



Indian Court Reads 'Wilfulness' into Section 8

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In a breakthrough decision with significant implications for patent prosecution in India, an Indian court has read "wilfulness" into Section 8 of India's Patents Act. A Delhi High Court division bench judgment brings a sigh of relief for many patentees as the court has taken a liberal view while interpreting Section 8 which is closer to the inequitable conduct defence used in the US. This also shows that India is a progressive country and not 'anti-patent' as has been alleged by many lately, but supports the rights of the patentees as well. The decision is indicative of the fact that the Indian judiciary is endeavouring to increase proficiency and encouraging innovation by dissipating the incorrect accusation that India is anti-IP. It is noteworthy to mention that out of the 2,157 reported cases in the field of intellectual property over a span of 20 years, 1,433 decisions have been decided in favour of IP owners. Authored by Pravin Anand, Vaishali Mittal and D. Neha Reddy. This article was published in Asia IP November/December 2014. To continue reading, please contact us at email@anandandanand.com

