

Patent office yet to upload information on working patents in India

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Wednesday, June 15, 2011, 08:00 Hrs [IST]

The patent office is yet to upload the information it has collected from the companies on their patents that are being worked in India, on its website for public use. According to the Controller General of Patents, Designs & Trade Marks, the data collected through this was supposed to be accessible to the public on its website by June 1, 2011. However, as of now there have been no updates on the same.

With an aim to collect and furnish information of all the working patents in India, the patent office had issued a notice under Section 146 (2) and Rule 131 (2) of the Patents Act calling upon patentees and licensees to furnish information relating to the working of granted patents before March 31, 2010. Through this move the patent office wanted to ensure that all the patents that are being granted ultimately served the public.

Most importantly, this move allows information available for everyone which otherwise could have been procured only by way of an application filed under the Right to Information Act. A patent is granted in order to encourage innovation and to ultimately serve the public interest. This move ensures that if the patentee does not furnish information on how they are making use of the patent then a compulsory license would be granted to make use of the patent for larger purpose.

Speaking on the same, Dr Milind Antani, Head Pharma & Life Science practice from Nishinth Desai Associates informed that this move by the patent office will make the data easily available to the general public. It is expected that the information collected by the patent office will go a long way in helping generic pharma companies in determining which patents are ready for compulsory licensing.

He informed, "Generic companies capable of producing the same products may use this information to evaluate whether they should opt for obtaining a compulsory license to meet the domestic demands if the patentee is not in a position to fulfil the demands."

In spite of the delay in uploading the information, many think that this a very good step taken by the patent office since it will encourage invention and provide an exclusive incentive to the patentee to commercially exploit the patented invention to the maximum possible.

According to Dr Gopakumar G Nair, patent attorney and CEO, Gopakumar Nair Associates this step is taken to ensure that the companies utilise the patents they have been granted rather than keeping it without use. “Under the law the companies now will have to show whether the patent is being worked in India or not. It is a very good move made by the patent office since it is an act of infringement to have a patent and not utilising it.”

It is mandatory for the holder to furnish the information on the patents they have and how they are used. By filling in the form 27, the government will have an account of the quantum and value of sales of the patented article and whether the patentees are manufacturing the article in India or whether they are importing the product from foreign countries.