Patent Office Issues Notice to Streamline Disposal of Cases Relating to Biological Resources

Thought Leadership • June 19, 2017

A recent circular by the Patent Office on issues relating to biological resources and patenting may come as a reprieve for patent applicants using biological materials from India in their inventions.

Section 6(1) of The Biological Diversity Act, 2002 prohibits any person from applying for any intellectual property right in or outside India based on any research conducted on biological material obtained from India without obtaining permission from the National Biodiversity Authority (NBA) before making said application. The proviso to section 6 permits a person to apply for permission from the NBA after filing an application for a patent but before grant. In view of said provision of The Biological Diversity Act, Controllers at the Patent Office have been raising multiple, many-a-times unwarranted, objections relating to obtaining permission from the NBA w.r.t biological material from India. Delays on the part of the NBA in granting permission stall the grant of a patent. Permissions from the NBA and pending patent grants in view of the same have therefore, long been debated between the Patent Office and the stakeholders representing the patent applicants. *Read more on Patents Rewind*

RELATED PRACTICES

PATENTS