

June 23, 2011

The Joint Secretary,
Department of Industrial Policy & Promotion,
Ministry of Commerce & Industry
Udyog Bhavan,
New Delhi 110 011.

Sub: **Utility Models**

Dear Sir,

We have for reference the Discussion Paper on Utility Models placed on the DIPP website. Our experts have gone through the same and are rather surprised that our Government has initiated a thought process on the same.

We strongly object to the entire idea of introducing Utility Models or Petty Patents and our objections are articulated below:

- Although it is true that many countries have adopted Utility Models to reward minor improvements, we (the Indian Drug Manufacturers' Association) are of the firm opinion that there is no need to introduce a new IPR in our country in the form of Utility Models or Petty patents. All IPRs create monopolies which, at best, is a compromise which the society makes in the hope of the invention becoming public property after the expiry of the designated period. A Utility Model would create a monopoly of 10 years or so. There is absolutely no reason for the public to be burdened with a 10 year monopoly which would raise the price of that article many fold.
- Utility Models basically relate to some minor improvement which is not 'significant' within the meaning of Patents Act Section 3d. We strongly

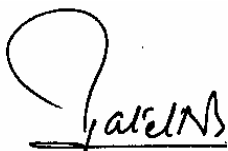
believe that by accepting Utility Models we will be defeating the purpose for which Section 3D was introduced, i.e. Stop granting Patents for minor improvements. You will appreciate that this is an arm bending tactic used by MNCs and other vested interests for back door ever greening of Patents, at a heavy cost to consumers.

- In order to compensate the ‘developer’ or the person making the ‘improvement’ or ‘improvisation’, we suggest a different but balanced model. There are already other provisions such as the registration as a ‘design’ under the Design’s Act or putting the ‘improvement’ under a ‘brand’ and registering it under the Trade Marks Act. These are some of the ways which can give the ‘developer’ reasonable amount of monetary reward without affecting the rights of the public for uninhibited use of the improved product.
- Since TRIPS is silent on this subject, we have flexibility. We are of the opinion that anything that is TRIPS PLUS should not be included in our Patent Laws.
- Since we have demonstrated our total objections to the introduction of Utility Models, we strongly object to the provisions suggested in the Discussion Paper which suggests the inventor to apply both for Utility Model and for Regular Patent. We are therefore, of the strong view that applications should be accepted only for ‘Regular Patent’ and not for “Utility Model”.

In view of what has been mentioned above, we urge you not to consider introducing Utility Models as it will not only dilute our well-thought-out and well accepted Patent laws but will also do injustice to our industry and to the people of our country.

Thanking you,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Daara B Patel', with a horizontal line underneath the name.

Daara B Patel,
Secretary-General