



## **Indian Government consultation on draft Patent (Amendment) Rules, 2015**

### ***Introduction***

The IP Federation represents IP-intensive companies in the United Kingdom (see list of members attached). This includes companies which are active in India, both as local manufacturers, with research and development bases in India, and importers to India. Thus the members of the Federation, although based in the UK, have extensive knowledge of the Indian market and patent system, as well as being contributors to the Indian economy.

### ***The Consultation***

To support the Indian Prime Minister Modi's aims of improving ease of doing business in India, the Indian Patent Office announced on 29 October 2015 a consultation on Amendments to its Patents Act. The Amendments seek to streamline the process of patent applications and processing.

The full text of the Amendments is [here](#). Any comments that people wish to be considered by the Indian Government may be sent to [Rajiv Aggarwal](#) at the Ministry of Commerce and Industry Department of Industrial Policy and Promotion within 30 days of the announcement, that is before **27 November 2015**.

### ***IP Federation Response***

The IP Federation makes the following comments in respect of two specific Rule amendment proposals that if implemented will impose a significant burden to Applicants, whether they be national or foreign.

#### **1. Rule 24B – proposal to reduce the term for the compliance term set by the first office action from 12 months to 4 months, with possible extension for an additional 2 months on payment of a fee.**

We understand that this proposal is made with the intention of leading to a reduction of the current high examination backlog, and a speeding up of the examination process.

This proposal will not solve the issue of the backlog in examination nor lead to earlier grant of an application.

Examination delay and the backlog in examination is the result of delays within the Patent Office itself and not a failure to act on the part of the Applicant.

Reduction of the term to 4 months (6 months with paid extension) will put undue burden on both the agent of record and on the Applicant for no good benefit. There have been numerous Rule changes in the past that have reduced the term set by the first office action issued by the Patent Office, yet there has been NO noticeable reduction in the examination backlog as a result.

We urge that this proposed Rule change is not adopted, nor any further revision that reduces the compliance term.

**2. Rule 24C – proposal for expedited examination, for those applications that meet set requirements, and on payment of a fee.**

The proposals contained in proposed Rule 24C are not workable; further we understand that the fee set is excessive, being of the order of \$4,000.

While Applicants may look for expedited examination in India, it is unlikely that many Applicants can or will fulfil the stringent requirements proposed.

Even if an Applicant can meet the requirements, the fee imposed imposes a significant financial penalty, particularly as the level of the fee is not in alignment (or even close to) that set in other jurisdictions that require a fee for expedited examination.

We are grateful for the opportunity to submit these comments and thank you for your consideration of them.

IP Federation  
26 November 2015



## **IP Federation members 2015**

The IP Federation represents the views of UK industry in both IPR policy and practice matters within the EU, the UK and internationally. Its membership comprises the innovative and influential companies listed below. The CBI, although not a member, is represented on the Federation Council, and the Council is supported by a number of leading law firms which attend its meetings as observers. It is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd  
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ARM Ltd  
AstraZeneca plc  
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BP p.l.c.  
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BTG plc  
Caterpillar U.K. Ltd  
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Element Six Ltd  
Eli Lilly & Co Ltd  
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Fujitsu Services Ltd  
GE Healthcare  
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GlaxoSmithKline plc  
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HP Inc UK Limited  
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Johnson Matthey PLC  
Merck Sharp & Dohme Ltd  
Nokia UK Ltd  
Pfizer Ltd  
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