India focus: a roadmap for success

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Pravin Anand and Prachi Agarwal discuss some ways in which patent laws may be amended to strengthen India's IP position globally. In June 2017, the Support Technology and Research for Our Nation's Growth and Economic Resilience (STRONGER) Patents Act of 2017 was introduced in the US. Taking a cue from the growing concern in the US regarding weakened patent protection, it is time to analyse how Indian patent law may also be amended to strengthen India's position globally, particularly in view of India being ranked 43rd on the Global IP index of 45 states.

Expedited examination at the Indian Patent Office

In an endeavour to expedite examination, Rule 24C was introduced in the Patents Rules, 2003 arising out of a writ petition, *Nitto Denko v Union of India*. In July, a patent was granted by the Indian Patent Office (IPO) within nine months of filing of request for examination and four months of converting it into an expedited request. However, the grounds for expedited examination under Rule 24C are limited and one can apply for expedited examination only on grounds that India has been indicated as international search authority or elected as an international preliminary examination authority in the corresponding international application; or if the applicant is a start-up. There is a need to expand the scope of expedited examination. For regular examination under Rule 24B the timelines that are provided are not adhered to. The IPO should ensure that the timelines are followed and patents are granted without delay.

Patent term adjustment/waiver of maintenance fees

The provision of patent term adjustment/waiver of maintenance fees for time lost during patent prosecution at the IPO should be added. The patentee should not be penalised for the delay caused in examining patent applications, sometimes extending up to ten years since patents are granted for only a limited period.

Promotion of certain technologies

Special provisions may be introduced to promote green technology, blockbuster drugs, orphan drugs, drugs that have short shelf life, etc. *This article was published in WIPR.*

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