

Standing Committee on the Law of Patents

Fifteenth Session

Geneva, October 11 to 15, 2010

ADDENDUM TO THE REPORT ON THE INTERNATIONAL PATENT SYSTEM: REVISED ANNEX II OF DOCUMENT SCP/12/3 Rev.2

Document prepared by the Secretariat

1. In a communication dated, August 25, 2010, the International Bureau received updated information from India regarding Annex II of the Report on the International Patent System, which should be included in the Annex of document SCP/15/2.
2. The said information is contained in the Annex to the present document.

[Annex follows]

(2) Novelty

Country	Novelty
India	The invention is not anticipated by the publication in any document or used or known in India or elsewhere in the world before the filing date (priority date), i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art, and the invention has not been claimed in any claim of any other complete specification claiming earlier priority date and published on or after priority date of the application.

(4) Grace Period

Country	Grace Period
India	<p>An invention shall not be deemed to have been anticipated by:</p> <ol style="list-style-type: none"> 1. Disclosures at any time before the filing date (priority date) of matter obtained from, and published without the consent of, the inventor or his successor in title (provided that the invention was not commercially worked in India, otherwise than for the purpose of reasonable trial, and that a patent application for the invention was filed in India or a convention country as soon as reasonably practicable thereafter). 2. Other applications made in contravention of the rights of the inventors or his successor in title or public use or publication of the invention without the consent of the inventor or his successor in title by the applicants of such other applications or by any other person in consequence of the disclosure. 3. Disclosures due to the communication of the invention to the Government or to any person authorized by the Government to investigate the invention or its merits, or for the purpose of that investigation. 4. Disclosures within 12 months before the application is made (calculated from the opening of the exhibition or the reading or publication of the paper) by: <ol style="list-style-type: none"> (a) display or use of the invention with the consent of the inventor or his predecessor in title at an industrial or other exhibition notified in the Official Gazette; (b) publication of the invention in consequence of such display or use; (c) use of the invention during the period of the exhibition without the consent of the inventor or his predecessor in title; (d) description of the invention in a paper read by the inventor before a learned society, or published with his consent in the transactions of such a society. 5. Disclosures within one year before the filing date (priority date) by public working the invention for reasonable trial, by or with the consent of the applicant or his predecessor in title. 6. Publication of invention anywhere in the world or use of the invention in India at any time after the filing of the provisional specification or complete specification which is treated as provisional specification by virtue of a direction under sub-section (3) of section 9 of the Act.

(6) Exclusion from Patentable Subject Matter

Country	Exclusion from Patentable Subject Matter
India	<ol style="list-style-type: none"> 1. Inventions which are frivolous or obviously contrary to well established natural law. 2. Inventions use or commercial exploitation of which is contrary to law or morality or causes serious prejudice to human, animal, or plant life or health or to the environment. 3. Discoveries of a scientific principle or formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature. 4. Mere discovery of a new form of a known substance which does not enhance known efficacy of that substance, or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant. 5. Substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance. 6. Mere arrangement or re-arrangement or duplication of known devices each functioning independently in a known way. 7. Agricultural and horticultural methods. 8. Any processes for medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatments of humans or any process for a similar treatments of animals to render them free of disease or increase their economic value or that of their products. 9. Plants and animals in whole or any part thereof other than microorganisms, but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals. 10. Mathematical or business method or a computer program per se or algorithms. 11. Literary, dramatic, musical or artistic work or any other aesthetic creation whatever. 12. Mere scheme or rule or method of performing mental act or method of playing game. 13. Presentation of information. 14. Topography of integrated circuits. 15. An invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component(s). 16. Inventions relating to atomic energy which is falling within sub-section (1) of section 20 of the Atomic Energy Act 1962.

(7) Exceptions and Limitations to the Rights

Country	Exceptions and Limitations to the Rights
India	<p>1. The grant of a patent is subject to the following conditions:</p> <p>(a) importation or manufacture of articles and uses of processes by, or on behalf of the Government for its own use;</p> <p>(b) importation of medicines and drugs by the Government for its own use or for distribution in dispensaries, hospitals or other medical institutions maintained by, on behalf of or specified by the Government;</p> <p>(c) use for purposes merely of experiment or research, including the imparting of instructions to pupils.</p> <p>2. Use of the invention:</p> <p>(a) in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof on board the vessels and for its actual needs only or</p> <p>(b) in the construction on working of the aircraft or land vehicle or of the accessories thereof, where such vessel or aircraft registered in the foreign country or land vehicle owned a person ordinarily resident in such foreign country and temporarily or accidentally come to India provided such foreign country also confers such corresponding rights to Indian vessels, aircraft or land vehicles owned by the person ordinarily resident in India.</p> <p>3. Use of the inventions for the purposes of the Government and acquisition of the invention by the Government.</p> <p>4. Act of making, constructing, using, selling or importing a patented invention solely for uses reasonably related to the development or submission of information required under any law that regulates the manufacture, construction, use, sale or importation of any product.</p> <p>5. Importation of patented products from a person who is duly authorized under the law to produce and sell or distribute the product.</p> <p>6. Compulsory licenses.</p>

[End of Annex and of document]