
IP Boost for Start-ups in India

The first of its kind event, “Start-up India, Stand-up India” that kicked off on 16th January, 2016 brought together start-up community and policy makers. The government objective for this initiative was quite clear ‘let us encourage innovation’. With that in mind the Prime Minister Modi announced an action plan for start-ups categorised in 19 points. A Start-up to qualify for tax and other incentives put forth by prime minister must fall under the definition of a Start-up. A Start-up has been defined as an enterprise which is less than 5 years in operation with turnover not exceeding 25 crores (approx US \$ 3.9 million) *working towards innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.*

This would mean a start-up will be entitled to various tax exemptions mooted by the government if it is driven by technology or intellectual property. The question being raised is that many of the start-ups that operate in consumer space; use Apps for servicing customers and/or utilise other digital technology to run their business. They also maintain engineering teams to make customer experience seamless and friendly through their website or an App. Would that be sufficient to qualify them as a technology driven business? Further most business run under a brand name e.g. UBER, OLA, OYO etc which is one of the important identifying features for any business to build customer loyalty and to distinguish them from competition. From that point of view every start-up is likely to fall under the category of ‘driven by intellectual property’.

Specific IP measures in the PM Modi’s Action Plan

Patent protection

A fast-track system for patent examination at lower costs is being conceptualised by the central government. The system will promote awareness and adoption of the Intellectual Property Rights (IPRs) by the start-up foundations.

Setting up incubators

A private-public partnership model is being considered for 35 new incubators and 31 innovation centres at national institutes.

Research parks

The government plans to set up seven new research parks, including six in the Indian Institute of Technology campuses and one in the Indian Institute of Science campus, with an investment of Rs 100 crore (approx Us \$ 16 milion) each.

Legal support

A panel of facilitators will provide legal support and assistance in submitting patent applications and other official documents.

Rebate

A rebate amount of 80 percent of the total value will be provided to the entrepreneurs on filing patent applications.

Government in Implementation Mode

Soon after the announcement was made by prime minister, the Controller General of Patent and Trademarks issued a notification on January 18th 2016 to launch a scheme for promoting intellectual property among start-ups and encouraging innovation. The scheme was launched under the name 'Scheme for Facilitating Start-ups Intellectual Property Protection (SIPP)'. The scheme aims to promote awareness and adoption of IPRs among Start-ups. It further aims to provide Start-ups high quality IP services and resources.

The scheme can be availed by startups that are certified by start-up certification board. At this point of time the board has yet to be set up! The scheme is only an expression by the IP office to create a panel of facilitators that will be paid from funds provided by the central government.

The notification states that the statutory fee has to be borne by the start up and is silent about the Rebate on official fee that was announced by the Prime minister. Further the scheme has no provision for fast-tracking of Patent examination as announced by the Prime Minister. The scheme in fact makes it clear that "the applications shall be disposed off as per the relevant laws and rules". Hopefully clarity will emerge on these issues in near future.

Overall, the action plan set by the Prime minister is quite positive. The implementation phase will of course be challenging in particular inter-ministerial panel to work out the modalities. One would hope the energy generated by the event will be maintained and the implementation is carried out in a timely manner.

Vatika Towers
10th Floor Block-B
Sector-54
Golf Course Road
Gurgaon-122002
National Capital Region (Haryana)
India

Tel. +91 124 4655999
Fax. +91 124 4045047
Email info@rnaip.com

Copyright © RNA, IP Attorneys