

No. 12/30/2015-IPR-III (Part file 2)
Ministry of Commerce and Industry
Deptt. Of Industrial Policy and Promotion
(IPR-III Section)

Udyog Bhawan, New Delhi
Dated: 11 /07/2016

To,

Shri O.P. Gupta
Controller General of Patents
Designs & Trade Marks
Boudhik Sampada Bhawan
S.M. Road, Near Antop Hills
Mumbai-400037

Subject: Scheme for Facilitating Start-Ups IPRs.

Sir,

I am directed to say that the Definition of the Start-Up in the Scheme for facilitating Start-Up Intellectual Property Protection (SIPP) has since been revised as per the Definition given in the notification dated 17.02.2016 issued by DIPP in the context of Start-Ups in India. The requirement of the Start-Ups certification by Inter-Ministerial Board (IMB) has also been deleted from the Scheme.

2. A copy of the revised Scheme is enclosed herewith for further necessary action at your end.

Encl: As above.

Yours faithfully,



(Sanjay Kumar Lal)

Under Secretary to the Government of India
Tele. No. 23062906

9/10/16
with EN/SE mail
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11/7/16

Scheme for Facilitating Startups Intellectual Property Protection (SIPP)

Introduction

Intellectual Property Rights (IPRs) are emerging as a strategic business tool for any business organization to enhance industrial competitiveness. Startups, with limited resources and manpower, can sustain in this highly competitive world only through continuous growth and development oriented innovations; for this, it is equally crucial that they protect their IPRs. The scheme for Startups Intellectual Property Protection (SIPP) is envisaged to facilitate protection of Patents, Trademark and Designs of innovative and interested startups.

Vision

To protect and promote Intellectual Property Rights of startups and thus encourage innovation and creativity among them.

Objective

The scheme of SIPP aims to promote awareness and adoption of Intellectual Property Rights amongst startups. Scheme is inclined to nurture and mentor innovative and emerging technologies among Startups and assist them in protecting and commercialize it by providing them access to high-quality IP services and resources.

Who Can Apply

Any startup recognised in terms of explanation 5 of the Notification GSR 180(E) published in the Part II, Section 3, Sub Section (i) of the Gazette of India dated 17.2.2016.

It is further clarified that an entity shall be considered a 'startup' if it meets the terms and conditions laid down in the above mentioned notification.

The startups covered under this scheme will not be required to obtain certificate of an eligible business from the Inter-Ministerial Bard of Certification.

Appointment of Facilitators

For effective implementation of the scheme, facilitators shall be empanelled by the Controller General of Patent, Trademark and Design (CGPDTM). The CGPDTM shall regulate conduct and functions of empanelled facilitators from time to time.

In case of any complaint by a startup about a facilitator or on getting information about professional misconduct through any source, the CGPDTM can remove the facilitator from the panel.

Who can be a Facilitator

- i. Any Patent Agent registered with the CGPDTM.
- ii. Any Trademark Agent registered with the CGPDTM.

- iii. Any Advocate as defined under The Advocates Act" 1961 who is entitled to practice law as per the rules laid down by Bar Council of India from time to time, who is well-versed with the provisions of the relevant Acts and Rules, and is actively involved in filing and disposal of applications for patents, trademarks and designs.
- iv. Government departments/ organizations/ agencies like TIFAC, NRDC, BIRAC, DEITY, DSIR etc.

Functions of Facilitators

Among other functions as may be decided by the CGPDTM, facilitators will be responsible for:

- Providing general advisory on different intellectual property rights to startups on pro bono basis,
- Providing information on protecting and promoting IPRs to startups in other countries on pro bono basis,
- Providing assistance in filing and disposal of the IP applications related to patents, trademarks and Design under relevant Acts at the national IP offices under the CGPDTM
- Drafting complete provisional specifications for inventions of startups,
- Preparing and filing responses to examination reports and other queries, notices or letters by the IP office,
- Appearing on behalf of startup at hearings as may be scheduled,
- Contesting opposition, if any, by other parties, and
- Ensuring final disposal of the IPR application.

Fees of Facilitators

Following fees structure will be applicable to the empanelled facilitators, for any number of patents, trademarks or designs that may be applied for by a startup. The facilitator shall not charge anything from the Startup or the entrepreneur, and this fees shall be paid directly to the facilitator by the Central Government through the office of the CGPDTM. This structure may be revised from time to time by the Department of Industrial Policy and Promotion.

(Figures in ₹)

Stage of Payment		Patent	Trademark	Design
At the time of filing of Application		10,000	5,000	2,000
At the time of final disposal of Application	Without Opposition	10,000	2,000	2,000
	With Opposition	15,000	5,000	4,000

Note: If any application is withdrawn or abandoned before disposal of application, facilitator shall be entitled to fees only for filing of application and not for disposal of application.

Statutory Fees

The cost of the statutory fees payable for each patent, trademark or design applied for in India or abroad by a startup after launch of this scheme shall be borne by the startup itself.

Period of Scheme

The scheme shall be run initially on a pilot basis, and shall be applicable for a period of 1 year from the date of launch of Startup India.

Budget

The budget for the scheme shall be provided from the funds available with the Department.

Ownership of IPR

This scheme shall in no way transfer, either wholly or partially, ownership rights on the IPR created to the facilitator or the Government, and the Startup shall have full rights on the IP generated.

Disclaimer

The scheme does not in any way entitle the startup or the facilitator to grant or registration, as the case maybe, of the IPR; the applications shall be disposed off as per the relevant laws and rules.

औद्योगिक नीति एवं संवर्धन विभाग ऐसे मोबाइल एप/पोर्टल के शुरू होने तक स्टार्टअप को मान्यता देने की वैकल्पिक व्यवस्था कर सकता है। एक बार संबद्ध दस्तावेज के साथ ऐसा आवेदन अपलोड हो जाने पर स्टार्टअप को वास्तविक समय मान्यता नम्बर जारी किया जाएगा। यदि बाद में सत्यापन के समय यह पाया जाता है कि यह मान्यता, दस्तावेज के बिना अपलोड किए या अन्य दस्तावेज अपलोड होने या जाली दस्तावेज होने के कारण प्राप्त हुई है, तो संबंधित प्रार्थी दण्ड का भागी होगा जो स्टार्टअप की प्रदत्त पूंजी का 50 प्रतिशत होगा, लेकिन यह 25,000 रुपए से कम नहीं होगा।

यह अधिसूचना, राजकीय राजपत्र में प्रकाशन की तारीख से लागू होगी।

[फा. सं. 5(91)/2015-बीई. I]

रवनीत कौर, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Industrial Policy and Promotion)

NOTIFICATION

New Delhi, the 17th February, 2016

G.S.R. 180(E).—The Government of India has announced 'Startup India' initiative for creating a conducive environment for startups in India. The various Ministries of the Government of India have initiated a number of activities for the purpose. To bring uniformity in the identified enterprises, an entity shall be considered as a 'startup'—

- Up to five years from the date of its incorporation/registration,
- If its turnover for any of the financial years has not exceeded Rupees 25 crore, and
- It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;

Provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup';

Provided further that in order to obtain tax benefits a startup so identified under the above definition shall be required to obtain a certificate of an eligible business from the Inter-Ministerial Board of Certification consisting of:

- Joint Secretary, Department of Industrial Policy and Promotion,
- Representative of Department of Science and Technology, and
- Representative of Department of Biotechnology.

Explanation:

- An entity shall cease to be a startup on completion of five years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rupees 25 crore.
- Entity means a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2002).
- Turnover is as defined under the Companies Act, 2013.
- An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize:
 - A new product or service or process, or
 - A significantly improved existing product or service or process, that will create or add value for customers or workflow.

Provided that the mere act of developing:

- a. products or services or processes which do not have potential for commercialization, or
- b. undifferentiated products or services or processes, or
- c. products or services or processes with no or limited incremental value for customers or workflow

would not be covered under this definition.

5. The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion. Startups will be required to submit a simple application with any of following documents:
 - a) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a post-graduate college in India; or
 - b) a letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or
 - c) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator recognized by Government of India; or
 - d) a letter of funding of not less than 20 per cent in equity by any Incubation Fund/Angel Fund/Private Equity Fund/Accelerator/Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. Department of Industrial Policy and Promotion may include any such fund in a negative list for such reasons as it may deem fit; or
 - e) a letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or
 - f) a patent filed and published in the Journal by the Indian Patent Office in areas affiliated with the nature of business being promoted.

Department of Industrial Policy and Promotion may, until such mobile app/portal is launched make alternative arrangement of recognizing a 'startup'. Once such application with relevant document is uploaded a real-time recognition number will be issued to the startup. If on subsequent verification, such recognition is found to be obtained without uploading the document or uploading any other document or a forged document, the concerned applicant shall be liable to a fine which shall be fifty per cent of paid up capital of the startup but shall not be less than Rupees 25,000.

This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 5(91)/2015-BE. I]

RAVNEET KAUR, Jt. Secy.