in