



INDIA IP UPDATES 2024

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& Advocates

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PREFACE:

The year 2024 ushered in a series of transformative changes in India's intellectual property rights landscape, driven by statutory updates designed to address the rapidly evolving nature of IP litigation. As technological advancements continue to reshape industries and create new challenges, India's legal framework adapted to ensure intellectual property protection remains up-to-date and relevant. The surge in patent filings, design disputes, trademark appeals, have prompted the government to implement key legislative changes, aligning the IP system with modern innovation and enforcement needs.

One of the most significant milestones of the year 2024 was the Indian Patent Office (IPO) granting over 100,000 patents in a single year, cementing India's efforts towards propelling innovation and IP commercialisation. To address the increasing number of patent-related disputes, the Patents (Amendment) Rules, 2024, introduced several changes, including changing the periodicity for filing working statements and ironing out practice issues related to filing of divisional patent applications. Additionally, the Protection of Trade Secrets Bill, 2024, was proposed to provide a dedicated legal framework for safeguarding trade secrets, reflecting the rising number of corporate espionage cases and cross-border technology disputes. Steps were taken to regulate competition in digital markets through the Draft Digital Competition Bill, 2024, which seeks to curb monopolistic practices by major digital enterprises.

The Trade Marks (Holding Inquiry and Appeal) Rules, 2024 were introduced to strengthen trademark enforcement, particularly in response to increasing domain name disputes and online brand misuse. Other crucial developments were the Intellectual Property Rights Division (IPD) Rules of the Calcutta High Court, 2023, decriminalisation of intellectual property laws through enforcement of Jan Vishwas (Amendment of Provisions) Act, 2023, and a progressive Union Budget 2024-25 that allocated significant resources to IP policy management and modernisation. The country's participation in the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge and adoption of the Riyadh Design Law Treaty, 2024, further reflected the government's long-term vision for a stronger IP ecosystem.

This compilation provides a comprehensive overview of the statutory updates of the year 2024 in India's intellectual property laws and related sectors, serving as a valuable resource for stakeholders navigating this dynamic domain. These statutory updates demonstrate India's commitment to creating an agile and transparent IP regime capable of addressing modern disputes. By proactively refining its legal framework, India is moving towards an innovation-driven economy while ensuring robust protection in an increasingly digital and competitive landscape.

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INDEX

| | |
|--|----|
| 1. Building Tomorrow: Assessing the Priorities in India's Interim Budget 2024-25 (February 1, 2024)..... | 4 |
| 2. Anusandhan National Research Foundation (ANRF): New Research Funding Agency Comes into Play (February 5, 2024) | 9 |
| 3. Much-Awaited Open House Portal for Grievance Redressal Launched by the CGPDTM Office (February 14, 2024) | 11 |
| 4. Need for More Robust Protection: Analysing the Proposed Protection of Trade Secrets Bill, 2024 (March 5, 2024) | 13 |
| 5. India's Rise to Innovative Excellence: Achieving 100,000 Patents in One Year (March 15, 2024)..... | 15 |
| 6. Winds of Change: Exploring the India-EFTA Trade and Economic Partnership Agreement (March 10, 2024) | 18 |
| 7. Regulation of Enterprises in Core Digital Service Areas: Analysing the Draft Digital Competition Bill (March 12, 2024)..... | 23 |
| 8. India Announces Progressive Changes In Patents Rules, 2003 (March 15, 2024) | 28 |
| 9. NDI Amendment Rules: Foreign Direct Investment In India's Space Sector (April 16, 2024)..... | 33 |
| 10. Analysing WIPO's Landmark Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge (May 24, 2024) | 35 |
| 11. Union Budget 2024-25: Sowing the Seeds of Sustainable Development and Innovation in India (July 23, 2024)..... | 39 |
| 12. Decriminalisation of Intellectual Property Laws: Enforcement of Jan Vishwas (Amendment of Provisions) Act, 2023 (August 1, 2024) | 46 |
| 13. The Trade Marks (Holding Inquiry and Appeal) Rules, 2024 Notified (August 16, 2024)..... | 50 |
| 14. Note on IPO's FAQs on Statement of Working (August 26, 2024) | 52 |
| 15. Calcutta High Court Notifies the Intellectual Property Rights Division Rules of the High Court At Calcutta, 2023 (September 20, 2024)..... | 57 |
| 16. Simplifying and Expediting the Approval Procedures of Access and Usage of Biological Resources: The Biological Diversity Rules, 2024 (October 22, 2024)..... | 58 |
| 17. Global Framework for Preserving Creativity: Analysing the Riyadh Design Law Treaty (November 22, 2024)..... | 68 |

1. Building Tomorrow: Assessing the Priorities in India's Interim Budget 2024-25 (February 1, 2024)



On February 1, 2024, the finance minister of India, Nirmala Sitharaman, presented the interim budget for 2024-25. The aim of this budget is to create a "golden era" for the tech-savvy youth of the country by following the principles of growth for all. In addition to its focus on innovation, investments, and trade, the budget also aims to promote sustainability and environmental responsibility through its support for the green technology sector.

Furthermore, the Interim Budget 2024-25 recognises the importance of startups and SMEs in driving economic growth and job creation and includes measures to support these sectors, including tax incentives, access to finance, and other forms of assistance. The overall goal of the budget is to create a conducive environment for entrepreneurship and small business development, which will help spur economic growth and boost more sustainable innovation in the country.

Vision of Budget 2024-25

The guiding principle of this year's budget plan is "Viksit Bharat by 2047", i.e. "Prosperous Bharat in harmony with nature, with modern infrastructure, and providing opportunities for all citizens and all regions to reach their potential". The focus has been directed towards the implementation of next-generation reforms, with an emphasis on building consensus with states and relevant stakeholders. The budget emphasises strengthening green technology sectors and allocating funds for research and development initiatives to promote innovation. To achieve the goal of "Net-Zero" by 2070, the government has proposed various initiatives and schemes in the electric vehicle (EV), solar energy, and clean energy sectors.

Electric Vehicle Sector

The Electric Vehicle (EV) sector in India has experienced significant growth in recent years, propelled by a combination of government initiatives, technological advancements, and shifting consumer preferences. Policies promoting sustainable transportation, subsidies, and incentives for EV manufacturing and adoption have played a pivotal role. Additionally, the establishment of charging infrastructure and collaborations with global players have further fuelled the growth of the EV

sector, positioning India on the path toward a cleaner and more sustainable automotive future. To bolster the EV sector, the government has planned to provide support for manufacturing and charging infrastructure. Furthermore, a payment security mechanism will encourage the adoption of e-buses for public transportation networks.

Rooftop Solarisation

The finance minister also announced a central government-backed project for rooftop solarisation. This initiative is expected to cover 1 crore households and will provide up to 300 units of free electricity every month. Households are expected to save a significant amount of money, ranging from INR 15,000 to INR 18,000 annually.

Green Energy

The government has proposed various initiatives to enhance the country's energy sector. One such initiative is to provide viability gap funding for the development of offshore wind energy, with an initial capacity of one gigawatt. In addition, the government aims to set up a coal gasification and liquefaction capacity of 100 metric tons by 2030. This project will aid in reducing the country's reliance on imported natural gas, methanol, and ammonia.

Another key initiative is the phased mandatory blending of compressed biogas (CBG) in compressed natural gas (CNG) for transportation and piped natural gas (PNG) for domestic purposes. This policy will be enforced, and financial assistance will be provided for the procurement of biomass aggregation machinery to support the collection of these resources.

The adoption of a dependable biomass collection system is expected to significantly improve the supply chain of plants that are reliant on seasonal biomass availability. This can be achieved by implementing a systematic approach towards biomass collection, which can lead to better planning, coordination, and management. The implementation of such a system is expected to benefit businesses and investors by enabling faster decision-making and reducing uncertainties related to the availability of biomass. Furthermore, a robust supply chain will ensure a steady and consistent supply of biomass, which can have a positive impact on the overall productivity, efficiency, and profitability of the plants. Additionally, it can help to reduce waste, enhance sustainability, and promote environmental conservation.

Bio-Manufacturing and Bio-Foundry

The government is set to launch a new scheme aimed at promoting green growth by establishing bio-manufacturing and bio-foundry facilities. This scheme will be designed to provide environmentally friendly alternatives, including biodegradable polymers, bio-plastics, bio-pharmaceuticals, and bio-agri-inputs. The initiative aims to transform the current consumptive manufacturing paradigm to one based on regenerative principles, which will ensure more sustainable practices in the long run.

Deep-Tech Technologies

Furthermore, the government is introducing a new scheme to strengthen deep-tech technologies for defence purposes and accelerate "atmanirbharta" (self-reliance). The interim budget also proposes a corpus of INR 1 lakh crore to provide a fifty-year interest-free loan, which will significantly encourage the private sector to scale up research and innovation in sunrise domains. The corpus will provide a long-term financing or refinancing mechanism with extended tenors and low to nil rates of interest, offering companies an avenue to invest in research and development while minimising the burden of financial obligations.

Budget for the Intellectual Property Landscape

India has witnessed notable growth in the Intellectual Property Rights (IPR) sector, reflecting a heightened emphasis on innovation and creativity. The recent boost in the number of patent filings and the increasing awareness about the significance of protecting intellectual assets have immensely contributed towards more IP holders recognising and enforcing their rights in India. Efforts to streamline patent and trademark registration processes, coupled with policy reforms, have made it more conducive for businesses and individuals to secure their intellectual property. This burgeoning IPR sector signifies a positive shift towards fostering innovation, attracting investments, and aligning with global standards in intellectual property protection. Towards the Intellectual Property sector in India, a total budget of INR 318.02 crores has been allocated, with INR 279.18 crores towards the Office of the Controller General of Patents, Designs and Trademarks; INR 20.84 Crores towards the IPR Policy Management; INR 18 crores towards the infrastructure development in the offices of CGPDTM.

Make in India Initiative

The "Make in India" initiative has been a flagship program launched by the Indian government to encourage domestic manufacturing, promote economic growth, and enhance job creation. The initiative envisions transforming India into a global manufacturing hub by fostering a favourable business environment, simplifying

regulatory procedures, and attracting foreign investment. It focuses on key sectors such as electronics, automobiles, defence, textiles, and more, emphasising the importance of self-reliance and reducing dependency on imports. "Make in India" seeks to propel India's industrial landscape, boost innovation, and contribute to the nation's economic development. Towards the initiative that comprises schemes such as the Scheme for Investment Promotion, Fund of Funds for Startup Scheme, Credit Guarantee Fund, Startup India, Startup India Seed Fund Scheme (SISFS), Ease of Doing Business and the Production Linked Incentive Scheme (PLI) for White Goods (ACs and LED Lights), the government has allocated INR 1963.03 crores.

Digital India Initiative

Launched with the vision of leveraging technology to enhance governance, promote inclusivity, and foster economic growth, the Digital India Program encompasses various pillars such as broadband connectivity, e-governance, digital literacy, and electronic manufacturing. Through the deployment of digital infrastructure and services, the initiative seeks to bridge the digital divide, empower citizens, and propel India towards a more technologically advanced future. INR 4215.01 crores have been allocated towards the Digital India Program, which would be utilised towards strengthening electronic governance, manpower development, Promotion of Electronics and IT HW Manufacturing (MSIPS, EDF and Manufacturing Clusters), PLI for Large Scale Electronics and IT Hardware, Promotion of IT/ITeS Industries, Cyber Security Projects, R and D in IT/Electronics/CCBT, Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA), Promotion of Digital payment and the Capacity Building and Skill Development Scheme.

Modified Programme for Development of Semiconductors and Display Manufacturing Ecosystem

The Modified Programme for Development of Semiconductors and Display Manufacturing Ecosystem in India was designed to further the vision of Aatmanirbhar Bharat and position India as the global hub for ESDM. It constitutes a strategic endeavour to fortify the nation's prowess in semiconductor and display manufacturing. Through meticulous research and development initiatives, targeted investments, and the cultivation of a conducive industrial ecosystem, the program endeavours to position India as a self-reliant force in cutting-edge technologies. This not only bolsters economic growth but also positions the country as a key player in global technological innovation. For the Modified Programme, the government has set aside INR 6903 crores of corpus, which would be utilised towards the Modified Scheme for setting up of Compound Semiconductors/Silicon Photonics/Sensors Fab/Discrete Semiconductors Fab and Semiconductor

Assembly, Testing, Marking and Packaging (ATMP)/Outsourced Semiconductor Assembly and Test (OSAT) facilities in India, Modified Scheme for Setting up of Semiconductor Fabs in India, Modified Scheme for setting up of Display Fabs in India, Modernisation of Semiconductor Laboratory, Mohali and Design Linked Incentive Scheme.

Infrastructure Outlay

The government has announced a budget allocation of INR 11.11 lakh crore for infrastructure outlay, which equals an increase of 11.1 per cent from the budget allocation for capital expenditure in the previous financial year. The focus is on key areas such as infrastructure, housing, employment generation, health, tourism, agriculture and production-linked incentive schemes (PLI). This emphasis on continued spending on infrastructure by the Finance Ministry will encourage private spending and boost the Indian economy, leading to an overall increase in innovation, research and development.

In Conclusion

The present focus of the Indian Government has been heavily on creating a conducive environment for startups and small businesses. The government's commitment to supporting such initiatives will further provide a nurturing environment for newer technologies to emerge and for businesses to leverage more intellectual property rights opportunities in the green innovation sector. Overall, the Indian government's interim budget for the year 2024-25 reflects a commitment to cultivating innovation, embracing technology, and supporting the green technology sector in the country.

The increased focus towards green energy projects signals a significant step towards a greener, more sustainable future, which aligns India as a responsible player in the global sustainable innovation landscape. In conclusion, the Indian Government's interim budget for 2024-25 reflects a forward-thinking approach that intertwines green technologies, innovation, trade facilitation, and digital inclusivity. As India embarks on this transformative journey, the integration of this budget with existing schemes will fortify the nation's commitment to becoming a global leader in the realms of technology, innovation, and economic resilience.

2. Anusandhan National Research Foundation (ANRF): New Research Funding Agency Comes into Play (February 5, 2024)



The Government of India has appointed Prof. Abhay Karandikar, Secretary, Department of Science and Technology (DST), as the interim Chief Executive Officer of Anusandhan National Research Foundation (ANRF). ANRF was constituted under the ANRF Act, 2023, which came into force on February 5, 2024. ANRF reiterates the commitment of the Government of India to catalyse ‘Research and Innovation’ as

the Foundation for the development of the country.

The ANRF Act passed by the Parliament in 2023 is focused towards fostering a culture of research and innovation throughout India’s universities, colleges, research institutions, and R&D laboratories.

The ANRF will undertake suitable initiatives, including the following:

- a) preparing the roadmap for short-, medium- and long-term research and development;
- b) seeding, growing and facilitating research at academic and research institutions, particularly at universities and colleges where research capacity is at a nascent stage, through programmes such as research and development projects, fellowships, academic chairs, and creation of centres of excellence;
- c) funding competitive peer-reviewed grant proposals to eligible persons;
- d) assisting in setting up research infrastructure and environment that is conducive to scientific pursuit with a specific focus on matters of national priorities, emerging frontiers and strategic research;
- e) increasing India’s role and participation in critical areas of national and global importance;
- f) supporting translation of research undertaken into capital-intensive technologies;
- g) evolving nationally coordinated programmes to identify scientific and practical solutions for societal, developmental, financial and techno-economic challenges;
- h) coordinating across the Central Government, State Governments, public authorities, industries, and research institutions to document and analyse

the expenditure on scientific research and their outcomes during each financial year and report the same to the Central Government;

- i) evolving participation in international collaborative projects and fostering the exchange of scientific information;
- j) encouraging collaboration with scientists from within and outside India, including scientists of Indian origin, with a view to enriching the Indian scientific ecosystem and
- k) encouraging the Public Sector Enterprises as well as the private sector entities to invest in the activities of the Foundation.

In addition, the Foundation shall also, to the extent practicable, either by itself or through a suitable agency, undertake an annual survey of outcomes of scientific research in India, with a view to creating a central repository for the collection, interpretation and analysis of information and data surrounding such research, and the aim of such a repository would include providing information for policy formulation and advising the Central Government and State Governments as well as the private sector.

The Governing Board of the Foundation shall include:

- a) the Prime Minister of India
- b) the Union Minister of Science and Technology
- c) the Union Minister of Education
- d) a Member of the NITI Aayog dealing with science and technology
- e) Secretary to the Government of India in the Department of Science and Technology
- f) Secretary to the Government of India in the Department of Scientific and Industrial Research
- g) Secretary to the Government of India in the Department of Biotechnology
- h) Secretary to the Government of India in the Department of Higher Education
- i) the Principal Scientific Advisor to the Government of India

The ANRF aims to be a research funding organisation with a corpus of INR 50,000.0 crores, with nearly INR 36,000.0 crore projected to come from the private sector. In the interim budget announced for the Financial Year 2024-25, the Finance Minister has provisioned INR 2,000 crores towards ANRF.

3. Much-Awaited Open House Portal for Grievance Redressal Launched by the CGPDTM Office (February 14, 2024)



The Office of the Controller General of Patents, Designs, and Trademarks (CGPDTM), under the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India, has taken a meaningful step towards optimising its services and augmenting stakeholder engagement. The CGPDTM launched its Open House Helpdesk Portal on February 14,

2024, which will serve as a single-window communication platform to provide prompt and effective resolutions to the queries and grievances of applicants and stakeholders across six key areas of intellectual property. These areas include Patents, Designs, Trademarks, Geographical Indications, Copyrights, and Semiconductor Integrated circuit layout Designs (SICLD) that the Office of the CGPDTM administers.

The Open House Helpdesk Portal has been designed to provide stakeholders with a hassle-free experience through a centralised system for communication. The portal aims to ensure that applicants and stakeholders can easily access relevant information and get their queries resolved quickly. This initiative by the Office of CGPDTM is expected to significantly improve stakeholder engagement and service delivery, thereby bolstering the intellectual property ecosystem in India. It is a commendable effort towards creating a more transparent and efficient system for applicants and stakeholders, and it reflects the government's commitment to promoting innovation and intellectual property protection in the country.

Key Features of the Open House Helpdesk Portal

User-Friendly Registration

Prospective applicants and stakeholders can register for the Open House Helpdesk Portal via a streamlined process using their email addresses. To address queries or grievances related to a pre-existing application, the email ID associated with the IP application can be used for registration on the portal.

Tickets and Real-Time Notifications

A ticket will be raised for each grievance registered on the portal, with a feature of real-time updates regarding the status of the complaint.

Self-Paced Issue Resolution

The Open House Helpdesk Portal is also designed to provide applicants with the ability to submit support tickets and subsequently close them once they are content with the response. This flexibility would prove to be a catalyst for time-efficient problem resolution, allowing users to find solutions to their grievances faster than the traditional methods of approaching the IPO.

In today's dynamic business landscape, the ability to promptly address grievances and maintain transparency is paramount for regulatory bodies. The IPO has risen to this challenge by introducing the Open House Portal, instilling confidence in stakeholders, reducing the time and resources that go into grievance resolution, and ultimately driving greater efficiency and effectiveness in the process. It also cements the commitment of the IPO towards embracing technology and implementing innovative solutions to enhance governance and transparency. To access the Open House Helpdesk Portal, users can visit <https://iprsearch.ipindia.gov.in/openhousehelpdesk>

4. Need for More Robust Protection: Analysing the Proposed Protection of Trade Secrets Bill, 2024 (March 5, 2024)



In recognition of the need to regulate cross-border technology transfer and foster inter-industry cooperation, the Law Commission of India issued a recommendation on March 5, 2024, for specialised legislation to protect trade secrets. The recommendation was made in the 289th Report of the Commission, which was drafted following a 2017 reference by the Department of Legal Affairs and Legislative Department, Ministry of

Law & Justice. The report was the outcome of extensive consultations with judges, academicians, and other experts on the subject of trade secret protection and economic espionage prevention. The proposed Bill comprises four chapters and 13 sections. Important highlights of the Bill are as follows:

Definition of Trade Secret

Under Section 2(f) of the proposed Bill, trade secret is defined as any information that is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; derives commercial value on account of being secret; has been subject to reasonable steps under the circumstances, by the holder of such information, to keep it secret; and the disclosure of which is likely to cause damage to the holder of such information.

Holder of Trade Secret

Under the proposed Bill, the holder of trade secret means any person, natural or legal, having lawful control over the trade secret. Section 3 of the Bill further lays down the rights of the holder of trade secret as follows:

- i. The holder shall have the right to use and disclose his trade secret, which includes licensing the trade secret.
- ii. Any contract or agreement that the holder of trade secret enters into to protect his trade secret, restrict access to it or prevent the disclosure of such trade secret shall be subject to the Indian Contract Act, 1872.

- iii. The holder shall be entitled to institute proceedings under this Act in respect of the misappropriation of trade secrets to prevent further misappropriation or disclosure of trade secrets in the public domain.

Licensing Requirements

A holder of trade secret may be required to issue compulsory license allowing the use of their trade secret to the Government or any third party if the Central Government finds circumstances of national emergency or extreme urgency involving substantial public interest, including situations of public health emergency, national security, etc., requiring the same. The license granted may be subject to termination by the Government subsequent to the cessation of the circumstances specified above. This termination would be effected at the discretion of the Government and would effectively bring the license to an end.

Misappropriation of Trade Secret

In the event that misappropriation is substantiated, the complainant shall be entitled to pursue damages and seek an order for the surrender and/or destruction of all documents, objects, materials, substances, or electronic files that are in the possession or ownership of the misappropriator and contain or embody the trade secret. The order can be sought to recall, withdraw, permanently remove, or destroy goods or products whose conception, features, functionality, manufacturing process, or marketing are substantially based on a misappropriated trade secret. The proposed Bill suggests remedies such as injunctive relief, damages, rendition of accounts, profits/disgorgement of profits, delivery up, surrender and destruction against misappropriation of Trade Secrets.

It was further suggested that the proposed law should include exceptions for whistleblowers, freedom of speech and expression, and public interest. These exceptions can help protect individuals who are trying to expose wrongdoing or fighting for the greater good.

The proposed Bill for the protection of trade secrets is a much-needed step for promoting innovation, maintaining competitive advantage, and fostering a fair and transparent business environment. By enacting a robust legal framework for trade secrets, the Government can encourage investment, stimulate economic growth, and safeguard the valuable intellectual property that drives progress in the modern economy.



5. India's Rise to Innovative Excellence: Achieving 100,000 Patents in One Year (March 15, 2024)



The Hindustan Chamber of Industry and Commerce (HCIM) held a press conference on March 15, 2024, announcing numerous significant milestones in India's intellectual property landscape. The announcement emphasised the successful efforts of the Intellectual Property Office (IPO) in strengthening the country's IPR ecosystem, with a notable uptick in intellectual property registrations

across various domains. Of note, the Intellectual Property Office issued more than 100,000 patents within a single year, demonstrating a remarkable achievement in fostering innovation and encouraging further intellectual property registration.

The issuance of 101,311 patents in a single year accentuates the growing emphasis on innovation and research-driven development in the country. By incentivising inventors and creators through robust patent protection mechanisms, India aims to bolster its position as a global innovation hub. The surge in patent grants reflects not only the increasing innovation but also the efficiency and effectiveness of the patent examination process.

In tandem with the surge in patent grants, it was also announced that there has been a notable threefold increase in the registration of geographical indications (GI), with 573 GI tags registered. This substantial rise in GI registrations underscores the rise in traditional knowledge and indigenous products of the country.

In addition, a surge in the registration of designs and copyrights was also recognised, with 27819 registrations done and an overall disposal of 30450 applications., reflecting the growing recognition of the importance of design-led innovation in enhancing product competitiveness and consumer appeal.

Similarly, copyrights, which protect original literary, artistic, and musical works, have demonstrated an all-time high registration rate, with 36378 registrations done during 2023-24. This surge underscores India's expanding creative industries such as literature, music, film, and software development.

Furthermore, the Trademark Registry (TMR) has made significant strides in streamlining the examination process, offering examinations in the shortest

possible time. This efficiency enhancement reinforces the IPO’s commitment to fostering an encouraging milieu for entrepreneurship and brand development. The swift registration process not only enhances the ease of doing business but also instils confidence among investors and stakeholders, thereby promoting economic growth and competitiveness.

The Intellectual Property Office also released the following statistics, accessible here:

https://www.ipindia.gov.in/writereaddata/Portal/News/974_1_IP_Office_Update_for_HCIM_as_on_14_March_2024_-_Final.pdf

PM Modi's vision for Building Intellectual Property Driven Knowledge Economy
(Ref. Tweet on X dated 17 Nov 2023 9:43 am)

IP Friendly India : Rise of IP Driven - Technology and Knowledge Embedded Indian Economy

- Government is committed to offer IP Friendly approach while revamping the IP Administration
- **Govt committed to revamp IP Ecosystem, First time India has granted One Lakh Patent in last One Yr.**
- **Highest 90300 patent applications received in 2023.**
- **Every 6 Minutes One Technology wants IP Protection in India This shows confidence of scientific research based products to get commercial appreciation in Indian Economy.**
- **IP Office is granting over 250 patents every day.**

Total 101311 Patents Granted in India in last 1 Year (15-Mar-23 to 14-Mar-24)

| Sector | Number of Patents |
|----------------------------|-------------------|
| Biotech & Related FoI | 3576 |
| Chemical Sci & Related FoI | 12028 |
| Electrical & Related FoI | 47993 |
| Mechanical & Related FoI | 37714 |

Source: O/o CGPDTM Website (<https://ipindia.gov.in>) : See Dynamic Utility)

Break up of Last 10 Yrs Backlog clearance and On-Time Disposal : (2022 onwards pace amplified)

| Category | Avg Disposal Months | Number of Applications | % Disposal |
|----------|---------------------|------------------------|------------|
| Backlog | 74 M | 46,197 | 61% |
| On-Time | 30 M | 29,856 | 39% |

Page | 1

- **India is committed to offer resolving pressing issues like Pre-Grant Disposal...**
 - **Pre-Covid (2018 & 2019) : 133**
 - **During Covid (2020-2021) : 200**
 - **Post Covid (2022-2024*) : 982 (2024 data is up to 14 March 2024)**

| Geographical Indications | Copyright | Design |
|--|--|--|
| <ul style="list-style-type: none"> • Geographical Indications report 3x Jump in registration as compared to last year. <p>Over 573 GI Registered in India wherein,</p> <ul style="list-style-type: none"> • In 2023-24, 98 Registered and 62 will be registered by 31 March 2024 • 11621 Authorized user registered and additional 2575 will be registered by 31 March 2024 (Details are given on IPIndia Website) | <ul style="list-style-type: none"> • Highest ever Copyright registrations 36378 done in 2023-24 still undermining the potential in the creative sector. • Voluntary rights so need more awareness promotion. • NIPAM offering IP Training to 24 Lakh Youth especially Students and teachers in last 2 Yrs covering over 7000 institutions. | <ul style="list-style-type: none"> • Highest ever Design registrations of 27819 done in 2023-24 with overall disposal of 30450. • 1.25L Students engaged in Toycoathon organized by J&K SCERT and IPO wherein 115 Novel Design registrations received by J&K School students. |

In TM applications, the examination report is issued within 30 Days and also offering protection in shortest possible time as compared to many leading offices in the world.

These recent milestones, including the issuance of one lakh patents, coupled with advancements in geographical indications, designs, copyrights, and trademarks, reflect a holistic approach by the IPO towards nurturing creativity, preserving cultural heritage, and fostering economic development. Moving forward, sustained efforts towards strengthening intellectual property rights enforcement, enhancing institutional capacity, and fostering innovation ecosystems will be instrumental in further strengthening the intellectual property ecosystem in the country.

6. Winds of Change: Exploring the India-EFTA Trade and Economic Partnership Agreement (March 10, 2024)



On March 10, 2024, after 15 years of negotiations, the India-European Free Trade Association (EFTA) successfully concluded a Trade and Economic Partnership Agreement (TEPA). EFTA, an inter-governmental organisation founded in 1960 to promote free trade and economic integration, serves as a platform for its four Member States: Iceland, Liechtenstein, Norway, and

Switzerland.

The TEPA, which was signed by the EFTA States and India, is poised to bring about significant economic benefits, such as better integration and resilience of supply chains, new opportunities for businesses and individuals on both sides and increased trade and investment flows. As a result, this agreement is expected to drive job creation and foster economic growth.

The successful conclusion of the TEPA underscores the commitment of the EFTA States and India to promote free trade and economic integration. It is a testament to the benefits of sustained diplomatic efforts and underscores the value of international cooperation in achieving shared goals.

The agreement includes 14 chapters that mainly focus on market access for goods, rules of origin, trade facilitation, trade remedies, sanitary and phytosanitary measures, technical barriers to trade, investment promotion, market access for services, intellectual property rights, trade and sustainable development, and other legal and horizontal provisions.

Key Highlights of the Agreement

Foreign Direct Investment

The EFTA has committed to promoting investments in India, with the objective of increasing the stock of foreign direct investments by USD 100 billion over the next 15 years. The primary purpose of this initiative is to facilitate the generation of one million direct employments in India through such investments. It is pertinent to note that the investments made under this initiative will not cover foreign portfolio investments.

This pledge by the EFTA underscores its commitment to fostering economic growth and development in India through the promotion of foreign direct investments. The EFTA seeks to leverage its expertise and resources to support India's economic aspirations, particularly in the creation of direct employment opportunities. By focusing on foreign direct investments, the EFTA aims to promote sustainable economic development that benefits the people of India and the wider global community.

Facilitation of Job Creation

In an unprecedented move, the FTA has included a legal commitment to foster target-oriented investment and facilitate job creation. The explicit inclusion of such provisions in the FTAs is expected to provide a conducive environment for investors and businesses while addressing the critical issue of unemployment in the global economy. This development is also a testament to the growing recognition of the interdependence between trade, investment, and job creation in today's complex economic landscape.

TEPA endeavours to expedite the creation of a substantial number of direct employment opportunities for India's young and ambitious workforce within the next 15 years. It also seeks to enhance the quality of vocational and technical training facilities nationwide. Furthermore, TEPA will facilitate collaboration and provide access to world-class technologies in precision engineering, health sciences, renewable energy, innovation, and research and development.

Tariff Lines for Exports

EFTA is offering a tariff concession on a significant proportion of their product lines, covering a vast majority of India's exports. Specifically, EFTA's market access offer encompasses 100% of non-agricultural products and a tariff concession on Processed Agricultural Products (PAP). The proposal entails a 92.2% tariff reduction on EFTA's products, translating to a near-total reduction of tariffs on India's exports.

India is extending tariff reduction offers, covering 82.7% of its tariff lines, which represents 95.3% of the EFTA's exports. It will enable domestic consumers to access high-quality Swiss commodities at more competitive prices. Notably, this encompasses luxury items such as watches, chocolates, biscuits, and clocks. Additionally, the agreement will provide tariff concessions on imported Swiss products, including but not limited to seafood, Mediterranean fruits, coffee, oils, sweets, processed foods, and wine, making them more affordable to Indian buyers.

However, it is important to note that the tariffs on gold, representing more than 80% of India's imports, remain unaffected. To extend these offers, the Indian

government has taken into consideration the sensitivity of certain sectors, such as pharmaceuticals, medical devices, and processed foods. An exclusion list has been created to exclude sensitive agricultural products, such as dairy, soya, and coal, from the tariff reduction offer. It is essential to note that this exclusion list has been created to maintain the integrity of the Indian market and ensure that sensitive sectors are protected.

Sub-Sectors

India has offered 105 subsectors to the EFTA and successfully procured commitments in 128 subsectors from Switzerland, 114 from Norway, 107 from Liechtenstein, and 110 from Iceland. The commitments secured by India from these nations are expected to create new opportunities for Indian businesses and enhance the competitiveness of its exports.

Service Exports

TEPA proposes invigorate exports, particularly in sectors of key strengths and interests, such as IT services, business services, personal, cultural, sporting, and recreational services, other education services, audio-visual services, etc. Once ratified, this agreement would facilitate exports in these sectors and enable the countries to capitalise on the opportunities presented by their expertise in these areas.

Services offers from EFTA include better access through digital delivery of Services (Mode 1), commercial presence (Mode 3) and improved commitments and certainty for entry and temporary stay of key personnel (Mode 4).

EFTA will offer enhanced access to services through digital delivery (Mode 1), commercial presence (Mode 3), and streamlined procedures for entry and temporary stay of essential personnel (Mode 4). The simplified entry and stay procedures for key personnel will ensure that businesses can smoothly and promptly deploy their talent to new markets.

TEPA has incorporated provisions for Mutual Recognition Agreements (MRAs) in Professional Services, such as nursing, chartered accountancy, architecture, and others. MRAs, under the purview of the TEPA, facilitate the recognition of the qualifications and expertise of professionals in the respective fields of their operation. This recognition enables the professionals to work seamlessly across participating countries, thereby promoting cross-border trade and enhancing economic cooperation.

Intellectual Property Rights

TEPA includes commitments related to Intellectual Property Rights (IPR) that are in alignment with the standards outlined in the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. Notably, India's concerns regarding the evergreening of patents and interests in generic medicines have been fully addressed by the provisions outlined in the agreement.

Sustainable Development

India has demonstrated its unwavering commitment to promoting sustainable development, inclusive growth, social development, and environmental protection. In recent years, India has taken significant strides to ensure that its policies and practices align with the principles of sustainable development, which seeks to meet the needs of the present without compromising the ability of future generations to meet their own needs. Inclusive growth, which prioritises the equitable distribution of resources and opportunities, is a key component of India's current development agenda. The country's commitment towards environmental protection and safeguarding natural resources and ecosystems for the benefit of current and future generations is also evident in the propulsion of more green technology innovations and green energy startups.

Advancement of Trade

The agreement seeks to advance transparency, efficacy, simplification, harmonisation, and consistency of trade procedures. The objective is to foster a systematic approach to international trade operations that offers clarity and predictability to stakeholders.

TEPA will facilitate access to Indian exporters for specialised inputs and create an encouraging trade and investment environment. By doing so, TEPA is expected to boost exports of Indian-made goods and provide opportunities for the services sector to access new markets. This provision will serve towards achieving India's vision of becoming self-reliant and enhancing its global competitiveness.

TEPA presents a promising avenue for Indian businesses looking to integrate into the European Union markets. Notably, Switzerland, a non-EU member, exports over 40% of its global services to the EU, highlighting the potential market opportunities that can be leveraged by Indian companies. With Switzerland serving as a gateway to the EU, businesses can utilise it as a strategic base to extend their market reach and further their internationalisation efforts.

Boost to Manufacturing

TEPA is set to propel the 'Make in India' and Atmanirbhar Bharat initiatives by bolstering domestic manufacturing in various sectors, including Infrastructure, Manufacturing, Pharmaceuticals, Banking and Financial Services, to name a few. TEPA aims to create an enabling environment that fosters the growth of the Indian economy by promoting the production and consumption of domestic products. By providing an impetus to these sectors, TEPA is poised to play a pivotal role in driving the growth and development of India's economy while simultaneously strengthening its position in the global market.

Remarks

Before the India-EFTA TEPA can take effect, it must be ratified by both India and the EFTA nations. Switzerland has already announced its plans to ratify the agreement by the next year. If successfully implemented, the India-EFTA TEPA could serve as a model for other trade agreements.

This achievement also reinforces India's reputation as a champion of free trade, intellectual property rights, global investment, and competition. It could stimulate additional foreign investment and help establish the country as a key player in the international trade landscape.

7. Regulation of Enterprises in Core Digital Service Areas: Analysing the Draft Digital Competition Bill (March 12, 2024)



In February 2023, the government of India established a committee tasked with examining the need for a separate law to regulate competition in digital markets. The Committee on Digital Competition Law was formed to conduct an in-depth investigation and submit a detailed report on the matter.

The Committee was established under the guidance of the Parliamentary Standing Committee on Finance, which identified anti-competitive practices by large technology companies in December 2022. The Committee recommended ex-ante regulations for digital markets to prevent such practices from occurring, in contrast to the existing ex-post framework under the Competition Act, 2002.

On February 27, 2024, the Committee submitted its report to the finance minister, with feedback given by various stakeholders, the existing and evolving legislative landscape in other jurisdictions, as well as the Draft Digital Competition Bill (“draft Bill”). On March 12, 2024, the Ministry of Corporate Affairs released the draft Digital Competition Bill, 2024, inviting public consultation. The draft Bill aims to regulate and promote competition in the digital sector, which has grown rapidly in recent years and has a significant impact on the Indian economy.

The draft Bill also aims to create a mechanism to identify Systemically Significant Digital Enterprises (SSDE) along with their Associate Digital Enterprises (ADE) and create a framework of regulations that the SSDE and ADE must comply with so as to create a competitive digital landscape nullifying the advantages gained by SSDE and ADE on account of their frequency and volume of transactions which makes them dominant market players in their respective core digital service areas.

Core Digital Services

A “Core Digital Service”, as per Schedule I of the draft Bill, includes online search engines, online social networking services, video-sharing platform services, interpersonal communications services, operating systems, web browsers, cloud services, advertising services and online intermediation services.

Systemically Significant Digital Enterprises (SSDE)

Section 3(2) of the draft Bill states that an enterprise will be labelled as an SSDE with respect to a core digital service if it meets the dual test of financial strength and market spread.

First, an enterprise must meet any of the following financial thresholds in each of the immediately preceding three financial years:

- i. turnover in India of not less than INR 4000 crore, or
- ii. global turnover of not less than USD 30 billion or
- iii. gross merchandise value in India of not less than INR 16000 crore, or
- iv. global market capitalisation of not less than USD 75 billion, or its equivalent fair value of not less than USD 75 billion calculated in such manner as may be prescribed.

Further, the enterprise must also meet the following user threshold in each of the immediately preceding three financial years in India:

- i. the core digital service provided by the enterprise has at least 1 crore end users or
- ii. the core digital service provided by the enterprise has at least 10 thousand business users.

The Central Government shall, after every 3 years, review and redefine the financial threshold and user threshold values in consultation with the Competition Commission.

The SSDE must furnish requisite data to demonstrate its financial and user thresholds for each of the previous three years. Failure to furnish the above data will automatically cause the enterprise to be deemed an SSDE if it meets any of the thresholds mentioned above in respect of either of the categories of financial or user threshold.

Additionally, the Competition Commission may designate an enterprise as an SSDE for a Core Digital Service, even if it does not meet the criteria set out above, if the Commission considers the enterprise to have a significant presence based on an assessment of factors such as volume of commerce, size, resources, number of end users and business users, economic power, the dependence of end users on the service rendered, monopolistic position and barriers to entry or expansion such as regulatory barriers, financial risk, high cost of entry, marketing costs, technical entry barriers, barriers related to data leveraging, economies of scale and scope, high cost of substitutable goods or services for end users or business users; lock-

in period including high switching cost and behavioural bias, network effects, data-driven advantages of scale and scope, etc.

Further, Section 4 of the Bill requires an enterprise to report to the Competition Commission that it qualifies as an SSDE within 90 days of achieving the thresholds mentioned in Section 3 with respect to one or more categories of Core Digital Services. All SSDE shall also inform the Commission of any enterprises within their group that qualify as ADE for any categories of Core Digital Services.

At any time during the last 6 months before the expiry of its designation period or re-designation, the SSDE may apply to the Commission that it no longer meets the thresholds to be designated as an SSDE for any of the Core Digital Services or that it no longer needs to be designated as an SSDE. Within 90 days of receiving the SSDE's application, the Commission may revoke the enterprise's designation as an SSDE or dismiss it if it fails to meet the requirements.

Once an enterprise is notified as SSDE or ADE by the Competition Commission, the following obligations have to be fulfilled by an SSDE and ADE. The obligations under Section 7 of the Bill shall become enforceable only after the details of the regulations to be adhered to are notified. These Regulations shall be made keeping in mind the following aspects:

- i. economic viability of operations;
- ii. prevention of fraud;
- iii. cybersecurity considerations;
- iv. prevention of unlawful infringement of pre-existing IPRs;
- v. requirement of any other law in force, etc.

Further, under Section 8, SSDE and ADE are obligated not to indulge in activities that may circumvent their obligations under this Bill. This means that the enterprise must not engage in any contractual, commercial, technical, or other activity to circumvent the thresholds and the obligations associated with them.

Section 9 outlines the compliance and reporting obligations of the SSDE and ADE that must be adhered to, failing which there can be pecuniary penal consequences. Section 10 outlines the requirements for fairness, non-discrimination, and transparency in online business dealings of SSDE and ADE as far as end users and business users are concerned.

Under Section 11, SSDE is obligated not to directly or indirectly indulge in Self-Preferencing, i.e., favouring or preferring the services or products of the SSDE itself or its related parties. This includes third parties that have contractual arrangements for the manufacture and sale of products and services of the SSDE or its group companies and related parties.

Thereafter, Section 12 of the Bill prohibits SSDE from utilising the customer or user data gathered from the use of the Core Services to compete with other service providers in the same Core Service Area. In this regard, the requirement of consent for the use of the Personal Data of the End User is mandated as per the requirements of the Digital Personal Data Protection Act, 2023 and no cross-usage of data or sharing of data with a third party is permitted unless valid and express consent from the Data Principal who is the end-user has been duly obtained and recorded by the SSDE.

Further, the SSDE must not obstruct the portability of data from one service provider to another by the end user in the event of a decision to switch to a different service provider. These provisions are meant to create a level playing field for new entrants in the Core Service Area.

Section 13 of the Bill further obligates the SSDE not to hinder or impede end users and business users from downloading, installing, operating, or using Third-Party Applications or other software on its Core Digital Service Areas and to allow them to choose, set, and change default settings.

Section 14 of the Bill deals with Anti-Steering, i.e., it prohibits SSDE from restricting business users from communicating offers and promotions directly or indirectly to end users to increase their business prospects unless the activities are specifically prohibited by any Government regulation that may be issued from time to time under the Bill.

Lastly, Section 15 deals with Tying and Bundling and prohibits incentivising for the end user or business users a bouquet of services and products of the SSDE and its group companies, related parties or third-party suppliers to the detriment of other non-related service providers providing similar products and services.

The remaining sections of the Bill discuss the procedural aspects of examining complaints, how penalties will be imposed, and how appeals against these decisions can be filed.

The Commission may impose penalties of up to 10 per cent of the global turnover in the preceding financial year of the SSDE or ADE if they fail to comply with their obligations. However, for certain acts, the Commission may impose a penalty of up to 1 per cent of the global turnover of the enterprise. These acts may include providing incorrect, incomplete or misleading information or omitting information required under the different provisions.

The Draft Digital Competition Bill has been meticulously crafted to establish a fair and level playing field for new entrants in the digital space. Its primary objective is to incentivise fintech companies and start-ups to tap into the virtual landscape

with their offerings, and to remove any impediments that may hinder their progress. Through this Bill, the government aims to create an environment that promotes innovation and growth by ensuring that all participants have an equal opportunity to succeed.

8. India Announces Progressive Changes In Patents Rules, 2003 (March 15, 2024)



The Government of India, acting through the Department of Promotion of Industry and Internal Trade (DPIIT) and the Indian Patent Office, notified the Patents (Amendment) Rules, 2024, on March 15, 2024. DPIIT circulated the Draft Patent (Amendment) Rules, 2023, in August 2023, for discussion and consultation with stakeholders and

received many comments and suggestions from industry.

The Patents (Amendment) Rules, 2024, notified on March 15, 2024, address some of the major pain points experienced by the patent applicants in Indian patent procedure, such as the requirements of filing annual working statements, periodically submitting the details and prosecution documents issued in corresponding foreign patent applications, etc.

Some of the key changes brought about by the Patents (Amendment) Rules, 2024 are as under:

A. Due date for filing a Request for Examination (RFE) (Section 11B)

The due date to file a Request for Examination (RFE) in a patent application has been changed from 48 months to 31 months from the earliest priority date.

The new due date would apply to applications filed on or after March 15, 2024. For applications filed on or before March 14, 2024, the due date will remain 48 months from the earliest priority date.

B. Submission of Form 3 (information about corresponding applications) (Section 8(1))

Patent applicants are now required to submit details of corresponding applications on Form 3 only twice. The first Form 3 is to be submitted along with the filing of the Indian application or within six months therefrom, and the second Form 3 is to be submitted within three months of the date of issuance of the First Examination Report (FER).

C. Submission of prosecution details/documents for the corresponding applications (Section 8(2))

The amended Rules recommend that the Controller of Patents use accessible and available databases for considering information related to corresponding foreign applications. However, for the reasons to be recorded in writing, the Controller may ask the applicant to file a fresh Form 3 within two months from the date of such communication.

The said two-month period is extendable, or delay in filing Form 3 within the said two-month period is condonable for a period up to three months. An application for extension or condonation of delay in filing Form 3 is to be filed on Form 4 with an official fee of Rs. 2000 (USD 25) for natural persons/startups/small entities/educational institutions and Rs. 10,000 (USD 125) for others.

D. Working Statement (Section 146)

Patentees are now required to file Working Statements for granted patents in India for every three financial years on Form 27 and not every year as it was prescribed in the previous rules. The financial year in which the patent was granted is excluded from calculating the commencement of the filing of working statements.

Working statements should contain information on the workings of the patent for the past three financial years and should be filed by September 30 of every fourth financial year. The Controller may allow an extension of time or condone the delay in filing the working statement by three months upon filing a request on Form 4 and on payment of the official fee of Rs. 2000 (USD 25) for natural persons/startups/small entities/educational institutions, and Rs. 10,000 (USD 125) for others.

Form 27 has also been simplified, and the patentee is no longer required to provide value or sales data accrued in India for the reported patent. The patentee can now indicate his intent to commercialise the reported patent through licensing, and for that, he can provide the contact details on Form 27.

E. Divisional Application (Section 16)

As per the amended Rules, patent applicants can voluntarily file a divisional application claiming the subject matter that has been disclosed in earlier provisional, complete, or previously filed divisional applications.

F. Extension for filing a response to the First Examination Report (FER) (Rules 24B & 24C)

A request for an extension of time to file a response to FER by three months can be filed at any time within the said three months. Under the previous Rules, the request was required to be filed before the expiration of the six months available for filing a response to FER.

G. Grace Period (Section 31)

Applicants opting to avail themselves of a twelve-month grace period for filing an Indian patent application are now required to file an application on the newly introduced Form 31 with the documentary evidence based on which the grace period is claimed.

The official fee prescribed for filing an application on Form 31 is Rs. 500 (USD 6) for a natural person/startup/small entities/educational institutions or Rs. 2500 (USD 30) for others.

H. Pre-grant Opposition (Section 25(1))

The Controller receiving a pre-grant opposition is now required to ascertain whether a *prima facie* case is made out in the representation or not. If the Controller is satisfied that no such case is made out, a notice to that effect is to be issued to the opponent, and unless the opponent requests a hearing, the Controller needs to pass an order for refusal of pre-grant opposition representation. However, if the Controller is satisfied that a *prima facie* case is made out, a notice should be issued to the applicant.

The time to file a reply statement by the applicant to the representation of pre-grant opposition is reduced from three months to two months from the date of receiving such representation from the Controller.

The amended Rules also prescribe an official fee for filing a pre-grant opposition, which is Rs. 4000 (USD 50) for natural persons/startups/small entities/educational institutions and Rs. 20,000 (USD 250) for others.

I. Post-grant Opposition (Section 25(2))

As per the amended Rules, the period for submission of a recommendation by an Opposition Board to the Controller has been reduced from three months to two months from the date of receiving all the requisite documentation from the Controller.

J. Certificate of Inventorship

A new provision has been added for inventors to obtain a Certificate of Inventorship with respect to a granted patent in India. To obtain this certificate, inventors should file an application on Form 8A, which entails an official fee of Rs. 900 (USD 11).

K. Payment of Annuity (Section 53)

The patentee can now avail a discount of 10% on annuity fees if they opt to pay annuity through electronic mode for at least four years in advance.

L. Controller's Power to Condone Irregularity (Rule 137)

The Controller's power to allow amendments in documents for which no procedure is provided or to obviate irregularities related to the following matters would not be applicable under Rule 137:

- i. An extension of time or condonation of delay beyond three months is provided for filing Form 3;
- ii. Filing of national phase applications beyond 31 months;
- iii. Filing of an English translation of an International application;
- iv. Filing of an English translation of a certified priority document;
- v. Time prescribed for filing a request for examination, response to the first examination report, and extension related thereto for regular examination;
- vi. Time prescribed for filing a response to the first examination report and extension related thereto for expedited examination;
- vii. Time prescribed for filing a reply statement to the pre-grant opposition;
- viii. Extension for payment of annuity beyond six months;
- ix. Time prescribed for filing a review of the Controller's decision and for filing an application to set aside the Controller's decision if passed ex parte in review proceedings; and
- x. Extension beyond six months for filing the working statement.

M. Controller's Power to Extend Time Prescribed Under Rules and to Condone Delay

The Controller has been empowered to grant an extension of time for any time period specified in the Rules or to condone any delay for a period of up to six months. A request for extension or condonation of delay under Rule 138 is required to be filed on Form 4 with payment of official fees of Rs. 10,000 (USD 125) for natural persons/startups/small entities/educational institutions, and 50,000 (USD 625) for others, per month.

The amended Rules demonstrate India's commitment to establishing a robust ecosystem for the protection of Intellectual Property Rights that meets international standards. The amended Rules are expected to enthruse patent filers to avail themselves of protection in India.

The Patents (Amendment) Rules, 2024, can be accessed here: https://www.ipindia.gov.in/writereaddata/Portal/IPORule/1_83_1_Patent_Amendment_Rule_2024_Gazette_Copy.pdf

9. NDI Amendment Rules: Foreign Direct Investment In India's Space Sector (April 16, 2024)



On April 16, 2024, the Department of Economic Affairs, under the Ministry of Finance, introduced the Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2024 (the "Amendment"). The Amendment focuses on the space sector and amends the provisions of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("2019 Rules"), which deal with foreign investment in the space

sector.

The Amendment brings new entry routes for foreign investment in space sector-related activities, including satellite manufacturing, satellite data products, launch vehicles, spaceports, and component manufacturing. To achieve this, Schedule I of the 2019 Rules has been revised, liberalising the entry routes for foreign investment in specified space sector-related activities.

The amended policy on foreign direct investment specifies the following liberalised entry routes with a 100% FDI Cap:

1. Satellites – manufacturing and operation, satellite data products, ground segment, and user segment: Automatic Route up to 74%, government route beyond 74%.
2. Launch vehicles and associated systems or subsystems, as well as the creation of spaceports for launching and receiving spacecraft: Automatic route up to 49%, government route beyond 49%.
3. Manufacturing of components and systems/subsystems for satellites, ground segment and user segment: Automatic route up to 100%.

The Amendment defines "Satellites—Manufacturing and Operation" as the end-to-end manufacturing and supply of satellite or payload, establishing the satellite systems, and controlling the satellite's in-orbit operations and payloads. "Satellite Data Products" have been defined as the reception, generation, or dissemination of earth observation or remote sensing satellite data and data products, including Application Interfaces (API).

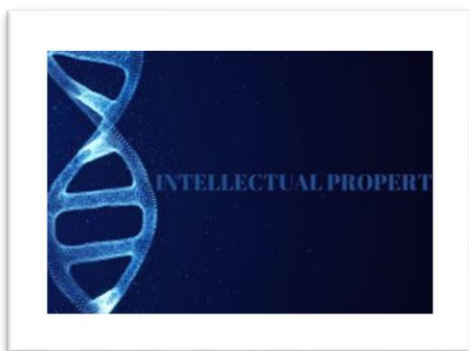
The Amendment further defines “Ground Segment” as the supply of satellite transmit or receive earth stations, including earth observation data receive stations, gateways, teleports, satellite Telemetry, Tracking and Command (TTC) stations, and Satellite Control Centres (SCC). The Amendment also defines “User Segment” as the supply of user ground terminals for communicating with the satellite, which is not covered under the ground segment.

Under the Amendment, “Launch Vehicles and Associated Systems or Subsystems” have been defined as a vehicle and its stages or components designed to operate in or place spacecraft with payloads or persons in a suborbital trajectory, earth orbit, or outer space.

According to the Amendment, a spaceport, which is also known as a launch site, is defined as a base from where spacecraft are launched. It includes transportation devices to, from, and through outer space. The term "Manufacturing of components and systems or subsystems for satellites Ground Segment and User Segment" means the manufacturing and supply of electrical, electronic, and mechanical components, systems, or subsystems for satellites, Ground Segment, and User Segment. The Amendment also states that the investee entity will occasionally be subject to sectoral guidelines issued by the Department of Space.

Before the Amendment, foreign direct investment was permitted in establishing and operating satellites through the government route only, i.e., prior approval was mandatorily required to be taken from the Government. The Amendment was introduced under the Indian Space Policy, 2023, demonstrating the Government’s intention to promote private sector participation in the space economy. The Amendment is likely to increase the influx of substantial capital into the Indian space sector, which, in turn, would accelerate the pace of research, development, and deployment of solutions in satellite manufacturing, launch services, and space exploration. More investment will enable non-government entities to utilise their skills and expertise in satellites and launch vehicles to achieve sophistication of products, global scale of operations and enhanced share of global space economy.

10. Analysing WIPO's Landmark Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge (May 24, 2024)



On May 24, 2024, the World Intellectual Property Organization (WIPO) approved the Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge during the Diplomatic Conference on Genetic Resources and Traditional Knowledge and Folklore. The primary focus of the treaty is the integration of genetic material originating from the traditional

knowledge of Indigenous Peoples into patent applications. The negotiations for the Treaty began more than 20 years ago, in 2001, reflecting the strides made by the IP communities worldwide to acknowledge and safeguard Indigenous and traditional knowledge.

The Treaty is open to any member state of WIPO. Once the Treaty gets ratified by 15 member states, it will establish a comprehensive framework in international law, ensuring the mandatory disclosure of genetic resources and associated traditional knowledge in patent applications. An important point to note is that these obligations are not retroactive and do not apply to patent applications filed before the treaty's entry into force.

Objectives of the Treaty

The primary objectives of the Treaty are to enhance the efficacy, transparency and quality of the patent system with regard to genetic resources and traditional knowledge associated with genetic resources. It also aims to prevent patents from being granted erroneously for inventions that are not novel or inventive with regard to genetic resources and traditional knowledge associated with genetic resources.

Key Definitions

Genetic Material

The Treaty defines “genetic material” as any material of plant, animal, microbial or other origin containing functional units of heredity.

Genetic Resources

Genetic resources mean genetic material of actual or potential value except for human genetic resources. The definition generally includes material, regardless of origin, containing functional units of heredity.

Source of Genetic Resources

It refers to any source from which the applicant has obtained the genetic resources, such as a research centre, gene bank, Indigenous Peoples and local communities, the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), or any other ex-situ collection or depository of genetic resources.

Based On

means that the genetic resources and/or traditional knowledge associated with genetic resources must have been necessary for the claimed invention and that the claimed invention must depend on the specific properties of the genetic resources and/or on the traditional knowledge associated with genetic resources.

Source of Traditional Knowledge Associated with Genetic Resources

means any source from which the applicant has obtained the traditional knowledge associated with genetic resources, such as scientific literature, publicly accessible databases, patent applications and patent publications.

Disclosure Requirement

The key provision is that each country must require patent applicants to disclose the country of origin whenever inventions are based on genetic resources or the source of such genetic resources when such origin is unknown.

When the claimed invention in a patent application is based on traditional knowledge, the country must disclose the Indigenous Peoples or local community who provided the traditional knowledge associated with genetic resources or the source of such traditional knowledge when such origin is unknown.

Sanctions and Remedies

The treaty indicates that each country should create legal, administrative, and/or policy measures to address a failure to provide the information required. Further, the country must provide an opportunity to rectify a failure to disclose the information required in Article 3 before implementing sanctions or directing

remedies, except for cases where there has been fraudulent conduct or intent as prescribed by national law.

However, the treaty indicates that the law cannot “revoke, invalidate, or render unenforceable” an issued patent “solely on the basis of an applicant’s failure to disclose” absent additional evidence of “fraudulent conduct or intent.”

Information Systems and Relationship with Other Agreements

The treaty allows contracting parties to establish information systems (such as databases) of genetic resources and traditional knowledge associated with genetic resources, in consultation, where applicable, with Indigenous Peoples, local communities, and other stakeholders, taking into account their national circumstances.

These information systems should be accessible to patent offices for searching and examining patent applications. The country may also establish one or more technical working groups to address any matters relating to the information systems, such as accessibility to Offices with appropriate safeguards.

Effects of the Treaty

The treaty is specifically crafted to address the complexities and conflicts present within the intellectual property (IP) system when it comes to patents involving traditional knowledge. It aims to ensure that countries providing genetic resources and associated traditional knowledge receive the rightful recognition and fair compensation they deserve. Additionally, the treaty seeks to create a more comprehensive and inclusive IP system that takes into account the diverse requirements of all nations and their respective communities.

Numerous WIPO members have expressed their support for the Treaty, recognising it as a significant milestone that sets the stage for a more inclusive global framework. The Indian Government views the Treaty as a major victory for India and the nations of the Global South, marking a historic achievement in international relations and trade.

The treaty would fundamentally recognise and protect the rights of indigenous peoples over their traditional knowledge and genetic resources, ensuring that these communities receive fair and equitable compensation for the use of their traditional knowledge and resources by patent holders.

When it comes to increasing innovation and research, the treaty will provide legal certainty in the form of clear guidelines on ethical collaborations with Indigenous communities. These partnerships can lead to new scientific discoveries and

technological advancements, particularly in sectors such as agriculture, medicine, and biotechnology, where traditional knowledge can offer invaluable insights.

In conclusion, the Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge would be a pivotal tool in promoting sustainable development, fostering innovation, and ensuring social justice and economic equity for Indigenous communities while supporting ethical research practices and clearer patent application procedures involving such resources and traditional knowledge.

11. Union Budget 2024-25: Sowing the Seeds of Sustainable Development and Innovation in India (July 23, 2024)



The Union Budget 2024-25, presented by Indian Finance Minister Nirmala Sitharaman on July 23, 2024, is a comprehensive and forward-looking budget prioritising employment, skilling, MSMEs, and the middle class. The budget builds on the strategy outlined in the interim budget and focuses on generating ample opportunities for all through sustained efforts on nine key priorities. These include productivity

and resilience in agriculture, employment & skilling, inclusive human resource development and social justice, manufacturing & services, urban development, energy security, infrastructure, innovation, research & development and next-generation reforms.

One of the key features of the budget is its emphasis on productivity and resilience in agriculture. The government has proposed significant investments in agricultural infrastructure, technology, and research to enhance farm productivity and income. This includes initiatives to promote organic farming, improve irrigation facilities, and enhance access to markets for farmers. The budget also prioritises employment and skilling, focusing on creating a skilled workforce through education, training, and apprenticeships.

MSMEs are a critical component of the Indian economy, and the budget significantly supports these small businesses. The government has proposed measures to enhance access to finance, technology, and markets for MSMEs, including initiatives to promote digital payments, e-commerce, and exports. The government has also proposed new initiatives to enhance road and rail connectivity, promote renewable energy, and expand digital infrastructure to rural areas. The budget also prioritises innovation, research, and development, with a focus on encouraging innovation, R&D, and entrepreneurship.

Manufacturing & Services

The budget places particular emphasis on supporting Micro, Small, and Medium Enterprises (MSMEs) and labour-intensive manufacturing. This includes a comprehensive package aimed at addressing the financing, regulatory changes, and

technology support needed to facilitate the growth and enhance the global competitiveness of MSMEs, as previously outlined in the interim budget.

A credit guarantee scheme will be introduced to enable MSMEs to obtain term loans for purchasing machinery and equipment without requiring collateral or a third-party guarantee. This scheme will involve pooling the credit risks of such MSMEs. Furthermore, a separate self-financing guarantee fund will be established to provide each applicant with a guarantee cover of up to ₹100 crores, even though the loan amount may be larger.

Public sector banks will work towards enhancing their internal capacity to evaluate the creditworthiness of micro, small, and medium enterprises (MSMEs) instead of depending on external assessments. Furthermore, these banks will take the initiative to develop a new credit assessment model. This model will be based on analysing the digital footprints of MSMEs in the economy. This shift is anticipated to represent a notable advancement over the traditional method of determining credit eligibility, which typically relies solely on asset or turnover criteria. Additionally, this new approach will encompass MSMEs without a formal accounting system, providing a more inclusive assessment of creditworthiness.

A new mechanism has been set up to facilitate the continuation of bank credit to MSMEs during their stress period to avoid entering the NPA stage. The Mudra loan limit is set to be raised to INR 20 lakh from the current INR 10 lakh. This increase will apply to entrepreneurs who have previously taken and fully repaid loans under the 'Tarun' category.

To facilitate Micro, Small, and Medium Enterprises (MSMEs) in accessing their working capital, the turnover threshold for buyers to be mandated to join the TReDS platform has been lowered from INR 500 crores to INR 250 crores. This adjustment is expected to welcome 22 more Central Public Sector Enterprises (CPSEs) and an additional 7000 companies onto the platform. Furthermore, medium enterprises will now be included among the suppliers in this beneficial initiative.

SIDBI, the Small Industries Development Bank of India, has announced plans to significantly expand its presence and support for MSMEs. Over the next 3 years, SIDBI will open new branches to extend its services to all major MSME clusters. In the current year, 24 such branches will be established, increasing the service coverage to 168 out of 242 major clusters. This expansion will enable SIDBI to provide direct credit to MSMEs and better cater to their financial needs.

Furthermore, the bank will provide financial support for the establishment of 50 multi-product food irradiation units in the MSME sector, aiming to enhance food

processing capabilities. Additionally, SIDBI will facilitate the setup of 100 food quality and safety testing labs with NABL accreditation, ensuring adherence to global quality standards and boosting the competitiveness of MSMEs in the food sector.

In a bid to facilitate the entry of MSMEs and traditional artisans into international markets, SIDBI will establish E-Commerce Export Hubs in collaboration with the private sector under a public-private-partnership (PPP) mode. These hubs will operate under a seamless regulatory and logistics framework, providing comprehensive support for trade and export-related services, thereby empowering MSMEs to reach international customers and expand their market presence.

Insolvency and Bankruptcy Code Ecosystem

The government plans to create an Integrated Technology Platform to improve outcomes under the Insolvency and Bankruptcy Code (IBC). This platform will prioritise consistency, transparency, timely processing, and better oversight for all stakeholders involved in insolvency and bankruptcy proceedings.

Additionally, the government intends to extend the services of the Centre for Processing Accelerated Corporate Exit (C-PACE) to facilitate the voluntary closure of Limited Liability Partnerships (LLPs). By doing so, it aims to reduce the time required for the closure of LLPs, ultimately streamlining the process for affected stakeholders.

As part of its commitment to enhancing the efficiency of the insolvency resolution process, the Indian government plans to institute targeted modifications to the Insolvency and Bankruptcy Code (IBC). These changes will encompass a comprehensive overhaul of the tribunal and appellate tribunals to ensure a more streamlined and expedited resolution process. Moreover, the government envisages the establishment of new tribunals, with a specific focus on notifying certain tribunals to preside exclusively over cases governed by the Companies Act.

In addition, the government plans to fortify the existing debt recovery tribunals through a series of strategic reforms aimed at expediting the recovery process. This will involve the establishment of supplementary tribunals to facilitate a more efficient and accelerated recovery mechanism.

Energy Security

The blueprint for the interim budget was intricately designed to support robust and efficient economic growth while prioritising energy security in terms of availability, accessibility, and affordability. The government's objective is to develop a comprehensive policy document that outlines precise strategies for

transitioning towards sustainable energy sources, simultaneously addressing the critical concerns of employment, economic expansion, and environmental stewardship.

Following the announcement in the interim budget, the PM Surya Ghar Muft Bijli Yojana, also known as the PM Solar Home Subsidy Scheme, has been launched. This ambitious initiative aims to promote the use of solar energy by facilitating the installation of rooftop solar plants. The primary goal of the scheme is to provide free electricity up to 300 units per month to 1 crore households across the country.

Since its inception, the scheme has garnered significant attention and enthusiasm, leading to over 1.28 crore registrations and 14 lakh applications from eligible households. The overwhelming response underscores the public's strong interest in embracing renewable energy sources and reducing their reliance on traditional electricity grids. This bodes well for the government's efforts to promote sustainable and eco-friendly power solutions.

A comprehensive policy initiative is in the works to promote pumped storage projects aimed at enhancing electricity storage capacity. The primary goal of this policy is to facilitate the seamless integration of the expanding proportion of renewable energy sources into the overall energy mix. This is particularly crucial given the variable and intermittent nature of renewable energy sources.

Nuclear energy is anticipated to be a crucial component of Viksit Bharat's energy landscape. In support of this goal, our government is planning to engage in partnerships with the private sector to (1) establish Bharat Small Reactors, (2) conduct comprehensive research and development for Bharat Small Modular Reactor, and (3) drive innovation in next-generation nuclear energy technologies. The funding earmarked for research and development in the interim budget will be specifically utilised to advance these initiatives within the nuclear energy sector.

The development of indigenous technology for Advanced Ultra Super Critical (AUSC) thermal power plants, which offer much higher efficiency, has been completed. A joint venture between NTPC and BHEL will set up a full-scale 800 MW commercial plant using AUSC technology. The government will provide the required fiscal support. Additionally, the development of indigenous capacity for the production of high-grade steel and other advanced metallurgy materials for these plants will result in strong spin-off benefits for the economy.

The government is in the process of developing a comprehensive plan aimed at transitioning "hard-to-abate" industries from focusing solely on "energy efficiency" targets to setting specific "emission targets." As part of this initiative, clear and appropriate regulations will be established to facilitate the shift of these

industries from the existing "Perform, Achieve and Trade" mode to operating within the framework of the "Indian Carbon Market."

A comprehensive investment-grade energy audit will be carried out for traditional micro and small industries located in 60 clusters, which will include businesses specialising in brass and ceramic production. The aim is to provide financial support to assist these industries in transitioning to cleaner sources of energy and implementing energy efficiency measures. Furthermore, this initiative is scheduled to be replicated in another 100 clusters in the subsequent phase, demonstrating a commitment to scaling up sustainable energy practices across a broader range of industries.

Innovation, Research & Development

The government is committed to implementing the Anusandhan National Research Fund, which aims to support fundamental research and the development of prototypes. In addition to the previously announced interim budget, the government is set to establish a framework to stimulate private sector-led research and innovation on a large scale. This initiative will involve a significant financing pool of INR 1 lakh crore, with the goal of fostering groundbreaking advancements and technological developments in the private sector.

India's space program has achieved numerous milestones, including lunar and Mars missions, satellite launches, and human spaceflight capabilities, laying a strong foundation for the country's space economy. However, funding and investment are essential to support research, development, and innovation in space technology. A supportive regulatory environment is also crucial for private sector growth and international collaborations. Additionally, India needs to develop a skilled workforce to support its growing space economy and address the global competition from established space-faring nations and emerging players. In light of the sustained commitment to grow the space economy by 5 times within the next 10 years, plans are underway to establish a venture capital fund amounting to INR 1,000 crore.

The combination of public investment in digital infrastructure and private sector innovations has led to a significant enhancement in the accessibility of market resources, education, healthcare, and services for all members of society, especially the general public. The government is committed to intensifying the utilisation of technology to further advance the digitalisation of the economy, aiming to create a more efficient and accessible economic environment for all citizens.

The government is currently developing the Jan Vishwas Bill 2.0 to further improve the "Ease of Doing Business" in the country. Additionally, the government plans to provide incentives to states to implement their Business Reforms Action Plans and digitalising processes.

To enhance data governance, as well as the collection, processing, and management of data and statistics, a variety of sector-specific databases will be leveraged. This will include utilising databases established under the Digital India mission, with an active emphasis on employing technology tools to facilitate these processes.

Agriculture Research

The government has announced plans to conduct an extensive review of the current agricultural research setup, focusing on enhancing productivity and cultivating climate-resilient crop varieties. The funding for this initiative will be provided through a challenge model, which will also include provisions for private-sector participation. A team of domain experts comprising individuals from both governmental and non-governmental sectors will oversee and guide the research activities.

As part of this endeavour, a total of 109 new high-yielding and climate-resilient varieties of 32 field and horticulture crops will be introduced for cultivation by farmers. Furthermore, the government has pledged to initiate 1 crore farmers into natural farming over the next two years. These farmers will receive support in the form of certification and branding. The implementation of this program will be facilitated through both scientific institutions and cooperative gram panchayats.

In addition, the government has committed to establishing 10,000 need-based bio-input resource centres to further support farmers and promote sustainable agricultural practices.

Intellectual Property Landscape

The surge in patent filings and the growing recognition of the importance of safeguarding intellectual assets have played a vital role in prompting more IP holders to assert and uphold their rights in India. Various initiatives aimed at streamlining the processes for registering patents and trademarks, along with policy reforms, have created a more enabling environment for businesses and individuals to protect their intellectual property.

The rising significance of the Intellectual Property Rights (IPR) sector in India reflects a fundamental shift towards promoting innovation, attracting investments, and harmonising with global standards in intellectual property protection. The

Indian government has allocated a total of INR 318.02 crores to support this sector. Specifically, INR 279.18 crore is earmarked for the Office of the Controller General of Patents, Designs and Trademarks, INR 20.84 crore is allocated for IPR Policy Management, and INR 18 crore is directed towards infrastructural development in the offices of CGPDTM. This allocation is a testament to the commitment towards strengthening the intellectual property landscape and fostering a nurturing environment for innovation and investment in the country.

The budget also emphasises 'employment' and 'Ease of Doing Business' in India, with a simplified framework for foreign direct investment and Overseas Investment, promoting foreign investments, and using the Indian Rupee for overseas transactions. One of the biggest reforms brought by this year's budget is abolishing the Angel tax and Equalisation levy, reducing the corporate tax rate for foreign companies, rationalising the customs duty structure, and introducing numerous trade facilitation measures.

In Conclusion

In conclusion, the Union Budget 2024-25 presented by Indian Finance Minister Nirmala Sitharaman is a visionary and inclusive budget that sets a clear direction for India's economic growth, social development, and innovation. The budget addresses the pressing needs of the economy and society by prioritising employment, skilling, MSMEs, and the middle class. The budget's focus on innovation, research, and development and its emphasis on promoting entrepreneurship and startups will help drive India's economic growth and global competitiveness. The initiatives aimed at enhancing productivity and resilience in agriculture, improving infrastructure, and promoting energy security will positively impact the economy and quality of life.

Overall, the Union Budget 2024-25 is a significant step towards achieving India's vision of becoming a self-reliant and prosperous nation. Implementing these measures and schemes will require effective collaboration between the government, private sector, and civil society, but the potential rewards are substantial. With this budget, India has embarked on a new era of growth, innovation, and social development, and its impact will be felt for years to come.

12. Decriminalisation of Intellectual Property Laws: Enforcement of Jan Vishwas (Amendment of Provisions) Act, 2023 (August 1, 2024)



With the enforcement of specific provisions of the Schedule to the Jan Vishwas (Amendment of Provisions) Act, 2023, several amendments have been made to different Intellectual Property Rights legislations. Notably, changes have been introduced in provisions governing patents, trademarks, geographical indications, and copyright laws, decriminalising certain provisions of these IP laws.

The objective of the Act is to maintain a harmonious balance between the safeguarding of intellectual property rights and the advancement of innovation. This aims to provide a safe environment for innovators to concentrate on the development of their IP assets, free from the apprehension of facing legal repercussions for minor offences. These amendments officially came into effect on August 1, 2024.

The Patent Act, 1970

The penalty for the ‘unauthorised claim of patent rights’ as stipulated under Section 120 of the Act has been revised to INR 10 lakh, accompanied by an additional penalty of INR 1000 for each continued day of the claim. Formerly, the penalty stood at a maximum of 1 lakh rupees.

Further, the provision of Section 121, which previously outlined the penalties for the unauthorised use of the term “patent office”, has been omitted.

The penalty for “Refusal or failure to supply information” to the Central Government or the Controller under Section 122(1) has been reduced to a fixed amount of INR 1 lakh. Furthermore, an additional penalty of INR 1000 will be incurred for each day of continued refusal or failure to supply the required information. In the past, the fine could be increased to a maximum of INR 10 lakh.

The provision for the offence of furnishing false information, as outlined in Section 122(2), has been revised to decriminalise the act. As per the amended regulation, the offender will now be held financially liable to a penalty amounting to 0.5% of the total sales or turnover of the business or gross receipts as per the audited accounts or a sum not exceeding INR 5 crore, whichever is lesser. This contrasts

with the previous consequences, wherein the offender could potentially face imprisonment for a period of up to six months.

The penalty for contravening Section 129, as stipulated in Section 123, has been amended to increase the maximum fine to INR 5 lakh. Furthermore, in the case of continuing default, there is an additional penalty of INR 1000 for each day of non-compliance. Previously, the penalty for the first offence was INR 1 lakh, and for subsequent offences, it was INR 5 lakh.

Section 124(A), a new provision has been introduced for the ‘Adjudication of Penalties’, allowing the Controller to appoint an officer as an adjudicating officer to conduct an inquiry and levy penalties.

A new provision for filing an appeal, termed as Section 124(B), has been included to offer individuals who are dissatisfied with the decision of the adjudicating officer under Section 124(A) an opportunity to submit an appeal to the appellate authority.

Two new clauses have been added in Section 159(2) after clause (xiii), by which the Central Government may now make rules regarding the procedure for conducting inquiries and imposing penalties under Section 124(A), as well as the format and procedure for filing an appeal under sub-section (2) of Section 124(B).

The Trade Mark Act, 1999

The penalty outlined in Section 106 for the unauthorised removal of piece goods, as detailed in Section 81, has been removed from the legislation.

The act of falsely representing a registered trademark has been stripped of its criminal status. As outlined in Section 107(2), the penalty for this offence amounts to either 0.5% of the total sales or turnover in the business, or of the gross receipts as calculated in the audited accounts, or a sum equal to 5 lakh rupees, whichever of these two is the lesser amount.

Section 108, which previously outlined the penalty for falsely claiming a place of business as associated with the Trade Marks Office, has been removed. Consequently, this action is no longer considered a criminal offence.

The penalty for falsifying entries in the register, as outlined in Section 109, has been removed. This means that the act of falsification is no longer considered a criminal offence as it has been decriminalised.

The newly introduced Section 112A provides for the ‘Adjudication of Penalties.’ Under this provision, the Registrar has the authority to appoint an officer as the adjudicating officer to conduct an inquiry and levy penalties.

The Amendment Act has introduced a new provision, Section 112A, which pertains to the ‘Adjudication of Penalties’. This provision empowers the Registrar to authorise an officer to act as the adjudicating officer. The adjudicating officer is responsible for conducting inquiries and imposing penalties as necessary.

A new provision called “Section 112B” has been added to allow individuals who are dissatisfied with the decision of the adjudicating officer under “Section 112A” to appeal to the appellate authority for a review of the decision.

The Amendment Act has decriminalised the offence of failing to provide information about imported goods bearing false trademarks within fourteen days. Instead of facing criminal charges, the offender will now be subject to a penalty of INR 10 thousand, as outlined in Section 140(3).

Further, under Section 157(2), two additional clauses have been introduced following clause (xxxiii). These new clauses empower the Central Government to establish regulations regarding the conduct of inquiries and imposition of penalties under Section 112A. Furthermore, they also cover the structure and method for filing appeals under sub-section (2) of Section 112B.

The Geographical Indication of Goods (Registration and Protection) Act, 1999

Section 37A introduces a new and significant provision for the ‘Adjudication of Penalties.’ It grants the Registrar the authority to appoint a designated officer to conduct a thorough inquiry and subsequently impose penalties based on the findings.

A new stipulation, denoted as ‘Section 37B’, has been incorporated to provide recourse to individuals who are dissatisfied with a ruling rendered by the adjudicating officer pursuant to ‘Section 37A’. This clause enables such individuals to file an appeal with the appellate authority.

The law regarding falsely representing a geographical indication as registered has been changed. Instead of being a criminal offence, it is now subject to a penalty as per Section 42(2). The penalty is either a sum equal to 0.5% of the total sales or turnover in the business or of the gross receipts as computed in the audited accounts or a sum equal to INR 5 lakh, whichever amount is less.

The penalty under Section 43, which pertained to falsely representing a place of business as being associated with the Geographical Indications Registry, has been removed. Consequently, this offence has been decriminalised.

The penalty for falsifying entries in the register, as outlined in Section 44, has been removed. This means that the act of falsifying entries in the register is no longer considered a criminal offence.

In Section 87(2), two new clauses have been added after clause (o). These clauses empower the Central Government to create rules for conducting inquiries and imposing penalties under Section 37A, as well as for the process and method of filing an appeal under sub-section (2) of Section 37B.

The Copyright Act, 1957

The provision in Section 68, which previously permitted the disposal of infringing copies or plates intended for making infringing copies, has been omitted.

In Conclusion

The Amendment Act represents a pivotal advancement towards enhancing governance and enforcing intellectual property rights. The robust provisions, including substantial changes to the fines and decriminalisation of IP laws, are expected to play a crucial role in curbing intellectual property violations while streamlining the initiation of appeal and adjudication procedures, resulting in expeditious resolution of cases. The act of decriminalising minor offences will also align India's IP regime with international standards, attracting more foreign investments and promoting economic growth.

13. The Trade Marks (Holding Inquiry and Appeal) Rules, 2024 Notified (August 16, 2024)



On August 16, 2024, the Ministry of Commerce and Industry, Government of India, introduced the Trade Marks (Holding Inquiry and Appeal) Rules, 2024 through notification G.S.R. 505(E). This new set of rules brings significant reforms to the Trade Marks Rules, 2017, refining the procedures for dispute resolution and strengthening trademark enforcement

under the Trade Marks Act, 1999.

The introduction of these rules seeks to provide a well-defined legal framework for addressing violations under Section 107 of the Trade Marks Act, 1999, which penalises individuals or entities that falsely represent a trademark as registered when it is not. By establishing a structured process for complaints, inquiries, and appeals, the government aims to ensure greater accountability and fairness in trademark-related adjudications.

Key Features of the Rules

1. **Filing Complaints:** Under these rules, anyone can initiate action against false claims of trademark registration by filing a complaint electronically using Form-I. The complaint must be submitted to the designated adjudicating officer, ensuring a streamlined and accessible process.
2. **Inquiry Procedure:** Upon receiving a complaint, the adjudicating officer is required to send a formal notice to the concerned party, specifying the alleged violation. To ensure swift resolution, the rules mandate that the inquiry process must be completed within three months from the date the notice is issued.
3. **Penalties:** If the inquiry establishes that a violation has occurred, the adjudicating officer has the authority to impose penalties as outlined in the Trade Marks Act, 1999. Any fines collected through this process will be deposited into the Consolidated Fund of India, ensuring proper allocation of financial penalties.

4. **Right to Appeal:** Any party dissatisfied with the decision of the adjudicating officer has the right to file an appeal within the time frame specified in the rules. This ensures a transparent and fair mechanism for contesting decisions.

The Trade Marks (Holding Inquiry and Appeal) Rules, 2024 mark a major advancement in India's intellectual property regime. By introducing a transparent and efficient system for handling trademark-related violations, the rules strengthen enforcement mechanisms and enhance credibility in IP governance.

For businesses, brand owners, and legal professionals, these changes provide much-needed clarity on dispute resolution, making it easier to navigate trademark litigation. The introduction of digital processes and strict timelines is expected to reduce case backlogs and promote efficient adjudication. Additionally, these rules align with global best practices in intellectual property management, reinforcing India's commitment to creating a business-friendly regulatory environment. By setting clear procedures for handling disputes, these rules enhance legal certainty and promote stronger enforcement of trademark protections. As India continues to expand its role as a global hub for innovation and commerce, such regulatory improvements play a vital role in ensuring a well-balanced and effective IP framework.

14. Note on IPO's FAQs on Statement of Working (August 26, 2024)



The Indian Patent Office (IPO), on August 26, 2024, issued FAQs clarifying the due dates for filing of SOW in India for granted patents. The periodicity for filing of SOW was changed from “annual” to “every three financial years” by the Patents (Amendment) Rules, 2024, which came into effect from March 15, 2024. After the notification of the amended Rules, diverse

interpretations were discussed by the stakeholders in an “Open Session” held by the IPO on July 29, 2024, regarding the correct due date for filing of SOW for the patents granted on or before March 31, 2023.

The Patent Office, through FAQs, has clarified the due dates for filing of the working statement under the amended Rules as indicated below:

I. Due dates for filing SOW under the amended Rules:

| SL. No. | Time of Grant of Patent | Due Date to File SOW | The financial years for which the SOW is to be filed |
|---------|---------------------------------------|---|--|
| 1. | Patents granted before March 31, 2022 | <p>September 30, 2026</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2026: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1): June 30, 2027 (USD 625 per month)</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2023 to March 31, 2026</p> <p>(3 Financial Years 2023-24; 2024-25; and 2025-26)</p> |

| | | | |
|----|---|--|--|
| | | <p>If Extension 1 is not availed, then March 31, 2027 (6 months from due date) (USD 625 per month).</p> | |
| 2. | <p>Patents granted during April 1, 2022 to March 31, 2023</p> | <p>September 30, 2026</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2026: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1): June 30, 2027 (USD 625 per month)</p> <p>If Extension 1 is not availed, then March 31, 2027 (6 months from due date) (USD 625 per month).</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2023 to March 31, 2026</p> <p>(3 Financial Years 2023-24; 2024-25; and 2025-26)</p> |
| 3. | <p>Patents granted during April 1, 2023 to March 31, 2024</p> | <p>September 30, 2027</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2027: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1):</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2024 to March 31, 2027</p> <p>(3 Financial Years 2024-25; 2025-26; and 2026-27)</p> |

| | | | |
|----|---|--|--|
| | | <p>June 30, 2028 (USD 625 per month)</p> <p>If Extension 1 is not availed, then March 31, 2028 (6 months from due date) (USD 625 per month).</p> | |
| 4. | <p>Patents granted during April 1, 2024 to March 31, 2025</p> | <p>September 30, 2028</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2028: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1): June 30, 2029 (USD 625 per month)</p> <p>If Extension 1 is not availed, then March 31, 2029 (6 months from due date) (USD 625 per month).</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2025 to March 31, 2028</p> <p>(3 Financial Years 2025-26; 2026-27; and 2027-28)</p> |

II. Due dates for filing SOW for expired/expiring patents:

| SL. No. | Time of Expiry of Patent | Due Date to File SOW | The financial years for which the SOW is to be filed |
|---------|--|--|---|
| 1. | Patents expired during April 1, 2023 to March 31, 2024 | <p>September 30, 2024</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2024: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1): June 30, 2025 (USD 625 per month)</p> <p>If Extension 1 is not availed, then March 31, 2025 (6 months from due date) (USD 625 per month).</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2023 to date of expiry</p> <p>(1 Financial Year 2023-24)</p> |
| 2. | Patents getting expired during April 1, 2024 to March 31, 2025 | <p>September 30, 2025</p> <p>The due date can be extended up to:</p> <p>Extension 1 (3 months): December 31, 2025: (USD 125 per month).</p> <p>Extension 2 (6 months above Extension 1):</p> | <p>For the working of the patent during the period:</p> <p>April 1, 2023 to date of expiry</p> <p>(2 Financial Years 2023-24; and 2024-25)</p> |

| | | | |
|--|--|---|--|
| | | <p>June 30, 2026 (USD 625 per month)</p> <p>If Extension 1 is not availed, then March 31, 2026 (6 months from due date) (USD 625 per month).</p> | |
|--|--|---|--|

The FAQs issued by IPO address the issues that arose post notification of amended Rules with regard to the due dates for filing of SOW in India. The FAQ can be accessed here:

https://ipindia.gov.in/writereaddata/Portal/News/1001_1_Final_FAQs_Form-27_26thAugust2024.pdf



15. Calcutta High Court Notifies the 'Intellectual Property Rights Division Rules of the High Court At Calcutta, 2023 (September 20, 2024)

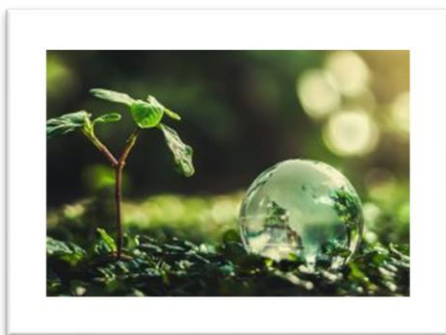


The Hon'ble Calcutta High Court, in a long-awaited development, has notified the 'INTELLECTUAL PROPERTY RIGHTS DIVISION RULES OF THE HIGH COURT AT CALCUTTA, 2023' vide notification dated September 20, 2024. After Delhi and Madras High Courts, the Calcutta High Court has now become the third High Court in India to form an IP Division and notify such rules. The notification of these rules has come in

continuation to the invitation of comments and suggestions from the members of the Bar and other stakeholders on proposed draft Rules by the Hon'ble Court on December 19, 2023. This is another sound step towards making the Indian IP ecosystem better.

Access the IPD Rules of the High Court of Calcutta, 2023, here: <https://www.calcuttahighcourt.gov.in/Notice-Files/general-notice/10299>

16. Simplifying and Expediting the Approval Procedures of Access and Usage of Biological Resources: The Biological Diversity Rules, 2024 (October 22, 2024)



After extensive deliberations, the Biological Diversity Act, 2002 (hereinafter also referred to as “the BD Act”) was amended, and [the Biological Diversity \(Amendment\) Act, 2023](#) (hereinafter referred to “the BD (Amendment) Act”) was published on August 3, 2023. Further, the BD (Amendment) Act came into force on April 1, 2024, by way of

a [notification](#) dated January 18, 2024.

To carry out the purposes of the BD Act and the BD (Amendment) Act, the Government of India has notified [the Biological Diversity Rules, 2024](#) (hereinafter also referred to as “the BD Rules 2024” or “the new Rules”) on October 22, 2024, in supersession of the Biological Diversity Rules, 2004 (hereinafter also referred to as “the BD Rules 2004” or “the old Rules”). The notified new Rules shall come into force on expiry of 60 days from the date of their notification in the Official Gazette, i.e., from December 22, 2024.

The BD (Amendment) Act brought in significant changes, and the BD Rules 2024 are expected to bring ease of compliance with respect to access and usage of biological resources obtained from India.

The procedures have been simplified and clarified, and all the procedures are online, including payments. The forms have been simplified with various drop-downs to increase clarity while filing the forms. The salient features and specific changes in the Rules impacting the applicants are discussed hereafter.

Salient Features

1. The Chairperson of the National Biodiversity Authority (hereinafter also referred to as “NBA” or “Authority”) would have powers to expedite approvals in case of any emergencies like epidemics and pandemics.

2. The new Rules have differentiated between the procedures and prescribed forms and fees based on the purpose and usage of biological resources obtained from India.
3. An increase in fees for various approvals, including differential fees between individual applicants and entities.
4. All applications are to be made online on the NBA web portal, except where otherwise allowed for physical application.
5. All payments are to be made online to the National Biodiversity Fund.
6. Any person falling within the definition of Section 3(2) of the BD Act who was in possession of biological resources obtained from India before the commencement of the BD (Amendment) Act, 2023, i.e., even Indian entities having foreign shareholding (without actually having a foreign control), who were in possession biological resources before April 1, 2024, still need to obtain approval of the Authority for the purpose of research, commercial utilisation, bio-survey and bio-utilisation.
7. Faster procedures with defined timelines for various stages of approval.
8. There is no specific provision for seeking an extension of any timelines.
9. There is a provision to revive an application upon payment of half the prescribed fee for a new application within a defined period.
10. Registration and prior approval requirements have been imposed on transferees as well while sharing or transferring the results of research to foreign persons.
11. Different procedures are provided for Indian and foreign applicants with respect to any invention based on research or information, including digital sequence information on biological resources accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto.
12. Applicants need to intimate the Authority within 45 days of the grant of the IPRs in India and abroad.

13. Even the Indian Applicant must obtain prior approval when commercialising intellectual property rights.
14. There is a provision for monitoring and regulating the use in India of biological resources or associated traditional knowledge obtained from any foreign country.
15. Provision for obtaining a certificate of origin for cultivated medicinal plants to claim an exemption.
16. Provision for conducting non-commercial research or research for emergency purposes outside India by an Indian researcher or institution.

Procedures in Detail

Prior Access of Biological Resources (BR) – Quicker & Simpler Procedures

An application for obtaining approval from the National Biodiversity Authority (NBA) prior to access to biological resources must be made by a foreign individual or entity or an Indian entity controlled by a foreigner. Although the BD Rules 2024 (new Rules) have prescribed different fees for individuals and an entity, the rules have also prescribed quicker timelines for disposing of such requests.

Under the BD Rules 2004 (old Rules), the fee for access permission was INR 10,000, irrespective of the status of the applicant. Under the new Rules, such a fee is INR 10,000 for an individual and INR 20,000 for an entity. The payment mode has been simplified, as now it can be done via electronic transfer or digital payment to the National Biodiversity Fund, while under the old Rules, it was the physical mode of cheque or demand draft in favour of NBA. The new Rules also prescribe different forms depending on the purpose of access, which is expected to further enhance the clarity of requests. While Form 1 must be filed to obtain prior permission before accessing the biological resources and knowledge associated with research or bio-survey and bio-utilisation, in the case of commercial utilisation, Form 2 must be filed.

The new Rules also prescribe specific shorter timelines for completing the procedures or disposing of the applications. While the old Rules prescribed that an application must be disposed of as far as possible within 6 months (180 days), the new Rules prescribe to grant approval or rejecting the application within 90 days

from the receipt of the application in complete form. The old Rules did not prescribe timelines for the subsequent steps, resulting in long pendency; the new Rules specify such timelines, with an expectation that the approvals may be granted within defined periods.

An application for approval can be closed if the applicant does not provide the requisite information sought by the Authority within a period of 30 days from the date of seeking information. The approval to access would be in the form of an agreement on mutually agreed terms duly signed by the Authority and the Applicant. Again, the application would be deemed to be closed if the applicant does not sign the agreement within a period of 60 days from the date of communication of the draft agreement by the Authority. However, the closed application can be revived by making a payment of half of the fee specified for a fresh application within a period of 90 days. While specific provisions for the extension of various timelines are not provided, it is expected that the NBA will indeed allow an extension upon request made by the Applicants, as is done in the current practice.

Under the old Rules, only the granted approvals were to be published, but under the new Rules, both approvals that are granted and rejected are to be published. Such publications would be available on the NBA website, providing an easy reference for stakeholders. Hence, the new Rules provide better clarity on the procedure and timelines for seeking prior approval for access to biological resources.

The foreign individual/entities, or Indian entities controlled by foreigners who already had biological resources in their possession before April 1, 2024 (the date on which the BD (Amendment) Act, 2023 came into force), would have an opportunity to apply for approval for the purpose of research, commercial utilisation, bio-survey and bio-utilisation, without any penalty or adverse consequences. It is expected that such approvals would be processed under the old Rules.

Exception in Access Restriction

While the old rules prescribed certain conditions for putting a restriction or prohibition on activities related to access to biological resources, the new rules provide further clarification on such restrictions related to any threatened and/or

endemic species or where the request for access may result in an adverse impact on the livelihood and/or socio-cultural aspects of the local communities; or the request for access may result in adverse environmental impact(s) which may be difficult to control and mitigate; or the request for access may cause genetic erosion or affect the ecosystem functions; or the request is for the use of resources for purposes contrary to national interest and other related international agreements entered into by India.

The new Rules also provide an exception under which the Authority may permit access to cultivated species depending on the merits of each case for a specific period. Hence, earlier, even for cultivated resources, such restrictions or prohibitions could be imposed if the resources would have been related to threatened and/or endemic species. However, now, if such threatened and/or endemic species are cultivated, then access to cultivated resources may be provided, which would definitely help the applicants.

Sharing or Transferring Results of Research to Foreign Persons

The new Rules have provided clarifications and different forms with respect to the purpose of transfer of results of research or traditional knowledge associated thereto to foreign individuals/entities covered under section 3(2) of the Act.

| Type of Form | Description |
|---------------------|---|
| Form 3 | For seeking prior approval to share or transfer the results of research for commercial purposes or otherwise. |
| Form 4 | For registration by the transferee to use the results of research for further research. |
| Form 5 | This is to seek prior approval to use the results of research for commercial utilisation by the transferee. |
| Form 6 | For seeking prior approval to use the results of research to obtain intellectual property rights by the transferee. |

Under the old Rules, only the transferor had an obligation to seek approval, but the new Rules have put an obligation on the transferee as well, for further use of the results of research or traditional knowledge after receiving from the transferor.

The new Rules clarify that a foreign individual/entity would be required to seek prior approval for the research, commercial utilisation, or for obtaining IPR, even if they do not access the biological resource but obtain only the results of research or traditional knowledge. The fee to be paid for such approvals is INR 5,000 (Individual) and INR 10,000 (Entity) for both sharing or transferring the results of research and to use the results of research for obtaining IPRs. For registration to use the results of research for further research, the fee is INR 2,000 (Individual) and INR 5,000 (Entity), and to use the results of research for commercial utilisation by the transferee is INR 10,000 (Individual) and INR 20,000 (Entity). The payment mode has been simplified, as now it has to be done via electronic transfer or digital payment to the National Biodiversity Fund, while under the old Rules, it was the physical mode of cheque or demand draft in favour of NBA.

The new Rules also prescribe specific shorter timelines for completing the procedures or disposing of the applications. While the period prescribed under the old Rules and the new Rules to grant approval or reject the application is the same, i.e., within a period of 90 days from the receipt of the application in complete form, the old Rules did not prescribe timelines for the subsequent steps. The new Rules specify such timelines, which are expected to result in the completion of procedures within a defined period.

An application for approval can be closed if the applicant does not provide the requisite information sought by the Authority within a period of 30 days from the date of seeking information. The approval would be in the form of an agreement on mutually agreed terms duly signed by the Authority and the Applicant. Again, the application would be deemed to be closed if the applicant does not sign the agreement within a period of 60 days from the date of communication of the draft agreement by the Authority. However, the closed application can be revived by making a payment of half of the fee specified for a fresh application within a period of 90 days.

Registration and Obtaining Prior Approval from the Authority Before Granting Intellectual Property Rights

The new Rules have prescribed different procedures for foreign and Indian entities while obtaining IPR based on Indian biological resources or traditional knowledge. While foreign individuals/entities still need to obtain approval before granting IPR in India or outside, Indian entities only need to request registration before obtaining IPR in India or outside. Under the new Rules, digital sequence information on biological resources accessed from India, including those deposited in repositories outside India, is included within the purview of these provisions.

Here again, there is a differential fee between individual and foreign entities, as well as Indian applicants. The foreign applicants need to apply in Form 7 along with the prescribed fee (Individual – INR 5,000; Entity – INR 10,000) before the grant of intellectual property rights in or outside India, the Indian applicants need to apply in Form 8 for registration, along with the prescribed fee (Individual – INR 2,000; Entity – INR 5,000), before the grant of such IPR in India or abroad. Under the old Rules, the fee was INR 500, irrespective of the entity status.

The application for prior approval is to be decided for grant or rejection within a period of 180 days, while under the old Rules, the application was to be decided, as far as possible, within a period of 3 months (90 days). The new Rules provide defined timelines even for the subsequent actions, which were absent in the old Rules. The application for approval would be closed if the applicant does not provide the requisite information sought by the Authority within a period of 90 days from the date of seeking information.

The approval to access would be in the form of an agreement on mutually agreed terms duly signed by an authorised officer of the Authority and the applicant. Again, the application would be deemed to be closed if the applicant does not sign the agreement within a period of 90 days from the date of communication of the draft agreement by the Authority. However, the closed application can be revived by making a payment of half of the fee specified for a fresh application within a period of 90 days.

Indian Applicants only need to apply for registration before the grant of such IPR by the competent Authority in India or abroad. Additionally, at the time of registration, such applicants need to give an undertaking that prior approval from

the Authority will be obtained before the commercialisation of the IPRs. The Applicants (both Indian and foreign) are also mandated to inform the Authority within 45 days of the grant of the IPRs.

Obtaining Prior Approval from the Authority Before the Commercialisation of Intellectual Property Rights by Indian Entities

While the old Rules did not specifically prescribe any procedure for seeking prior approval before the commercialisation of IPR by Indian entities, under Section 7 of the BD Act, such entities had to give a prior intimation to the concerned State Biodiversity Board (SBB) before the commercialisation of the accessed resources. Under the new Rules, the Indian Applicant need to obtain prior approval at the time of commercialisation by applying in Form 9 along with the prescribed fee (Individual – INR 5,000; Entity – INR 10,000).

The Authority needs to decide on granting approval or otherwise within a period of 180 days from the date of receipt of the application or on receipt of requisite information, whichever is later. The approval would be in the form of an agreement on mutually agreed terms duly signed by an authorised officer of the Authority and the applicant. The application will be deemed to be closed if the applicant does not sign the agreement within a period of 90 days from the date of communication of the draft agreement by the Authority. A closed application can be revived on receipt of payment of half of the fee specified for a fresh application within a period of 90 days.

Certificate of Origin for Cultivated Medicinal Plants

The BD (Amendment) Act, 2023 had broadened the exemption provision under Section 7(2) of the BD Act for prior intimation to the SBB and included ‘cultivated medicinal plants and its products’ within its purview, in addition to the codified traditional knowledge, local people and communities of the area, including growers and cultivators of biodiversity and to *vaidys*, *hakims* and registered AYUSH practitioners only who have been practising Indigenous medicines, including Indian systems of medicine as a profession for sustenance and livelihood. However, such an exemption could be available only if a certificate of origin is obtained from the Biodiversity Management Committee (BMC). The new Rules prescribe the procedure for obtaining such a certificate. A person who intends to claim such exemption needs to submit a self-declaration in physical or

digital form to obtain a certificate of origin from the concerned BMC in Form 11 (INR 200). The self-declaration needs to contain details including the name and address of the applicant and the cultivator, geographical location including survey number, extent of area under cultivation along with the details of the species being cultivated and parts thereof, and approximate quantity of the biological resources being accessed.

Monitoring and Regulating the Use in India of Biological Resources or Associated Traditional Knowledge Obtained from any Foreign Country

The old Rules did not specifically prescribe the use in India of biological resources or associated traditional knowledge obtained from a foreign country. The new Rules prescribe the procedure for such use. Particularly, if a person intends to use in India the biological resource or traditional knowledge associated thereto obtained from any foreign country for research or commercial purposes or for obtaining IPRs, then he is required to submit a declaration in Form 10 (without fee), as per the provisions of Section 36(A) of the Act. On receipt of the relevant information from the user of such biological resource, the Authority shall notify the same on the Access and Benefit-Sharing Clearing-House of the Convention on Biological Diversity.

Conducting Non-Commercial Research or Research for Emergency Purposes Outside India by Indian Researchers or Institutions

The new Rules have also considered circumstances of conducting non-commercial research or research for emergency purposes, which might be carried out outside India by Indian researchers or institutions. In such cases, wherein any Indian researcher or institution intends to carry or send the biological resource outside India to undertake non-commercial research, including carrying out urgent studies to address certain present or imminent emergencies like epidemics, needs to apply in Form 13 along with the prescribed fee (INR 1,000), provided that in case the traditional knowledge associated thereto is also to be transferred or carried along with the biological resources, the approval of the Authority needs to be taken by the concerned foreign institution. Understanding the need for urgency, the new Rules prescribe to grant approval in such cases within 45 days. Upon receipt of approval, the applicant needs to deposit voucher specimens in the designated national repositories, wherever required, before carrying or sending the biological

resource outside India, and a copy of proof of such deposits needs to be endorsed to the Authority.

Quantum of Penalty

The rules also list the factors to be considered while determining the quantum of the penalty and the deposition of the penalty amount. Factors like the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of contravention of the provisions of the Act are to be considered in determining the quantum of penalty. The penalty for contravention of the provisions referred to in section 55 of the Act would not be less than 1 lakh rupees and may extend to 50 lakh rupees.

Conclusion

With the BD Rules 2024, the procedures are expected to be clearer under the BD (Amendment) Act, 2023, with revised fees and new forms. The approvals are expected to be granted within shorter defined timelines. As the new Rules would be effective from December 22, 2024, the applications currently pending are expected to be processed under the old Rules. It would have to be seen how the NBA processes the applications made under the old Rules, but that still continue to be pending after December 22, 2024.

17. Global Framework for Preserving Creativity: Analysing the Riyadh Design Law Treaty (November 22, 2024)



The Riyadh Design Law Treaty (“the Treaty”), adopted on November 22, 2024, stands as a pivotal development in the international intellectual property law regime. This Treaty was spearheaded by the World Intellectual Property Organisation (WIPO) and aims to create a cohesive framework for registering and protecting industrial designs across member

nations. This landmark treaty took shape during a historic diplomatic conference held in Saudi Arabia, which served as the host nation for this pivotal event.

The Treaty seeks to standardise the design registration process, making it easier for creators and businesses to safeguard their designs regardless of geographical boundaries. By establishing clear and consistent guidelines, the Treaty is expected to reduce bureaucratic hurdles, enhance efficiency and harmonise the design law with international laws, thereby encouraging innovation and creativity in design.

Background of the Treaty

Industrial design, which encompasses aesthetic and ornamental elements of products, is critical to fostering innovation and competitiveness. It not only influences consumer preferences but also contributes significantly to brand identity and market differentiation. However, one of the major challenges that designers face, particularly those representing small and medium enterprises (SMEs) and independent creators, is the absence of a unified global system for design registration or harmonisation between design laws of different countries. This fragmentation often leads to legal uncertainties and increased costs, hindering the ability of these entities to protect their intellectual property effectively.

In response to these challenges, the Riyadh Design Law Treaty has been proposed as a comprehensive solution. This Treaty seeks to establish a standardised framework for design registration that aligns with the evolving needs of the global marketplace. By providing clear guidelines and procedures for protecting

industrial designs, the Riyadh Design Law Treaty aims to create a more equitable environment that enhances the ability of SMEs and independent creators to innovate and thrive in a competitive landscape.

The Treaty's adoption was the culmination of nearly two decades of negotiations among WIPO member states. This effort mirrors earlier initiatives, such as the WIPO's landmark treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge, approved on May 24, 2024.

Key Provisions of the Treaty

The Treaty introduces several groundbreaking features that benefit designers and businesses:

Standardised Framework for Design Registration

The Treaty establishes uniform rules for registering designs across participating countries, significantly reducing administrative complexities and inconsistencies between national systems. Designers would no longer need to navigate diverse legal frameworks, as the Treaty offers consistent requirements across jurisdictions. This would reduce legal and procedural expenses, making design protection accessible even for small-scale innovators.

Flexible Representation of Designs

The Treaty allows applicants to choose from multiple formats to represent their designs. Designers can submit drawings, photographs, or videos, depending on the country's requirements. This flexibility accommodates diverse industries, ensuring that designs ranging from physical products to digital interfaces can be effectively protected.

Multiple Designs in a Single Application

Applicants can include several designs within a single application, subject to the conditions as may be prescribed by the applicable law. This provision significantly reduces filing costs and administrative workloads for applicants. It also supports designers working on collections, such as in fashion or product series, enabling cohesive protection.

Extended Grace Period for Public Disclosure

The Treaty introduces a 12-month grace period, allowing designers to test their designs in the market before seeking protection. Designers can receive feedback on their designs post-launch without risking their eligibility for protection. In countries like India, the existing six-month grace period, which is also subject to some conditions, is often insufficient; thus, the Treaty's extension can provide greater flexibility. Applicants may also keep their designs unpublished for a minimum period of six months following the date on which they secure a filing.

Relief Measures for Missed Deadlines

The Treaty includes important safeguards designed to prevent individuals and organisations from unintentionally losing their rights due to missed deadlines. Applicants are granted the opportunity to request extensions or reinstatements if they encounter difficulties that prevent them from meeting specific timelines. This aspect of the Treaty ensures that applicants do not forfeit their rights due to administrative delays, unforeseen obstacles, or circumstances beyond their control.

These provisions are particularly advantageous for small businesses and independent designers, who often face resource constraints that make it challenging to manage intricate deadlines. By allowing for extensions and reinstatements, the Treaty recognises the unique challenges faced by these individuals and provides them with a fair chance to protect their intellectual property.

Support for Developing and Least-Developed Countries

To promote fair and equitable access to intellectual property rights, the Treaty includes specific measures aimed at assisting countries with limited intellectual property (IP) infrastructure. Recognising the challenges faced by these nations, WIPO will offer comprehensive training programs, and a variety of resources designed to help these countries effectively implement the provisions of the Treaty. This support will extend to local IP offices and professionals, including workshops, online courses, and access to best practice guidelines, all designed to enhance their capacity to manage and utilise intellectual property effectively.

Cultural Sensitivity and Protection of Traditional Knowledge

The Treaty also offers a framework for protecting traditional knowledge and cultural expressions. It provides that an application may contain, where permitted under the applicable law, information on traditional cultural expressions and traditional knowledge of which the applicant is aware and which are relevant to the eligibility for registration of the industrial design.

Digital-First Approach

The Treaty emphasises the adoption of digital processes for design registration. Applicants can submit applications electronically, reducing procedural delays. This feature is particularly advantageous for designers in remote or under-resourced areas, ensuring broader participation in global design markets.

Implementation and Future Prospects of the Treaty

In order for the Treaty to take effect, it is necessary for at least 15 countries to ratify it. This ratification process involves each participating nation formally accepting the Treaty's terms and incorporating them into their legal frameworks. Once the Treaty is implemented, member states will be required to revise and align their national laws to ensure compliance with the provisions outlined in the Treaty.

To facilitate this transition, WIPO has committed to providing extensive support, including legal advice, best practice guidelines, and resource materials. Additionally, WIPO will offer capacity-building programs designed to enhance the skills and knowledge of stakeholders involved in the intellectual property sector, ensuring they are equipped to implement the Treaty effectively.

Implications of the Treaty on India's IP Landscape

In 2023, India registered 28,324 industrial designs, representing a 78% increase from 2022 and a staggering 285% rise since 2019. India ranks among the top 10 countries globally for industrial design filings. The 36.4% rise in 2023 applications highlights its competitiveness in product design and creative industries. Resident filings now comprise over half of India's total design applications, reflecting a growing emphasis on domestic innovation driven by supportive government policies like the National Intellectual Property Rights (IPR) Policy. The Treaty

holds further implications for India's IP framework, with India emerging as a global hub for innovation and design.

Indian creators and SMEs will benefit from simplified procedures to secure design rights internationally without navigating varied national requirements. Specifically, industries such as textiles, automotive, and consumer goods, where design is not only important but often integral to product success, will find it much easier to safeguard their innovative designs as they enter global markets.

One notable aspect of the Treaty is its formal acknowledgement of traditional knowledge and cultural expressions, allowing them to be protected under design rights. This development is particularly significant for India, which boasts a diverse and rich heritage of traditional art forms. By securing stronger international safeguards for these art forms, India can further promote and preserve its cultural heritage, ensuring that traditional artisans receive recognition and fair compensation for their work. This step complements India's ongoing initiatives to protect Geographical Indications (GI) labels that signify that products come from specific regions and possess qualities or a reputation linked to that location.

The Treaty also incorporates modern digital processes for design registration, aligning well with India's Digital India initiative. Indian designers, especially from rural areas, can benefit from e-filing systems and online communication, reducing the geographical barriers to filing applications. India has signed the Final Act of the Riyadh Design Law Treaty, further bolstering its commitment to build on its progress, reaffirm inclusive growth and ensure equitable access to intellectual property protection.

Concluding Remarks

The Riyadh Design Law Treaty is a transformative development in the global intellectual property landscape. By simplifying and standardising design protection, it ensures that creativity and innovation are accessible to all. As countries move toward ratification, the Treaty promises a more inclusive and dynamic future for designers, industries, and economies worldwide.

For India, adopting the Treaty could enhance its position as a leader in innovation and design, protecting its cultural heritage while empowering its designers and businesses. However, successful implementation will require careful planning, legislative changes, and capacity building to fully realise the benefits for India's

creative economy. This includes amendments to the Designs Act, 2000 to integrate new provisions such as the 12-month grace period for public disclosures, multi-design applications, and the recognition of traditional knowledge. These updates will be crucial for ensuring that Indian design registrations are in line with global standards, providing designers with better tools to protect their creations.

Moreover, successful adoption will require capacity building in both the public and private sectors. This involves bringing necessary changes to the Indian Intellectual Property Office to handle new processes and educating designers, particularly SMEs, on how to take advantage of the Treaty's provisions. In conclusion, while the Riyadh Design Law Treaty offers significant advantages for India's creative economy, once ratified, careful and coordinated efforts will be needed to ensure its successful implementation.



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