

PCT reforms at WIPO will benefit Indian innovators, exporters: OPPI

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The Organisation of Pharmaceutical Producers of India (OPPI), which represents multinational pharma companies in the country, has joined issue with the forces who are opposing the efforts of the developed nations at WIPO for the patent harmonization which is feared to undermine the flexibilities available under TRIPS.

While several public interest organisations have urged the government to oppose any move on harmonization of patent administration as it can fundamentally change the way in which substantive decisions about granting patents are taken by the patent offices in developing countries, the OPPI argues that the proposed changes in the PCT (patent cooperation treaty) are an opportunity for countries like India. Hence, the OPPI has urged the Indian government to continue its support for efforts such as 'WIPO PCT Reform' that seek to facilitate India's further integration into the international economy while at the same time protecting Indian national interests.

Criticising those who oppose the move, OPPI director general Tapan Ray said that the proposed changes in the PCT have indeed important ramifications for countries like India, as they represent the greater opportunities that the PCT changes will provide Indian commercial interests through an improved international patent search and examination process. "As the third largest user among developing countries of the PCT system, India has a particular interest in ensuring that the PCT system supports its innovators and exporters in the most efficient manner possible," he said.

The PCT system allows reliance on international searches and examination in assessing patentability but it does not preclude national examination including decisions on patentability at a national level. WIPO's director-general Francis Gurry's remarks at the opening of the WIPO Assembly on September 22 make it clear that PCT reform is not a norm setting exercise and is voluntary.

Ray quotes Gurry, "...The PCT makes it very clear (Article 27(5)) that nothing in it is to be construed as in any way limiting the freedom of each Contracting State to determine its own substantive conditions of patentability. Neither the PCT nor the Road Map in any way affects TRIPs flexibilities. The Road Map is about improving the functioning of a procedural treaty that links together the patent offices of the world..."

Ray contended that the PCT is not a substantive treaty and it will not become one. By mixing up the different work streams of WIPO--some of which are substantive and some of which, like the PCT, are technical and administrative, some vested interests seek to create confusion. It is difficult to understand why such people would want to defeat a project that will permit Indian high-tech companies to leverage India's strong educational and legal infrastructure to compete effectively in the global economy of the twenty-first

century.

Ray said that Indian innovators also have an important stake in 'WIPO PCT Reform'. It is, therefore, very much in the interest of the government of India that such reform succeeds now that it has reached elite status in the international intellectual property regime.

Just last year, the Indian Patent Office (IPO) became one of only fifteen national patent offices to be recognized as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) by WIPO. As an ISA, the Indian Patent Office now approves or establishes the title and conducts international searches. Scepticism of a group of vested interests on this much desirable 'WIPO PCT Reform' could set back the international recognition that India has deservedly gained from being the only English speaking country in the Asian region to be recognized as an ISA and IPEA.