



**January 29, 2015**

To,

**Hon'ble Chairperson**

**IPR Think Tank**

**Govt of India**

**[ipr@nic.in](mailto:ipr@nic.in)**

**Re: Comments/feedback on first draft of the National IPR Policy**

**Dear Sir/Madam:**

The Patent Agents Association (PAA) is a registered professional association of more than 400 registered Patent Agents practicing in Patents across India. Its members include engineers, PhD, scientists, researchers, Government official, and people from senior management in all segments of industrial technology including mechanical, software, electronics, pharmaceutical, and agriculture. Many are capable of representing clients in infringement lawsuits.

The PAA would like to thank you for this wonderful draft and would like to submit its comments (starting on the next page) on the draft.

With best regards,

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## Comments/Feedback/Suggestions

1. Since print/electronic media plays an important roles in dissemination of information in the general public, a regular workshop cum seminar on IPR for journalist titled “Intellectual Property is Big News: Seminar for Senior Editors” on the line of WIPO and IPOS<sup>1</sup> may be introduced for educating the journalists and reporters about the IPR/ patents to ensure that they report quality information to public.
2. An innovative model (an electronic platform based on Stock Exchange<sup>2</sup>) for facilitating financial exchange of IP protected technology, specialized for Indian market, may be introduced that not only protects the interest of investors but also increases transparency, assures standard price discovery, maximizes return on technology, and reduces hurdles for both grassroots innovators (owner of technology or innovators) and SME (potential licensees or investors<sup>3</sup>).
3. Since registered Patent Agents play a major role in patent system of any country, a bill on **Patent Agents Act** may be brought (on the line of Japan Patent Attorneys Act) to provide for a system of patent agents and make their business proper, thereby contributing to such matters as the proper protection and the promotion of utilization of patents, and consequently contributing to the development of economy and industry.
4. Further role of registered patent agents may be taken into considered in all the objectives of the National IP Policy including IP Awareness and Promotion, Creation of IP, Legal and Legislative Framework, IP Administration and Management, Commercialization of IP, Enforcement and Adjudication, and Human Capital Development.

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<sup>1</sup> [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=31383](http://www.wipo.int/meetings/en/details.jsp?meeting_id=31383)

<sup>2</sup> <https://drive.google.com/open?id=0Bygj67AMB5rhR19pYVA3OUNodkU&authuser=0>

<sup>3</sup> <https://drive.google.com/a/aonergy.com/file/d/0Bygj67AMB5rhcHQyeW1QM1BWVEk/view?usp=sharing>



5. It has been observed that inventors find it difficult to get right patent advice (as they don't know, how the patent system works, how to write patent specification, also they don't know that only registered Patent Agents are authorized to practice patents) and land into the network of tout/unauthorized agent (i.e. unregistered or fake Patent Agents). Because of this problem, there happened various cases of cheating or malpractices in terms of wrong advice, poor service, and financial loss as well as loss of patent protection. In a case, an inventor was cheated by a fake patent agent where the fake agent just filed a provisional patent specification without proper drafting and did not advise the inventor about filing a complete specification and thus the patent application was lapsed. The profession of registered patent agents may also be advertised and/or promoted just to protect the interest of patent applicants or inventors.
  
6. It has been observed that many independent innovators are forced to leave their innovation unprotected just because of high cost patent matters such as patentability search, drafting of patent specifications etc. There seems a requirement of some flexible scheme to help the inventors in filing patent applications. A PARI (Patent Assistant for Resident Indian) Authority may be created and run by the Patent Agents Association (as its members are located across the country) with support of Government for advising independent inventors and providing patent services at low/affordable cost or on cost decided by Government. Financial support may not only play an important role in encouraging the innovators to come up with more innovations to protect but also it may attract people who like to innovate.
  
7. It is highly appreciable step to come up with tax benefit scheme for MSME on IPR matter. We would like to request you to also consider independent and grassroots innovator for tax benefit scheme on their IPR matters. The patent agents may be authorized to provide audit certificate of patent matters to avail tax benefits before the income tax office.



8. It has been observed that the online patent filing system introduced by the India Patent Office does not work on all platforms (i.e the online patent filing system has been designed to work on Windows OS but not on Linux OS). Another problem is that it does work only with Internet Explorer. The Online Patent Filing System may be enabled to work on open source platforms such as Linux. And also compatibility may be increased to all browsers including open source softwares such as mozilla firefox and chrome.
9. Indian patent classification for Indian continental specific product/process such as *Ayurvedic* medicinal products, and other grass-root innovations may be introduced to symbolize Indian innovation worldwide.
10. The recommendation to all the technical institutions (Govt and private both) in the country to establish intellectual property cell is highly appreciable step as it has been observed that patent experts advice is not available in the vicinity of the innovators and hence it forces the innovators to reconsider their decision of patent protection which may be a loss to the economy of our country. To insure the delivery of quality of patent advice/service to the public/innovators, the registered patent agents may be considered to head all such Patent division of the IPR cell/IP Facilitation centers/ Technology Business Incubation. This may not only increase the confidence/motivation of innovators but also increase a good option of career opportunity for youths of our country to become registered patent agents.
11. Introduction of IPR course in the curriculum across all education/technical institutions is really a highly appreciable step. The registered patent agents has the specialized qualifications necessary for representing clients in obtaining patents and acting in all matters and procedures relating to patent law and practice, such as filing an opposition. As they understand the patents practically and so may impart quality education/knowledge to the student/learner. Therefore registered patent



agents may be appointed for teaching Patents in technical institutions/ university/ college. In this regard, we would request to relax the eligibility/qualification criteria for registered patent agents to be appointed as full time Professor/ Lecturer (of patents). For example, a registered patent agent (with independent/corporate/law firm patent practicing experience of atleast 3 years) having bachelor of technology (B.Tech/BE) or Master of Science (M.Sc) may be considered for such position.

12. IPR education of kids is as important as that for youth who are ready to take a profession. Further to this, the patent office or relevant Government agency may include a kid section for providing up-to-date learning materials for kids about the importance of the innovation and its protection as well as motivating them to contribute as innovator.<sup>4</sup>
13. Regular (e.g, quarterly or yearly) interaction between the patent controllers/examiners and patent stakeholders (e.g, patent applicant, innovator, registered patent agents) at all the four offices may be introduced. The interaction may help in clarifying doubts, if any, of the stakeholders and it may also help in reducing objections raised in the patent grant procedure thus increasing rate of grant of quality patents in the country which again may increase confidence of the innovators in the patent system and may motivate them to protect their innovation.
14. It has been observed that patent applicants/innovators feel difficulty in verifying/confirming the filing/ submission of patent application by registered Patent Agents with IPO as their it can not be accessed until their patent application is published (either in normal publication or early publication) on the IPO website. In this regard, we would request to include a mechanism to verify the filing of the patents immediately after submission but before publication (u/s 11A/11(A)(2) of the Patents Act, 1970) by patent applicants in order to protect their interest.

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<sup>4</sup> <http://www.uspto.gov/kids/index.jsp>



15. Promotion of entrepreneurship in a country has always been primary and challenging goal of the country not just for making the youth self-employed but also to create employment in the country. Supporting this goal by the Think Tank is again a highly appreciable step. However it has been observed that various tenders invited/floated time to time by various Government organizations for availing goods/services or empanelment of patent experts include eligibility for taking part in the tender (or specification of those eligibility such as experience, team profile, and turnover) such a manner that only established big player may take part which seems totally against the interest of the entrepreneurs. We would like to request to introduce guidelines to all Government departments to relax eligibility criteria to enable equal opportunity for all including young entrepreneurs (e.g, reg. patent agents) to participate.
16. Recommendation for creating judicial infrastructure to handle IPR matters at district level is again an appreciable step. We would request to bring a bill on establishment of "Patent Courts Act" for a national special court, which alone may be responsible for resolving disputes regarding patent law infringements and legalities.
17. An online mechanism on the line of Peer To Patent (a historic initiative by the USPTO) should be introduced for opening the patent examination process to public participation (such as technical students of our country). This may definitely improve the quality of issued patents and faster the grant of patents by enabling the public to supply the IPO with information relevant to assessing the claims of pending patent applications.

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