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## *Intellectual Property/Legislation*

# India's National IPR Policy – One Year On



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In May 2016, India released its National IPR Policy, which tasked the Department of Industrial Policy and Promotion (DIPP) to coordinate and implement a plan to promote intellectual property and innovation in the country. The policy has several objectives, each a component in the overall goal to promote and strengthen IP in India.

This article analyzes the work done by the Cell for IPR Promotion and Management (CIPAM), a professional

body created within the DIPP, and the status of the policy's implementation a year later.

## **Legal and Legislative Framework**

Objective 3 of the policy calls for the strengthening of the country's IP legal and legislative framework. India has taken several steps this past year toward that goal.

The Trade Mark Rules were amended with the new rules coming into force March 6. This has resulted in a simplified and streamlined trademark filing and prosecution process. Furthermore, the numbers of trademark forms have drastically reduced from 75 to eight.

Meanwhile, the Patents (Amendment) Rules, 2016

came into force May 16, 2016, simplifying and clarifying the laws and making them compliant with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The changes to the patent law are designed to expedite prosecution and simplify filing.

India also signed the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled. The treaty, which was adopted on humanitarian grounds, came into force in India on Sept. 30, 2016.

## Administration and Management

The National IPR Policy also calls for improving IP registration and filing procedures. This is especially important in India, where the registrars are facing ever-expanding workloads.

The Patent and Trademark Rules have been amended to streamline processes and make them more user friendly. There are various provisions designed to shorten up the prosecution time, such as expedited examination for patent applications, and reducing the acceptance period from 12 months to six months for overcoming the objections of the examination report for patent applications, thus ensuring early grant of the rights.

The improvements can be easily seen from the number of patents granted and the trademarks registered. The statistics shows that in 2016, 8,239 patents were granted, compared to 5,583 in 2015. In 2016, 210,980 trademarks were registered, while 2015 had only 60,132.

CIPAM and DIPP are also working to increase automation at the Patent and Trademark Office. This will include online filing capabilities, complete digitization of records and searchable application databases with complete file wrappers.

## Human Capital Development

Developing human capital is another important objective in the policy.

Progress on this front has already brought improvements to the Patent and Trademark Office. The office has recruited more than 450 patent examiners along with 407 patent agents and 203 new trademark agents this year. This exponential increase is aimed to bring down pendency as can be seen from trademark applications being examined within one month of filing.

The National Innovation Foundation (NIF), set up by the Department of Science and Technology (DST), has actively worked with CIPAM to encourage unaided technological innovators as well as of outstanding traditional knowledge holders by disseminating their innovations on commercial and non-commercial bases. The data shows that NIF has facilitated the filing of approximately 90 Indian patent applications since the implementation of the IP policy.

## Enforcement and Adjudication

Objective 6 of the policy focuses on improving law enforcement and the judicial knowledge and understanding of IP law, so they can take timely and effective action.

One of the biggest developments is the establishment of the commercial courts, which also have jurisdiction over IP cases. These courts are designed to increase efficiency, expedite proceedings and make it easier to do business in India. The commercial courts have also adopted several tools to help speed up the process, including case management meetings, imposing heavy costs on parties that delay matters and issuing summary disposals of uncontested cases.

CIPAM has taken the lead role in educational initiatives and training. Along with the Andhra Pradesh police, it has organized several sessions on IP and law enforcement at the Police Training College. It also worked with the Uttar Pradesh police to organize a three-day training of 150 law enforcement officials at the Dr. Bhim Rao Ambedkar Police Academy in Moradabad.

It also worked with the National Judicial Academy of India to include a IP module in a colloquium on commercial law for High Court justices.

## IP Creation

The policy also calls for programs to spur IP creation in India. The Controller General of Patents Designs and Trademark has empaneled patent agents and IP lawyers to act as facilitators to assist start-ups in filing and prosecuting of IP applications.

A scheme has been launched for facilitating IP protection for start-up companies. Under the scheme, the government will bear the entire cost of the facilitators for any number of patents, trademarks or designs applications by start-ups. Also, a 50% reduction in official fees has been introduced for micro, small and medium-sized enterprises.

## IP Awareness

Raising awareness about intellectual property is another National IPR Policy objective. The targeted groups include inventors, business owners, students and research scholars, especially those in lower-tier cities. CIPAM has conducted road shows and programs to teach the importance and facts about IP.

It is working with various industry associations, including the International Trademark Association (INTA). It is also preparing educational materials to teach students of all levels about the importance of IP and the need for protection.

A number of institutions as a result of CIPAM efforts have brought in IP as part of course modules or specialization. One example is WIPO-IGNOU (Indira Gandhi National Open University), which has started offering a one-year post-graduate diploma in IP.

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## Commercialization

Promoting the commercialization of IP is another important objective. CIPAM has taken the initiative to establish India's first WIPO's Technology Innovation and Support Centre (TISC) network in India. CIPAM will be the national focal point for India's TISC network. CIPAM plans to establish 100 TISC centers across the country, and is working with various universities, ministries and WIPO toward this goal.

In addition, CIPAM is tying these efforts with other government initiatives including Make in India, the government's push to facilitate investment and manufacturing. It is working closely with other parts of the government to encourage IP generation and commercialization.

CIPAM is also playing an active role in raising IP awareness among entrepreneurs through the Startup Hub India platform that connects entrepreneurs with other en-

trepreneurs, advisers, consultants, mentors, guides, angel investors, incubators, accelerators and venture capital firms.

## Conclusion

The think tank appointed to draft the National IPR policy was clearly aware that it is an ambitious plan, which will present its own implementation challenges, and this is why CIPAM was created to implement the policy. It does appear from the steps taken by CIPAM that the government is fully committed both in terms of political will and resources to implement the objectives set out in the policy.

As a result CIPAM has been able to make considerable progress in bringing stakeholders together in raising the awareness of IP and improve functioning of the IP office, which can be seen as an effective first step. Hopefully from the solid foundation we will see the rapid progress that is needed to make India an attractive investment destination for knowledge-based industries.