

NGO asks govt to further amend Patent Act to avoid frivolous patent filings

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The National Working Group on Patent Law (NWGPL), an NGO working on patent issues in the country has asked the government to further amend the Amended Patent Act 1970 to avoid frivolous and questionable patent claims being filed by the industry and are being granted by the Patent Offices.

In a letter to Union commerce minister Anand Sharma, the NGO said that there are reports in the media that the stipulations in the Amended Patents Act 1970 are being misused. This misuse can be contained only if the Amended Patent Act 1970 is further amended on the lines of the recommendations of the Department Related Parliamentary Standing Committee on Commerce, both on (a) patentability of pharmaceutical substances and (b) patentability of micro-organisms.

Since the present Patents Act 1970 has been finally amended, there are reports in the media, which is confirmed by informed sources, that the stipulations in the Amended Patents Act 1970 are being misused. This is mainly due to the fact that the scope of patentability of pharmaceutical substances and of micro-organisms is vague and not specific. Consequently, frivolous and questionable patent claims are being filed by the industry and are being granted by the Patent Offices. This is a serious matter and calls for an urgent action by the Government, the letter said.

The Department Related Parliamentary Standing Committee on Commerce in its report submitted to the government had recommended that Article 27 of TRIPS stipulates that patent shall be available for any inventions, whether products or process. The terminology of patentable invention needs to be defined, so that the frivolous claims are not filed. It would be appropriate to define the invention as patentable basic invention. Similarly, the patentable pharmaceutical product should be restricted only to new drug molecules.

The Parliamentary Standing Committee had also recommended that the government should take an early and unequivocal decision with regard to patentability of micro-organisms per se or their specific activities. If needed, necessary amendments should be expeditiously carried out in the Patents Act.

The National Working Group on Patent Laws was established more than 20 years ago in 1988 under the chairmanship of eminent scientist Dr Nitya Nand when the Uruguay Round of GATT Negotiations was in the thick of negotiations. The members comprise of legal experts, academicians and senior experts from various NGOs. The Group established four People Commissions on Patent Law issues. The first two Commissions

were chaired by Justice V R Krishna Iyer and other two were chaired by I K Gujral, former prime minister of India.