



COMMENTS / SUGGESTIONS

On

DISCUSSION PAPER: REVIEW OF ORGANISATIONAL STRUCTURE OF THE
OFFICE OF THE CGPDTM

Submitted By:

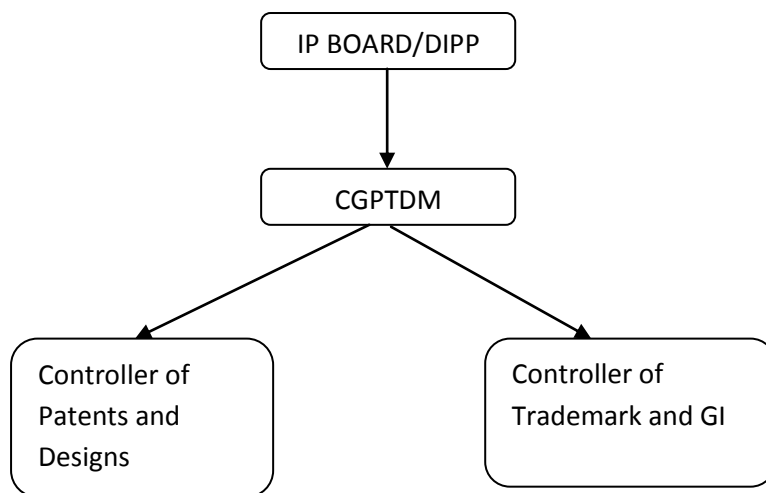
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1. Given the radically different skill requirements of trade mark and patent office staff, the operational difficulties and the present challenges being faced by the O/o CGPDTM, is it desirable to establish an independent office for the Trade Marks and GI registry?

Yes, it would be desirable to have independent offices for Trademark and GI registry. As the skill set required for the functioning of these offices differ, there may be no disadvantage in dividing the two offices. Further a clear demarcation of responsibilities by appointment of independent controllers for Trademark and GI, and Patent and Design is suggested.

2. If so, what should be the organisational and reporting structure for each office?



3. Given the sensitivity of Patent law and practice in India and also the experience in other major IP Offices such as the USPTO, would it be appropriate to consider making the Office of CGPDTM autonomous? Is it possible to bifurcate the two offices and make the Trade Marks Registry and the Patent and Design Office two autonomous organizations?

Yes it would be advisable to make the Office of CGPDTM autonomous such that funds received by the IPO are available to the IPO for smooth and effective function. As per the organisational structure provided herein above, the two offices may be bifurcated to perform their activities under the supervision of respective controllers without the need for the two offices being autonomous.

4. What legal changes are required? What changes are required to the rules?

As per the model proposed herein above, no legal changes may be required.

5. Can the reorganization of the office of CGPDTM be taken up within the existing framework without seeking any amendments to the law? If so, what can be an ideal model?

The model proposed herein above may be considered and no legal changes may further be required.

6. How should the office of the Controller be strengthened?

The office of the controller may be made autonomous thereby giving the controller general's office more control over funds. The reporting structure as suggested in Point 2 may be considered.

7. The Department had taken an initiative to outsource some part of the prior art search of the Patent office to CSIR. This project is proving to be beneficial. Which other organizations could be tapped for the purpose. Are there likely pitfalls that the department must take precautions against? What could be such precautions?

It is suggested that proper due diligence is done to ensure that the work such as prior art searches, not be outsourced to organisations where there could be conflict of interest as many such organizations might themselves be involved in filing of patents. It is also suggested that a separate entity/personnel be incorporated / delegated within the IPO to perform such functions. Further, stringent confidentiality measures, appropriate training and quality control measures may be taken to ensure quality is maintained.

8. Is a similar outsourcing (including employment of temporary but qualified personnel) exercise possible in case of trademarks where more than 400000 trademark applications are pending at various stages? If so, what could be the safeguards that should be put in place?

No similar outsourcing exercise is suggested. It is suggested that a separate temporary or permanent entity/personnel be incorporated / delegated within the IPO to perform such functions.

9. What other measures can be used to improve the base of examination of applications within the framework of the existing legislation?

10. In spite of e-filing for patents etc. and streamlining of the examination process, is there a need for setting up additional offices?

It would be suggested to have additional offices, though not necessarily as full fledged offices but at least as documents receiving offices. It is also suggested that the efficient use of technology be made in order to reduce the errors and improve efficiency. Discounts on govt. fee may be provided to incentivize filing through online systems.

11. The National Institute of Intellectual Property and Management, which is housed in Nagpur, is at present under the supervision of the CGPDTM. This institute needs to be developed into a world class institution for research and training in the field of IP. Would it be better for such an institution to be directly controlled by the Ministry or should it continue as one of the offices of CGPDTM?

It would be better that the NIIPM should not be controlled by the office of CGPDTM. The office of CGPDTM should primarily focus on the procedural aspects involved in IP. The Ministry should take appropriate steps to ensure that NIIPM is developed into a world class institution.

12. The recruitment of officers has been delayed inordinately by the complicated, prolonged procedures involving interdepartmental approval. What could be the options to address this problem? Should a special dispensation be sought to address this issue. If so, what could be the possible course of action?

13. Since Trademark registration is a quasi judicial process involving opposition cases and hearings, what can be done to address the large number of vacancies for the post of Assistant Registrar and above? If it is not possible to select new officers immediately, what can be done to remedy the situation?

Hiring of candidates for temporary positions with necessary qualification may be performed and appropriate training may be provided.

14. Considering the importance of trademarks in India and the fact that a majority of the application are made by Indian applicants, should the size of the Registry be addressed in the XII Plan? What could be an appropriate structure?

15. In view of the fact that some innovations can qualify for different kinds of IPRs, would it be better to have a single window at the front end for applicants for all kind of IPRs while the specific IPR issues could be handled by different offices at the back-end ?

Yes, a single window concept for filing various applications would be beneficial as mentioned earlier. Multiple document receiving offices may also be established which receive various IPR applications.