



Discussion On Scheme for Facilitating Start-Ups Intellectual Property Protection

InvnTree had previously published an [article](#) discussing Government of India's proposal on patents in its "Start-up Action Plan". The Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM), which is generally referred to as the Indian Patent Office (IPO), has published a "Scheme for Facilitating Start-UPS Intellectual Property Protection" (SIPP), which provides the implementation details of the proposal made in the action plan.

The points in the action plan relating to patents broadly focused on three aspects:

1. 80% cut in the patent application fee for start-ups
2. Panel of facilitators to provide legal support and assist in filing of patent applications
3. Patent applications of start-ups to be fast tracked

SIPP on the other hand provides implementation details corresponding only to the second point listed above, which will now be discussed.

The implementation details provided in SIPP, among other things, sheds light on:

1. Eligibility to avail benefits of the scheme
2. Qualification of facilitators
3. Fees to the facilitators and their functions

Eligibility to avail benefits of the scheme

An entity to avail the benefits of this scheme has to be certified as "start-up" by the Start-up Certification Board. Several requirements have to be met to be certified as "start-up", which will not be discussed in the article.

In other words, any entity/company, just by the virtue of being formed newly does not qualify to benefit from this scheme. The entity has to be certified by the Start-up Certification Board.

Qualification of facilitators

We had [earlier](#) envisaged that provisions applicable to existing patent facilitation centres would be modified to accommodate requests from start-ups. We had also discussed limitations of such centres. SIPP appears to have taken into account such limitations of existing centres and has tried to add more facilitators.



The facilitators will be empanelled by the Controller (CGPDTM). Patent agents, trademark agents, advocates and some government departments can apply to the Controller to be empanelled as facilitators. The Controller has in-fact sent out emails to patent agents informing about the scheme and has sought applications.

In a nutshell, a large number of professionals can be empanelled as facilitators by the Controller. However, the quality of the professionals who would be willing to be facilitators is something to watch out for given the fee prescribed in the scheme.

Fees to the facilitators and their functions

The structure of the facilitator's fees is provided in the table below.

Stage of payment		Patent	Trademark	Design
At the time of filing application		10000	5000	2000
At the time of final disposal of application	Without opposition	10000	2000	2000
	With apposition	15000	5000	4000

All figures in INR

Speaking of patent application filing, the activities carried out at the time of filing include, drafting of a patent specification and filing of a patent application, and may optionally include prior art search. Considering the tasks involved at the time of filing, the fee prescribed is far from reality, in our opinion. It appears that the scheme has been scripted just for the sake of having a scheme in place.

The facilitators will be directly paid by the Central Government. Further, the facilitators are not supposed to charge anything from the start-ups. Hence, the facilitators have to render their services for the above mentioned fees, and nothing in addition to that.

It is not very clear whether a person or entity once empanelled as facilitator is compelled to work as per the fee prescribed above while working with certified start-ups, or are they free



to charge their typical fee if the certified start-up chooses not to avail the benefits of this scheme. In case the facilitators are compelled to work as per the above prescribed fee, then I doubt if serious patent professionals would be keen on being empanelled as facilitators.

While the fees prescribed for patent and design services appear to be far from reality, the fee prescribed for trademark services appear to be relatively closer to reality.

We hope this article helps start-ups gain better understanding of the scheme related to patents resulting from the Start-up Action Plan.

Please feel free check our [patent services](#) page to find out if we can cater to your patent requirements. You can also [contact us](#) to explore the option of working together.

Best regards – Team InvnTree

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