



## AMERICAN CHAMBER OF COMMERCE IN INDIA

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**Ajay Singha**  
Amcham India

February 2<sup>nd</sup>, 2015

Department of Industrial Policy and Promotion  
New Delhi

Dear Sir,

**Subject: AmCham submission on draft of National IPR Policy**

At the outset, American Chamber of Commerce in India (AmCham) appreciates the Ministry's efforts on strengthening intellectual policy rights and we welcome the opportunity to submit our suggestions/comments on the draft of National IPR Policy dated 19<sup>th</sup> December 2014.

AmCham is an association representing American companies in India, across multiple sectors with a mission to facilitate a healthy dialogue between the regulators and the industry and also to help the industry grow while fulfilling their commitment to India. AmCham has an IPR Committee, with representations from all leading American companies.

We acclaim the government's effort for addressing a number of concerns through the draft National IPR Policy and to allow feedback from industry on the same.

We apologize for submitting this feedback after the 30<sup>th</sup> January deadline, but believe the concerns enclosed are pertinent for industry growth and we request the Ministry's due consideration on our proposed recommendations as the Ministry goes forward with the making of this legislation.

Please see below a summary of our feedback for the Ministry's consideration:

- We support protection of innovations under utility models.
- We propose strong Trade Secret protection laws that unambiguously provide deterrents to trade secret thefts by including strong enforcement measures, including adequate civil and criminal remedies.
- We support the modernization of the physical and ICT infrastructure and emphasize that this should be a high priority of the Indian Patent Office.
- We support the improvement of the IP infrastructure and recommend that the Indian Patent Office connect with other patent offices to regulate quality and efficiency of products and services and create better interfaces with the customers and the public.
- We support creation of specialized IP courts.
- We support including confidentiality obligations for people working in the patent office.
- We support alignment with the other intellectual property offices on all legal issues to reduce inconsistency

- IP protection by itself is not enough unless that can be commercialized and the rights holder can use the same for doing business. So while the policy does talk about efforts to help commercialization of IP, we would suggest that the GOI have focused facilitation initiatives for commercialization of IP.
- If statutory incentives are provided for the entire value chain from IP creation to commercialization, these incentives should be available for Indian corporations as well as Indian subsidiaries of multinational corporations setting up manufacturing facilities for intermediates or finished products in India.
- Support providing incentives to multinational corporations who develop commercial products and open up Indian market niches through the use of tax incentives for
  - Manufacturing products / intermediates in India,
  - Support development of Indian research facilities,
  - Foster collaborations between Indian research institutes, business and academia in India
  - Offer sponsorship of Indian academic research.
- Establishment of open forums such as road shows / public review/ hearings to invite public to comment on major examination guidelines.
- Under sections 4.12 and 4.14, there should be streamlining of processes and more transparency in the Plant Variety Protection Authority and the National Biodiversity Authority. The following suggestions should be included under sections 4.12 and 4.14:
  - Fix and adhere to timelines for grant of registrations and disposal of opposition matters;
  - Adopt best practices with respect to filing and docketing of documents, maintenance of records and digitizing the same including document workflow and tracking systems;
  - Create a service-oriented culture, including appointing public relations officers who would make these offices user friendly;
  - Ensure that public records in these offices are easily available and accessible both online and offline;
  - Conduct periodic audits of processes being adopted in administration for efficient grant and management of IP rights;
  - Implement quality standards at all stages of operations with the aim to obtain ISO certification;
  - Provide continuous training to staff of the PVP, NBA and SBB offices to update them of developments in procedures substantive laws and technologies
- There should be exchange of best practices on PVP and biodiversity issues with other countries and international agencies
- There is also a need for more detailed policy, maybe a separate policy, addressing the needs of different industries.
- We also suggest the following modifications to the Patents Act:
  - Do away with section 8 requirements.
 

The section 8 in the current form is seen a disincentive to filling patent applications in India on account of the level and frequency of documents required to be furnished to the Indian patent office although most of the information should easily be available through online file wrappers.

Further, the absence of satisfactory compliance with Section 8, the patent is liable to invalidation and this is irrespective of the merits of the case in relation to substantive patentability.
  - Do away with working statement requirements under section 146

- Abolish, annual “working statement” requirements that could invoke the compulsory licensing provisions for not working.

We would be happy to make a detailed representation on the proposed recommendations in a frontal meeting with select members and explain the rationale behind the proposed recommendations.

We look forward to your continued guidance and support.

Thanking you and with kind regards,

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'Ajay Singha', is placed over a light blue rectangular background.

Ajay Singha  
Executive Director  
Amcham