

Intellectual Property advocacy in the fields of:

- IP Infrastructure
- IP Policy
- Patent Law
- Copyright
- IP Valuation
- Technology Transfer
- Licensing
- Collaborations
- M & A
- Innovation Research
- Data Management
- Balance for Rights & Obligations

OCTOBER 2026

EDITORIAL

IP INDIA'S NEW INITIATIVES NEED PUBLIC RESPONSE AND

COMMENTS

IP India (CGPDTM) is coming up with various initiatives in IP policy and procedures which are notified in the "**Latest Public Notices and IP News**" column in IP India (<https://ipindia.gov.in/>) website. Participating in public policy initiative are absolutely essential to strengthen the system and make Indian IP ecosystem sound and strong. A few recent notifications relate to

- Guidelines for the Use of Artificial Intelligence in Patent Examination Procedures
- Draft Manual of Patent Office (Practice & Procedure) 2026 (New)
- Draft Biotech Guidelines
- Draft Guidelines for Examination of Patent Applications in the Field of Pharmaceuticals
- Status Report on Ayush Related invention
- Draft Guidelines for Registration of Designs Relating to GUI & ICON etc.

All stakeholders need to respond and contribute their views to strengthen the IP system in India and also to ensure that all expectations from the IP India and CGPDTM were met and made compliant to expectations of the users / applicant / practitioners.

BOMBAY HIGH COURT RESTORES SCIENTIST'S PATENT APPLICATION AFTER 13-YEAR DELAY

The Bombay High Court has directed the Indian Patent Office to reconsider a patent application filed by Dr. Tarkeshwar Chandrakant Patil, observing that the prolonged delay in its examination had significantly curtailed the effective term of patent protection available to the inventor.

The matter concerned an invention titled “An Apparatus and a Method for In-Vivo Power Generation”, relating to a device and method for generating power to operate medical devices implanted in the human body. Dr. Patil had developed the technology while pursuing his Ph.D. at IIT Bombay and filed the corresponding Indian patent application in August 2013, with IIT Bombay initially reflected as the applicant.

The dispute subsequently arose over ownership of the invention. IIT Bombay's intellectual property policy generally provided the institute with rights over inventions developed by its researchers. However, the institute later

executed a worldwide Deed of Assignment in favour of Dr. Patil in July 2017, transferring the rights in the invention to him.

The Patent Office ultimately rejected the application in 2025. Dr. Patil challenged the rejection before the Bombay High Court, contending, among other things, that the assignment had transferred the rights in the invention to him.

Court's Observations on Ownership

The High Court noted that the assignment transferred the full and exclusive rights in the invention to Dr. Patil, including rights in India and other jurisdictions. The Court found no basis for treating the assignment as effective in foreign countries while excluding India.

The Court also took note of the fact that patents had subsequently been granted in the United States in Dr. Patil's name. It observed that the Patent Office, while examining the Indian application, ought to have considered the assignment as well as the applicant's claim of ownership.

Delay in Examination

A significant aspect of the case was the prolonged pendency of the patent application. The application remained pending for more than 13 years before its rejection in 2025.

The Court observed that such a delay substantially diminishes the period during which an inventor can practically enjoy patent protection, given that the statutory term of a patent is generally limited to 20 years from the filing date.

Consequently, the High Court set aside the rejection and directed the Patent Office to reconsider the application and issue a reasoned decision within eight weeks.

Source: Free Press Journal News Service, Mumbai.

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KERALA HIGH COURT EXAMINES GOVERNMENT'S POWER TO USE PATENTED MEDICINES UNDER SECTION 100

The Kerala High Court has examined the scope of **Section 100 of the Patents Act, 1970**, in the context of access to patented medicines and their affordability. The Court observed that the provision may enable the Central Government to use a patented invention for manufacturing a patented medicine and supply it to an individual, including a patient in need, on a non-commercial basis.

The proceedings arose from a petition concerning the affordability of **ribociclib**, a patented CDK4/6 inhibitor used in the treatment of certain forms of breast cancer. The petitioner had sought government intervention in relation to the price of the medicine. During the pendency of the proceedings, the petitioner passed away, following which the Court took **suo motu cognizance** of the broader issue concerning the pricing of life-saving patented medicines.

Government Use Under Section 100

The Court noted that Section 100 may be invoked where government intervention is considered necessary, including circumstances

in which a patented medicine is allegedly being supplied at an exorbitant price. However, the Court did not direct the Government to invoke the provision.

Instead, the Court indicated that the Government must first **collect relevant factual data and assess the affordability of the medicine** before determining whether invocation of Section 100 is warranted.

The Court identified factors that may be relevant to such an assessment, including the number of persons affected by the particular disease, the number of patients using the medicine, instances where patients are unable to access the medicine because of its price, and information that may be obtained from hospitals across the country.

The Court also observed that the Government should examine the effectiveness of existing schemes providing medicines at subsidised prices and consider whether such measures require further expansion.

Implications for Patented Medicines

The decision brings attention to an important aspect of the Indian patent framework: **patent rights operate alongside statutory mechanisms that permit government intervention in specified circumstances.** Section 100 specifically concerns the Government's use of patented inventions and is distinct from the compulsory licensing mechanism under Sections 84 and 92.

The proceedings also involved arguments concerning the availability of alternative treatments and the commercial and patent interests of the concerned pharmaceutical companies. The Government informed the Court that measures had already been taken in relation to ribociclib, including a price cap and reduction in the applicable basic customs duty.

The Court referred to the **139th Report of the Department-related Parliamentary Standing Committee on Health and Family Welfare**, published in September 2022, which had highlighted concerns regarding the

affordability of cancer care and the need for suitable interventions.

Source: PharmaBiz, “*Centre can use powers to make patented medicine on a non-commercial basis, says Kerala HC*”, 28 September 2026.

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CBI REGISTERS CASE AGAINST MUMBAI PATENT AGENT OVER ALLEGED ₹1.65 LAKH BRIBE DEMAND

The Central Bureau of Investigation (CBI) has registered a case against **V. Bhatt, a patent agent/IPR professional based in Dahisar, Mumbai**, following a complaint alleging that he demanded money from the director of a start-up in connection with the grant of a patent.

According to the CBI, the complaint was filed by the director of a **Navi Mumbai-based start-up involved in developing technology for food safety**. The company had filed a patent application on **8 September 2025**.

Patent Prosecution and Appointment of New Agent

The Patent Office issued a **First Examination Report (FER) on 20 November 2025**, to which a response was filed on **16 March 2026** through the company’s earlier patent agent. Subsequently, a notice of oral hearing was issued on **24 July 2026**.

As the earlier agent expressed an inability to appear at the hearing, the company appointed Bhatt to represent it before the Patent Office. According to the complaint, the company paid him **₹35,000 towards his professional fees in advance**, as stated in his invoice.

Alleged Demand for ₹1.65 Lakh

The CBI alleges that on **9 September 2026**, the complainant received a telephone call from an individual who identified himself as a member of Bhatt’s staff. During the call, Bhatt allegedly informed the complainant that the patent application could face rejection by the Deputy Controller of Patents and claimed that he could approach a senior Patent Office

official to facilitate its grant in exchange for payment.

The following day, Bhatt allegedly demanded **₹1.65 lakh**, purportedly for securing the grant of the patent. When the complainant sought additional time, Bhatt allegedly stated that the patent would be granted within two hours. According to the complaint, the patent was granted later that day.

Demand Allegedly Continued After Grant

The CBI further stated that approximately a week later, an employee of Bhatt contacted the complainant regarding the payment allegedly intended for the Patent Office official. The complainant, who was then in Kochi, reportedly informed the employee that he would speak to Bhatt after returning to Mumbai.

On **21 September 2026**, Bhatt allegedly contacted the complainant and demanded payment of the amount, or at least **₹50,000 as an initial payment**. The complainant allegedly told him that the patent had been granted on its own merits. According to the

CBI's FIR, Bhatt allegedly responded that the patent could subsequently be revoked if the payment was not made.

The CBI further alleged that Bhatt did not disclose the identity of the Patent Office official, stating that the information was confidential and that the work had already been completed on the understanding that the payment would be made.

CBI Verification

Bhatt allegedly asked the complainant to arrange delivery of **₹50,000 on 23 September 2026**. The complainant, who stated that he did not wish to make the alleged payment, approached the CBI.

The agency conducted a discreet verification of the complaint on the same day. During the verification process, the CBI stated that Bhatt communicated with the complainant over WhatsApp and allegedly reiterated the demand, stating that the money was intended for the Patent Office official who had granted the patent based on his assurance of payment.

The matter is presently based on the allegations recorded in the CBI's complaint and FIR. Further investigation would determine the factual circumstances surrounding the alleged demand and the involvement, if any, of other persons.

Source: Free Press Journal, 30 September 2026.

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Supreme Court to Examine Patent Term and Delay in Grant Proceedings

The Supreme Court has issued notice in **Gunjan Sinha @ Kanishk Sinha & Anr. v. Union of India & Anr.**, bringing into consideration an important question concerning the effect of prolonged delays in the examination and grant of patents on the statutory period of patent protection.

The proceedings arise from a patent application filed on **2 May 2005**, which was granted only on **28 December 2012**, resulting in a gap of nearly seven years between filing and grant. Under **Section 53 of the Patents Act, 1970**, the term of a patent is twenty

years from the date of filing of the application. The petitioners contend that a substantial portion of the patent term may therefore be consumed during the period when the application remains under examination.

Interplay Between Sections 53 and 11A(7)

The dispute concerns the relationship between **Section 53** and **Section 11A(7)** of the Patents Act.

Section 53 fixes the statutory term of a patent at twenty years from the filing date. Section 11A(7), on the other hand, provides certain rights and privileges to an applicant from publication of the application until grant, while expressly providing that an infringement proceeding cannot be instituted until the patent has actually been granted.

Before the Calcutta High Court, the petitioners argued that the operation of these provisions creates a situation in which the patent term continues to run even though the applicant cannot exercise the full rights of a patentee during the pendency of the application.

The Calcutta High Court, however, held that the two provisions operate in **distinct fields**. It observed that Section 11A(7) provides certain interim rights following publication, whereas Section 53 determines the duration of the patent itself. The Division Bench also declined to introduce a mechanism for extending the patent term through judicial intervention, observing that creation of such a statutory mechanism would fall within the legislative domain.

Reference to Patent Term Adjustment

The proceedings also raise the question of whether India should have a mechanism comparable to the **Patent Term Adjustment (PTA)** framework in the United States, under which certain delays attributable to the patent office can result in an adjustment of the patent term.

The petitioners have relied upon this concept in challenging the consequences of prolonged examination and grant delays. The Calcutta High Court had noted that introducing such a

mechanism would require legislative intervention rather than judicial creation.

Supreme Court Proceedings

The matter has now reached the Supreme Court through a Special Leave Petition. On **21 September 2026**, a Bench comprising **Justice Pamidighantam Sri Narasimha and Justice Alok Aradhe** issued notice and requested **Advocate Kruttika Vijay to assist the Court as Amicus Curiae**. The matter is presently listed for **26 October 2026**.

Importantly, the Supreme Court has **not yet ruled on the merits of the claim for patent term adjustment**. The proceedings are presently at the notice stage. Accordingly, there is currently no judicial recognition of a general PTA mechanism under Indian patent law.

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DELHI HIGH COURT REAFFIRMS SEPARATE HEARING REQUIREMENT UNDER SECTION 14 IN SUGAMMADEX PATENT CASE

The Delhi High Court, in **Fresenius Kabi v. Controller of Patents**, has set aside the

refusal of a patent application concerning an improved process for preparing **Sugammadex**, primarily on the ground that the applicant was not provided a separate hearing under **Section 14 of the Patents Act, 1970**.

The application related to a process using an isolated salt of 3-mercaptopropionic acid, which the applicant claimed resulted in improved purity, reduced impurities, shorter reaction time and better scalability.

Section 14 Hearing Cannot Be Replaced by Pre-Grant Opposition Hearing

The Court clarified that a hearing conducted in a **pre-grant opposition under Section 25(1)** cannot substitute the separate hearing contemplated under **Section 14**.

The two provisions serve different purposes. Section 14 concerns the applicant's opportunity to respond to objections arising during examination, whereas Section 25 deals with objections raised by an opponent. Therefore, even where a pre-grant opposition has been heard, the Controller must independently consider the patent application

and provide the applicant an opportunity of hearing before refusing it.

The Court relied on earlier decisions of the Delhi, Bombay and Calcutta High Courts supporting this distinction and held that the absence of a Section 14 hearing constituted a procedural violation warranting setting aside of the refusal.

Concerns Regarding Prior-Art Analysis

Although the Court did not finally decide the substantive issues, it also highlighted concerns regarding the Controller's approach to **novelty and inventive step**.

The Court questioned the use of multiple prior-art documents without adequately explaining why a person skilled in the art would have combined their teachings. Such an approach may result in **hindsight analysis**, particularly where the invention itself is used as a guide to piece together separate prior-art disclosures.

The Court also noted the importance of identifying the appropriate closest prior art

and establishing a logical basis for combining references when assessing inventive step.

Technical Evidence Requires Consideration

The Court further observed that several technical submissions made by the applicant had not been adequately addressed. These included the claimed advantages relating to **purity, reaction time, scalability and the use of an isolated salt**, as well as the applicant's submissions concerning the impurity profile of the resulting product.

The Court also noted questions concerning the application of **Section 3(d)** and whether the differences in the resulting product and impurity profile had been properly considered.

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ELECTRONIC COMMUNICATION OF FIRST EXAMINATION REPORTS (FERS) FOR DESIGN APPLICATIONS

The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM), Intellectual Property India, has issued a Public Notice regarding the electronic communication of First Examination Reports (FERS) in respect of Design applications.

With effect from 2 October 2026, FERS relating to Design applications will be communicated to applicants exclusively through the e-mail address provided in Form-1 under the “Address for Service in India” particulars. Accordingly, physical dispatch of FERS by post has been discontinued, except where the Controller considers physical communication necessary in the interest of justice or for administrative reasons.

Applicants, registered patent agents and advocates are therefore advised to:

- ensure that the registered e-mail address provided in the Design application is accurate and active;
- regularly monitor the registered e-mail inbox, including the spam/junk folder, for communications from the Patent Office;
- regularly check the Design e-Filing system for status updates, including “Application Under Process, Case Is Waiting for Examination Report Reply”; and
- promptly update any changes to the e-mail address and mobile number in accordance with the Designs Act, 2000 and the Designs Rules, 2001.

Applicants and registered patent agents should take note of this change and ensure continuous monitoring of the registered e-mail address to avoid missing FER communications and the applicable statutory response period.