

24th November 2011

Shri D V Prasad
Joint Secretary
Department of Industrial Policy and Promotion
Ministry of Commerce & Industry
Government of India

Subject: Review of Organizational Structuring of office of CGPDTM

Dear Sir,

FICCI would like to take this opportunity to appreciate Department of Industrial policy and Promotion in respect of seeking comments from stakeholders regarding the discussion paper on “Restructuring the IP Offices”.

We have received the comments of our members on the subject and have also carried out an extensive research which forms the basis of our representation.

An extensive research has been done in terms of:

- A. Administrative set up prevalent in various other countries and the proposed system for Indian IPO (Annexure I)
- B. Financial stability of Patent offices
- C. Best Practices followed by various International IP offices to overcome the load (Annexure II)
- D. Our response to the Questions raised in Discussion Paper (Annexure III)
- E. Details regarding administrative set of foreign IP offices (Annexure IV)
- F. The role of Educational wing of each international patent office (Annexure V)

The administrative set up proposed by FICCI is quite similar to the one that is prevalent in the contemporary system, with the addition of a position of Controllers of each department under the control of Controller General of Office of CGPDTM.

It is suggested that Indian Intellectual Property Office IPO should be made an autonomous body in terms of generating revenue and maintaining its office.

We have collated the best practices followed internationally to overcome the burden of their respective Patent offices. India can also resort to those strategies to take off the burden from IPO.

Some measures that FICCI would like to suggest that may be incorporated to enhance the effectiveness and to reduce the burden of the IPO is with respect to outsourcing the work to database providers and the quality check to be done by Educational Institutions imparting knowledge in the realm of IPR.

Detailed representation provided below in the form of Annexure.

With best Regards,

Sheetal Chopra

ANNEXURE I

Administrative set up prevalent in various other countries

FICCI has done a comparative research of various patent offices across the globe with an aim to identify the most appropriate set up which may be implemented for Indian Patent Office (IPO) and the reasons thereof as to why such a set up is beneficial over the other proposed. The details regarding administrative set of these offices are given in **Annexure IV**. A listing of the patent office's we studied for this purpose is:

- US (USPTO)
- Japan Patent Office (JPO)
- Australia Patent Office
- United Kingdom IPO
- Brazil PTO
- South Africa (CIPRO)
- Germany (DPMA)
- China SIPO
- European Patent Office (EPO)

These nations have a set up in which the Trade Marks, Designs, GI and the much complex Patents are clubbed under one common head, which is further headed under the aegis of one Department/Ministry. They all advocated for the Patents & Trademarks to be incorporated under one common head for the reasons cited below:

Advantages:-

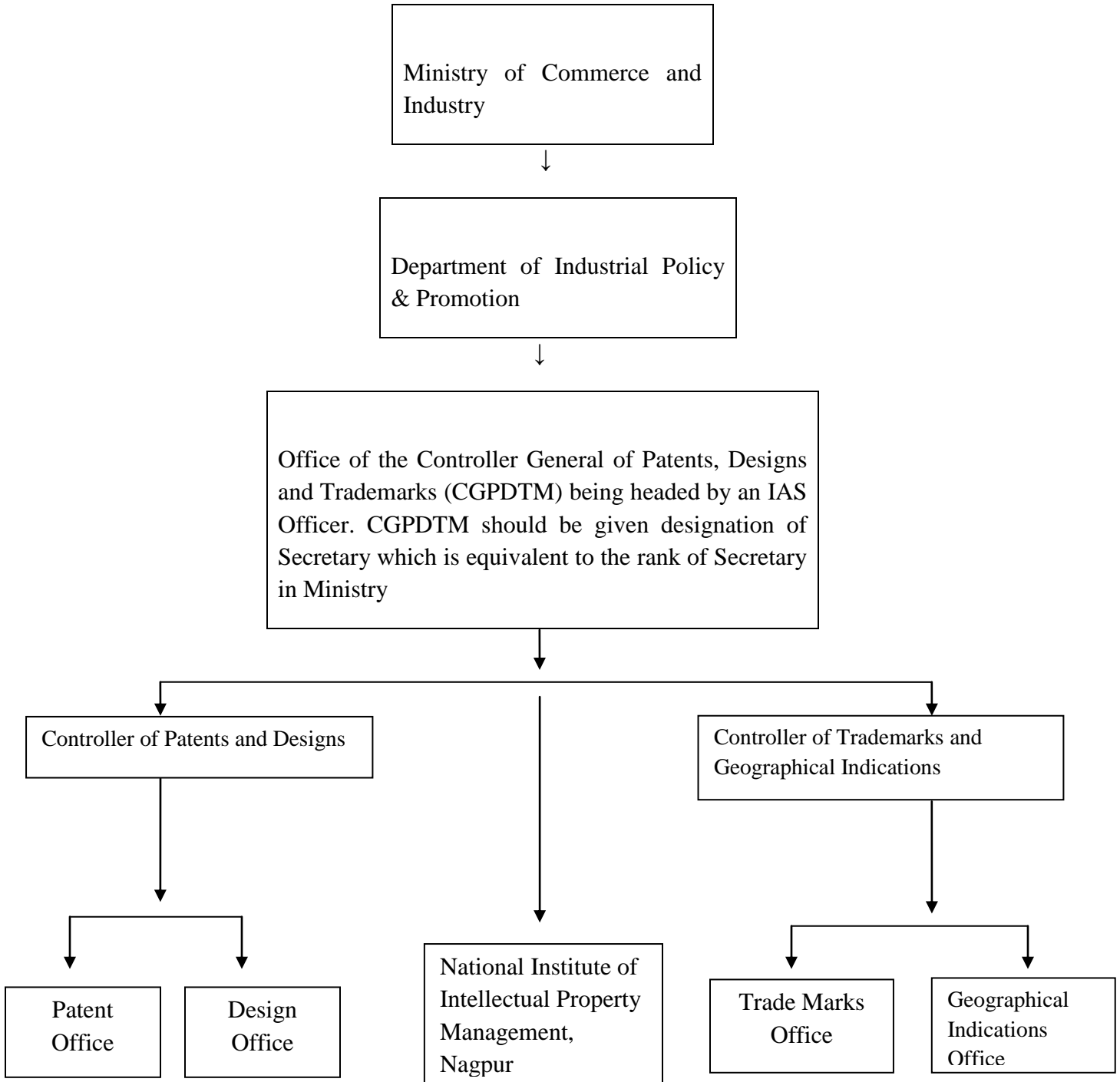
- (i) There is considerable reduction in costs or expense as against running two separate establishments for patents and trademarks.
- (ii) It also presents the possibility of sharing support services, finance, HR, estates management, IT management, policy, customer care, postal services, etc. This is far less costly than having individual support services and therefore, more emphasis and resources can be placed on core activities. A key advantage is that shared services also enable multi functional working (e.g. linking HR and Finance together).
- (iii) That there is the possibility of standardizing and streamlining specific procedures. It is also much less costly in terms of outsourcing and contract management.
- (iv) Moreover, it is also beneficial for the rights holder as they have one window for protection of all forms of IP.” Such an organizational structure allows greater ease in responding to user and consumer interests; such that the consumer may find it convenient to file, oppose and defend patent and/or trademark applications in the

respective offices housed within one establishment. Thus, one establishment may serve the dual purpose of filing and prosecution of patents as well as trademarks.

- (v) Having all IPR policy in one place is important as there can be close exchanges of experiences and agreed directions that avoid conflicting approaches. This was evident in the UK when drafting new trademarks and patents legislation. e.g. rules surrounding delivery times and registration systems could be easily aligned and therefore much more customer friendly.
- (vi) In terms of personnel, staff can be interchanged between operational and support services offering far more options, prospects and job satisfaction.
- (vii) Having one organization to handle all IP issues makes for a coordinated and effective approach, both in terms of administration as well as policy perspective.
- (viii) It helps the organization have a holistic and broader picture view on all IP issues which enables them to have a consistent approach. This helps not only in the domestic arena but also internationally.
- (ix) There is a strong possibility of more focus on individual rights instead of focusing on holistic view of Intellectual property.
- (x) It would be beneficial in terms of Best Practices, any particular know how to deal with situations being shared.
- (xi) It is convenient in terms of providing technical assistance (e.g. patent or trademark examiner training), the international bodies and organization find it easier to liaison with one body instead of contacting different divisions.

POPOSED MODEL FOR THE INDIAN INTELLECTUAL PROPOERTY OFFICE

On the basis of above, we propose the following set up for proposed model as the most suitable for Intellectual Property Office (IPO).



The proposed system reflects that the Controller General of Patents, Design and Trade Mark, whose rank is equivalent to the level of Secretary in the Ministry, shall be heading three wings-

- Patents & Designs Wing, headed by 'Controller of Patents & Designs'
- Trade Mark & Geographical Indications Wing headed by 'Controller of TM and GI'
- National Institute of Intellectual Property Management, Nagpur.

The Trade Mark & Geographical Indication wing and the Patents & Designs wing shall be headed by their respective Controllers. Both the Controllers should be headed by the 'Controller General of Patents, Designs and Trademarks'.

The National Institute of Intellectual Property Management, Nagpur shall remain as technical support wing for the Controller General of Patents, Designs, and Trademarks. We have done extensive study of various activities undertaken by Counterpart institutes in various nations on the basis of which we propose following additional activities which may be undertaken by **NIIPM in association with Industry Chambers** of repute:

1. (Learning from Japan) *"Promote information sharing among IP academies and thereby to facilitate voluntary and mutually-beneficial collaboration among those academies in IP training, education, and research"*.
2. (Learning from Brazil) *"It can act as centre on IP research which, through the building of networks with the academic, professional and continuing education courses environment, promotes the creation and dissemination of IP and Innovation knowledge"*.
3. (Learning from US) *"Advise the ministry and other relevant agencies on IP issues on policy, protection, and enforcement and promotes the stronger and more effective IP protection around the world"*.
4. Specific orientation programmes for patent examiners where faculty may represent Industry. This would help in giving adequate information to Patent Examiners regarding the technical advancements taking place in industry.
5. Learning from Europe: It can organize training for the following target groups:
 - *Institutions- staff of IP offices and other public bodies*
 - *Patent Libraries*
 - *Industry and SMEs*
 - *Judges and litigators*

- *Research centres and technology transfer officers*
- *Patent information users*
- *Users of online services*
- *For the dissemination of further information on Intellectual Property, the EPO also conducts seminars and conferences.*

ANNEXURE II

Best Practices followed by various International IP offices to overcome the load

We have collated some of the best practices that various countries world over are following to overcome the load of work in terms of trivial filling. In various instances, we have seen that many patent applications are denied for reasons of lacking novelty.

So as to reduce the number of such fillings which are primarily defensive in nature, provided below are some of the strategies that are followed world over, which may be considered for implementation in our current IP Regime.

1. A policy followed In Japan to reduce the number of applications for scrutiny

The office provides the applicants with an option to withdraw their application and get 50 percent of their application fee refunded before the first action is taken by the JPO.

Alongside considering incorporating this measure, this may also be extended to refund approx. 20 percent of application fee, in case the search has been conducted by the IPO.

In certain cases where it would be apparent that the application lacks novelty it shall be beneficial for the applicant to have an option of withdrawing the application at some refund. In the event of former case, it will reduce the number of application filling and will reduce the time consumed in the opposition, in the later stage thereby helping in reduction of load on IP offices.

2. US Binding Model (As per US Patent rules § 1.56, Duty to disclose information material to patentability)

The US Patent rules § 1.56 imposes a duty on the applicant to give a detailed description to the patent office as to how his invention his distinct from the others.

Similar provision may be incorporated by the Indian IP system. (http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_56.htm)

3. Article 105 of Taiwan patents Act

This article imposes a penalty on the Applicant where the opponent is able to prove that the invention lacks inventive step or that the information was already in the public domain. In such a situation the patent owner has to pay the loss that others have suffered due to exclusive right being granted to the owner.

This may help in restricting the number of inappropriate and forged filings by imposing some monetary fine on the applicant for investing the precious time and resources of the IPO on something which is already known. The repeated offenders may be blacklisted from the IPO.

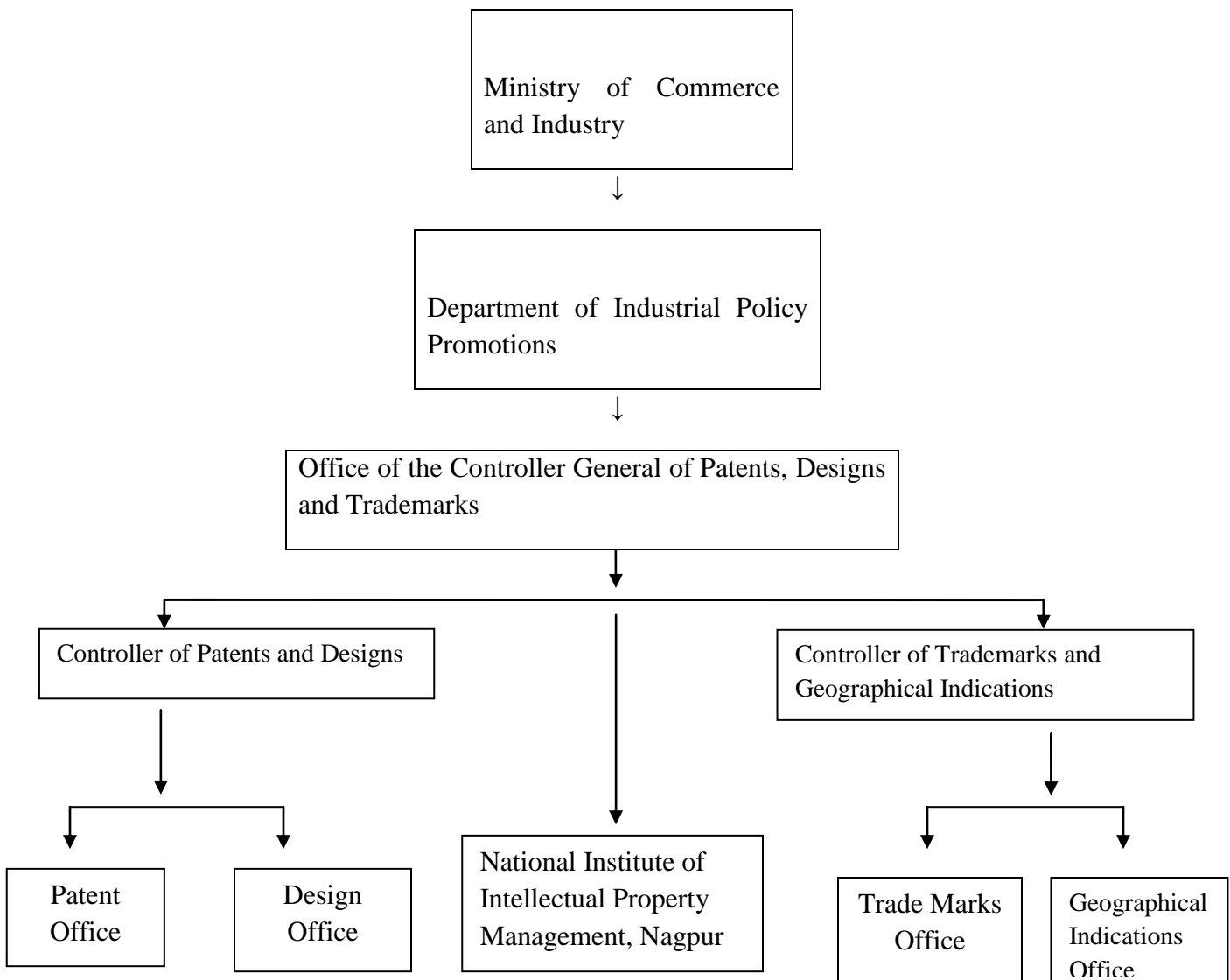
Annexure III

Response to Questions raised in Discussion paper

- 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?**

Trademark & G.I and Patents & Designs can be given different Controller, who shall head two autonomous offices. This shall make them more responsible in terms of operational and administrative functioning of their departments.

- 2. If so, what should be the organizational 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. However, it is not necessary to make the two offices of TM and Patents autonomous, since they would be working under the aegis of CGPDTM though working as two independent bodies.

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

Not much amendment is required in the legislation to create a fiduciary position of Controller over each office of Patent & Design and Trade mark & G.I, who will be headed the CGPDTM.

Section 5 of the Trade Marks Act, 1999 which deals with the establishment of the Trade Marks Registry and its offices may need to be amended suitably to make the Trade Marks registry an autonomous body. Besides, the scheme of legislations, as below can be adopted for the same:

- The Securities and Exchange Board of India Act, 1992 (SEBI Act, 1992)
- The Telecom Regulatory Authority of India Act, 1997 (TRAI Act, 1997)

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

The model above represents the ideal model.

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

The Office of the Controller can be strengthened by making it a financially autonomous body so that it can have better control over its funds and use it for the development of the IPO.

Following suggestions may be considered:

- Vacant positions should be filled up immediately
- Upgradation of IT Facilities and enabling submission of fee electronically besides making E-filing more user-friendly
- Introduce system for better management and archival of physical files
- Providing direct linkage to patent applications and patents electronically
- Continuous up-gradation of digital patent and designs database

- Advisory centres/Assistance centres may be opened up to guide first time files and especially SME sector

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?

Apart from outsourcing the work to CSIR, the work for prior art can be outsourced to big Database Providers' such as Thomson Reuters, SCI Finder, STN, IMS etc. who have their own database for patent search. Besides this, various Facilitation centers launched in association with Ministry of Micro, Small and Medium Enterprises may be hired for prior art search work. The outsourcing work may also be assigned to research oriented institutions like NIPER, Haffkine Institute and various other reputed academic institutions engaged in research. Services of C-DAC may also be utilized for outsourcing prior art work where field of invention in the patent application is related to electronics/IT/ICT.

Peer-to-patent project model (<http://peertopatent.org>) may also be implemented which allows the public to submit prior art references for the patent application being examined. The Patent Office may use its discretionary powers to consider such prior art references. This may not address the issue of reducing work load on patent examiners but will surely go a long way in ensuring the quality of granted patents. Such prior art references submitted must also be made available to those organizations who have been hired for outsourcing work.

Penal Punishment should be levied to organizations giving wrong prior art search report.

Measures should be adopted to ensure confidentiality of application is maintained.

Quality Check and Safeguards:

The work done by these organizations shall be checked for quality by students of educational institutes like Rajiv Gandhi Institute of Intellectual Property Rights, IITs as part of their 'internship programme'. The institutes are undoubtedly the premier institutes imparting knowledge in the realm of Intellectual property. The students from both the institutes are Science Graduates, which is the foremost requirement of doing the search related work in the field of Patents. Outsourcing to such Institutes shall suffice two motives. Firstly, the number of pending Patent applications shall be reduced and secondly, the students shall get practical experience, as part of their 'internship programme'. Training to carry out prior art searching may be imparted to students by Institutions like TIFAC, MSMEs, facilitation centers, law firms etc. located in each state.

The work shall be on contractual basis with monetary or incentive basis, purely depending upon the quality of the work. The student finding the error should be given monetary reward or appreciation letter. This shall drive the students to do work vigilantly and the effectively.

NISCAIR, NRDC and various Facilitation centers have been launched in association with Ministry of Micro, Small and Medium Enterprises may be hired for cross checking the work of Database Providers and for giving prior art report.

Retired IPO Officials may be put on panel to cross check (Quality Check) the outsourced work.

Standard system of evaluation for prior art search work may be administered by all the bodies hired for prior art search work.

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?**

Outsourcing of Trademark application for examinations may be given to various facilitation centers launched by MSME (Ministry of Micro, Small and Medium Enterprises) in association with Industry chambers and other competent bodies/agencies. The existing vacancies must be filled up immediately besides increasing the size of Registry.

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

If examiners also provide detailed reason for the action taken by them, it shall support the applicant in better understanding the requirement of the examiner and he will be in a better position to respond to his needs in a more focused way.

Contractual positions may be offered to competent officers for screening the applications.

A well strengthen database may be formed which will facilitate the examination process. Incorporation of E- filing system will facilitate the strengthening of the database.

Following suggestions may be considered:

- Electronic prosecution of patent applications may be introduced in order to make the prosecution paperless and speedy.

- Incentives in the form of reduced fee. This would encourage the applicants to use E-filing system over paper filing. This would merely require change in Fee Schedule.
- Introduce system for timely publication of patent applications.
- Clear guidelines should be issued for conducting pre and post grant oppositions.

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 has been observed that there is a huge concentration of Law firms at the places where patent offices are located. It may be suggested to have additional IP offices. A country like Japan, which is quite smaller in terms of geographical area, has three offices for patent filling and in India we have only five. Considering the number of population and the awareness in the realm of IPR, additional offices should be set up. If infrastructure does not allow having fully fledged offices, at least documents receiving offices should be formed. 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.

The new offices shall serve the purpose of dialog also, because the applicant has to visit the office as dialogues are held many a times between the applicant and the patent office.

However before, a stand is taken to have additional IP offices, there is great need to implement measures which ensures that the consistency with regard to procedures adopted by various IP offices is maintained. There may not be any need for additional offices in case the technological advancements are leveraged by making entire prosecution of patent applications happen electronically besides making the E-filing of patent applications flawless and more user-friendly. If this can be achieved then all the patent offices may be merged into one as this would go long way in addressing the issue of inconsistency in procedures followed.

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?

The National Institute of Intellectual Property and Management should remain as a technical supportive wing of the CGPDTM.

NIIPM in association with Industry Chambers of repute may take up additional activities as listed below:

1. (Learning from Japan) *“Promote information sharing among IP academies and thereby to facilitate voluntary and mutually-beneficial collaboration among those academies in IP training, education, and research”.*
2. (Learning from Brazil) *“It can act as centre on IP research which, through the building of networks with the academic, professional and continuing education courses environment, promotes the creation and dissemination of IP and Innovation knowledge”.*
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4. Specific orientation programmes for patent examiners where faculty may represent Industry. This would help in giving adequate information to Patent Examiners regarding the technical advancements taking place in industry.
5. Learning from Europe: It can organize training for the following target groups:

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- *Patent information users*
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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?**

Contractual Posts may be introduced where contractual staff may later be employed permanently on the basis of performance delivered during contractual period.

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?

Outsourcing options may be considered as discussed in detail above.

Besides, system can be developed wherein practicing advocates with at least 5 years of experience at the bar can appear for a written examination followed by an interview by a panel. Upon selection, such candidates can undertake a year's training under the existing Assistant Registrars. Such workforce can easily be recruited from the vast number of practicing lawyers in our country.

14. 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?

Two separate windows i.e. one for Patents & designs and another window for TM & GI, seems ideal and in compliance with the model proposed for Question 1 above.

15. 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?

Keeping the financial constrains in mind, and considering the fact that the existing XI plan, already has increased the size of the registry. However, the positions mentioned therein under the plan are still vacant. Hiring of competent personnel shall address the issue. At the moment there is it is not necessary to increase the size of registry as per XII Plan.

Different office for TM & GI and Patents & Designs into two separate autonomous offices shall make it clear for the office to decide as to how they would like to proceed for their individual demands keeping in mind the revenue they are generating.

16. Any other views on the Subject.

- Boosting SME Sector

As it is well understood that SME sector are the backbone of the country's economy and therefore there is a need for creating mechanisms for their growth. Yr 2009 statistics of Patent applications filings reveals that only 2% of the patent filings can be

attributed to SME sector. We must have a mechanism to check the exact statistical rate of filing by SME sector each year so that various measures can be taken to boost this sector. However such a system of measurement is currently lacking. It is therefore proposed that the FORM I may be suitably amended whereby it clearly asks the Patent filer if they represent SME sector.

System of Utility Models must be immediately introduced to spur domestic innovations especially emanating from rural India and SME sector.

- Establishing Think Tank

Think Tank should be established preferably in association with the Industry chambers which can serve as an advisory group to CGPD TM for giving continuous feedback on making desirable changes in administrative set up, procedures etc. which would go long way in not only in the overall growth of Industry besides in bringing the working of IPO at par with International standard.

- Compensate for the delay

In the cases where there is a delay from the Patent Office's side which delays the process of grant of patents, the patentee must be adequately compensated by extending the term of patent by the no. of days by which there was delay in response by the Patent office. Further during the examination process of the patent applications, deadlines should be set on both applicants and patent office to reply within the specified time.

- Size of Trademark Registry

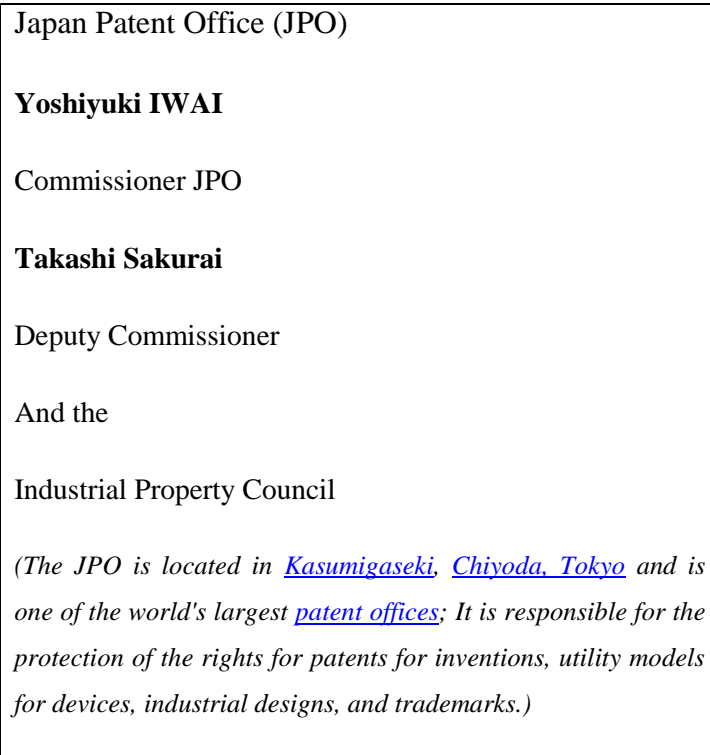
Size of current TM registry must be enhanced however there is a need to carry out a work study to estimate the manpower required to process pending applications. Based on the results of such a study adequate staff could be employed across offices to process pending applications.

Annexure IV

Details of Administrative set up of International Patent Offices

1. JAPAN

[Ministry of Economy, Trade and Industry](#)



Masahiro Hashimoto

Director
General Trade
Mark, Design
and

Akihiro Kobayashi

Director
General, Ist
Patent
examination

Shunichi Doi

Director
General, IInd
Patent
examination
Dpt.

Setsuko Asami

Director
General, IIIrd
Patent
examination

Kazuo Seki

Director General,
IVth Patent
examination dpt.

Takashi Kumagai

Director General
General Affairs
Department

2. AUSTRALIA

**Yoshitake
KIHARA**

Director
General

Department of Innovation, Industry, Science
and Research (DIISR)

IP Australia

Mr. Philip Noonan

Director General

Educational qualifications:

Bachelor of Science and LLB

Solicitor and Barrister in Victoria, Australia

(It incorporates the [Patent](#), [Designs](#), [Trade Marks](#) and [Plant
Breeder's Rights](#) Offices)

Ian Goss

Business
Development
and Strategy
Group

**David
Johnson**

Business and
Information
Management
Solutions
Group

Celia Poole

Customer
Operations
Group

Doug Pereira

Corporate
Services
Group

Victor Portelli

Patent and
Plant
Breeder's
Rights Group

Robyn Foster

Trade Marks
and Designs
Group.

3. BRAZIL

http://www.wipo.int/edocs/mdocs/sme/en/wipo_smes_ge_03/wipo_smes_ge_03_7.pdf

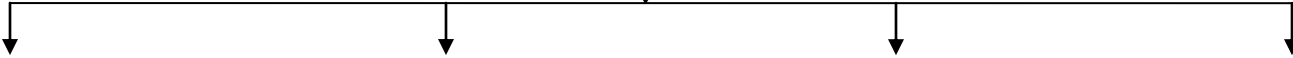
[Ministry of Development, Industry and Foreign Trade](#)



National Institute of Industrial Property (INPI)



Patent and Trademark Office
Mr. Marcos Alves de'Souza
Director
(The PTO guide INPI's activity by a notary posture which is limited to granting patents and trademarks and by controlling the importation of new technologies.)



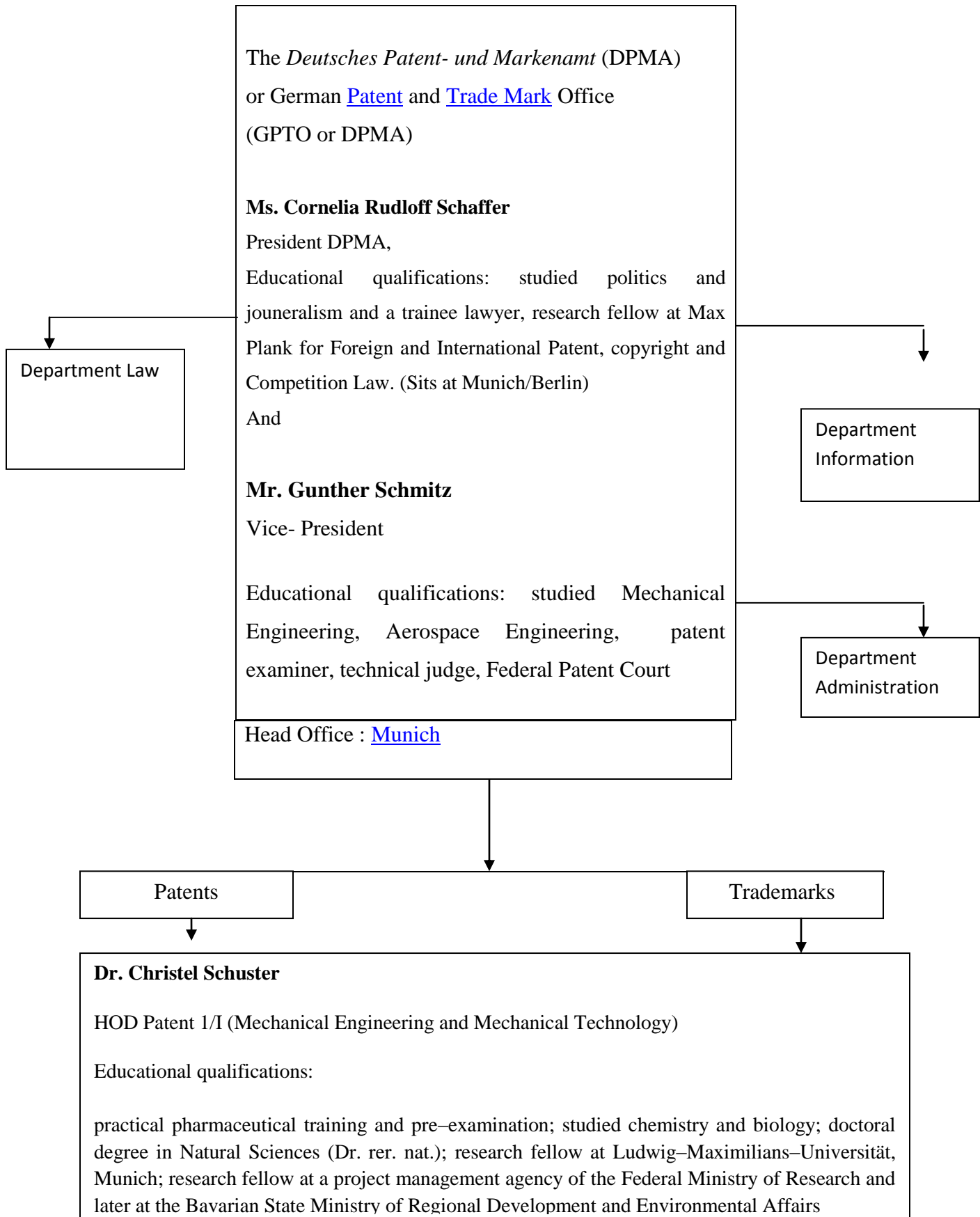
Patents Directorate

Trademarks Directorate

Computers Directorate

Information and Promotion of the Innovation Directorate

4. GERMANY



17. SOUTH AFRICA

Department of Trade and Industry (DTI)



Companies and Intellectual Property Registration Office
(CIPRO)

Mr. Keith Sendwe

Chief Executive Officer

(CIPRO is the result of the merger of two former directorates of the Department of Trade and Industry (DTI), SACRO – South African Companies Registration Office and SAPTO – South African Patents & Trade Marks Office, from 1 March 2002 into a single efficient and customer driven Business Agency.)



Patents

Ms. Elena Zaravkova

Sr. Manager (Registrar) Patent and Design

Educational qualifications:

MSc. Electrical engineering and LLB

Trademarks

Ms. Fleurette Coetzee

Sr. Manager (Registrar) Trade Mark

18. UNITED STATES OF AMERICA

United States Department of Commerce



United States Patent and Trademark Office (USPTO)

(USPTO is based in [Alexandria, Virginia.](#))

Mr. David Kappos

Director USPTO sits @ Alexandria VA

Under Secretary of Commerce for Intellectual Property

Educational Qualification: Bachelor of Science in Electrical and computer engineering and a law degree and over 23 years of experience in the field of IP



Mr. Robert L. Stoll
Commissioner of Patents

Educational
qualifications:
Bachelor of Science in
Chemical engineering
and a Juris doctor

Mr. Lynne G. Beresford
Commissioner of Trade Mark

Educational qualifications:
Juris doctor and a license to
practice in Pennsylvania

19. UNITED KINGDOM

[Department for Business, Innovation and Skills](#) (BIS)



Comptroller General of Patents, Designs and Trade Marks

John Alty

Chief Executive & Comptroller General

Educational qualifications: Civil Servant

(CGPDT is also Registrar of trademarks, Registrar of designs and [Chief Executive](#) of the Office)

UK Intellectual Property Office

(UKIPO is, since 02/04/2007, the operating name of The Patent Office; its headquarters in [Newport, South Wales](#); branch office in [London](#))

(Comment: Some work on [copyright](#) policy is shared with the [Department of Culture, Media and Sport](#))



Deputy Chief Executive and
Patents Director

Sean Dennehey

Educational qualifications: studied natural sciences and has been a patent examiner

Director Trade Marks and
Designs

Andrew Layton

Copyright & IP
Enforcement

Edmund Quilty

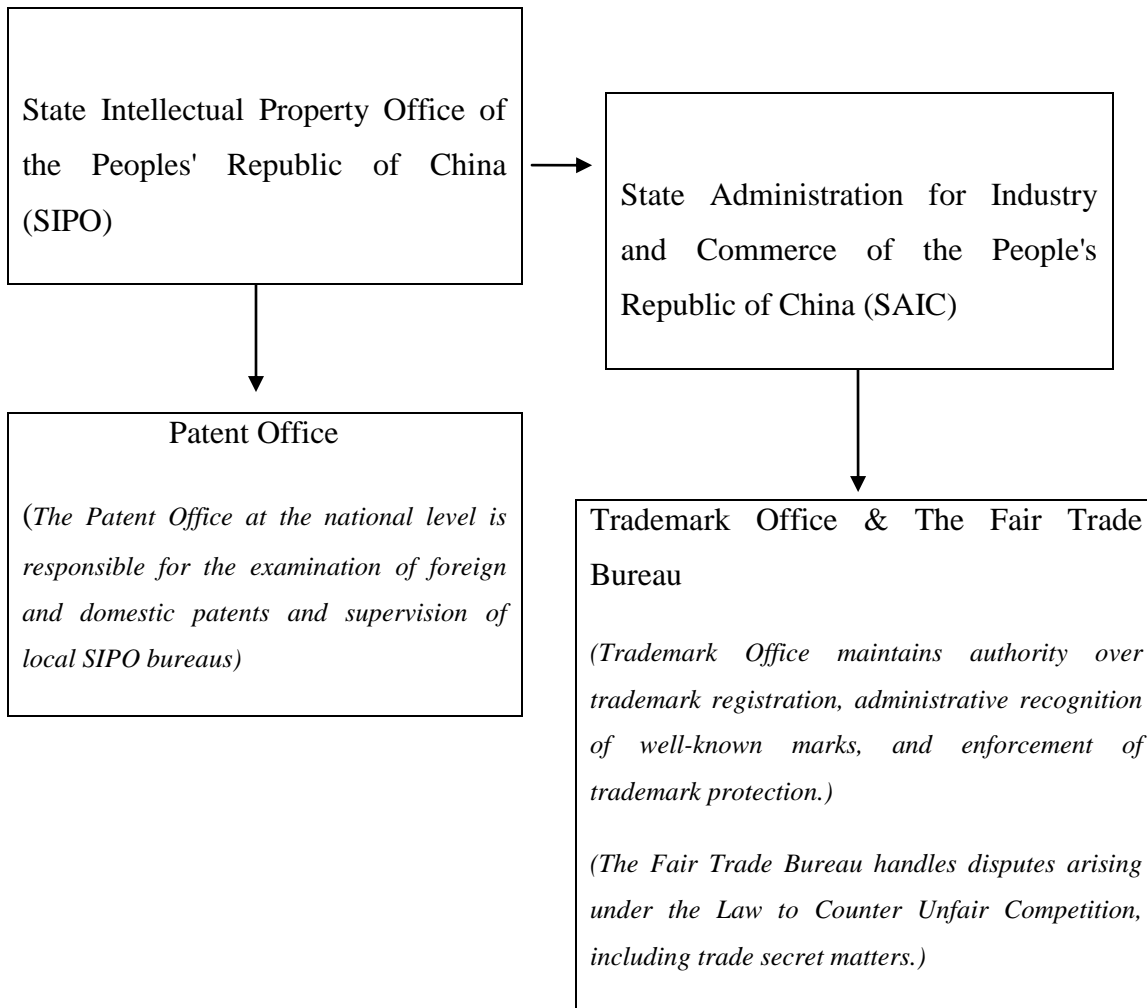
Department of
Innovation

Business
Support

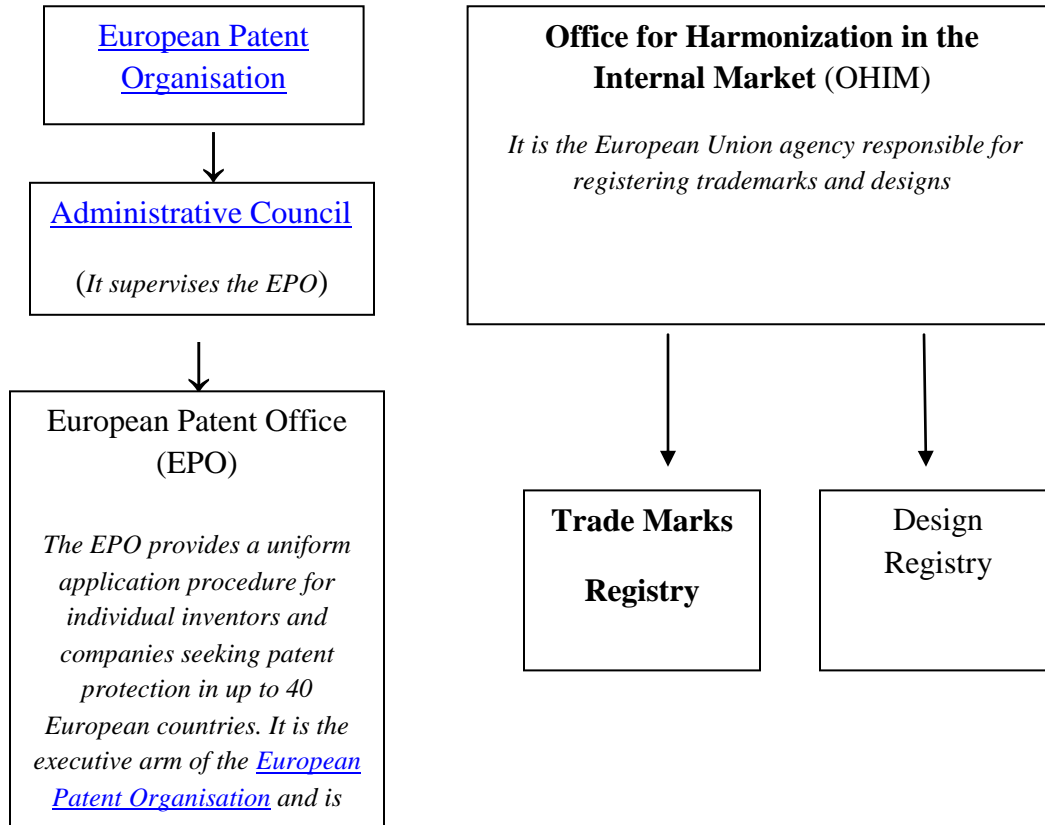
International
Policy

Finance

9. CHINA



10. EUROPEAN UNION¹



Annexure V

The role of Educational wing of each international patent office is detailed below

1. With Respect to Japan

The iPAC (Intellectual Property Academy Collaborative) Initiative, an initiative by the Japan Patent Office aims to promote information sharing among IP academies and thereby to facilitate voluntary and mutually-beneficial collaboration among those academies in IP training, education, and research

2. Australian Patent Office

The two main advisory bodies of IP Australia are:

Advisory Council on Intellectual Property

The [Advisory Council on Intellectual Property](#) (ACIP) is an independent body appointed by the government, and advises the Minister for Innovation, Industry, Science and Research on intellectual property matters and the strategic administration of IP Australia. The council was established in 1994.

Professional Standards Board for Patent and Trade Mark Attorneys

The [Professional Standards Board](#) for Patent and Trade Mark Attorneys is a statutory body established under the *Patents Act 1990*. Under the Patents Regulations it is responsible for:

- setting the academic qualifications required to become a patent and trade mark attorney
- assessing the qualifications of people seeking registration as patent and trade mark attorneys
- ensuring patent and trade mark courses satisfy subject requirements under the regulations, accrediting those courses and checking subjects for compliance with regulations, from time to time
- agreeing on subject exemptions for applicants who have undertaken prior study
- overseeing the professional conduct of patent and trade mark attorneys
- managing disciplinary matters, which includes:
 - receiving complaints about unprofessional or unsatisfactory conduct made by clients of patent and trade mark attorneys
 - referring complaints to the Patent and Trade Mark Attorneys Disciplinary Tribunal where appropriate
 - prosecuting complaints before the disciplinary tribunal when requested by the client
 - determining the role of the board in proceedings.
- A complete listing of registered Patent and Trade Mark Attorneys is available from the Professional Standards Board.

Plant Breeder's Rights Advisory Committee

The [Plant Breeder's Rights Advisory Committee \(PBRAC\)](#) is an independent statutory committee established under Part 7 of the *Plant Breeder's Rights Act 1994*.

PBRAC advises the Minister and PBR registrar on technical and administrative matters relating to PBR and acts as an industry advisory forum.

As part of our advisory framework, PBRAC consults with and refers significant policy issues and ministerial advice to ACIP for consideration.

The committee's membership includes members representing the interests of users, breeders, consumers, and indigenous and conservation interests.

Innovation for Schools is part of the broader Australian Government [Inspiring Australia](#) campaign aimed at unlocking Australia's full innovation potential.

3. Brazil

The National Institute of Industrial Property (INPI) is a federal agency linked to the [Ministry of Development, Industry and Foreign Trade](#) and is responsible for the registration of trademarks, patents, registration of contracts of technology transfer and business franchises, and the registration of computer software, industrial designs and geographical indications, according to the Industrial Property Law and the Software Law.

IP and Innovation Academy:

The Academy of Intellectual Property, Innovation and Development (ACAD) is a reference center on IP teaching and research which, through the building of networks with the academic, professional and continuing education courses environment, promotes the creation and dissemination of IP and Innovation knowledge.

Through groups and research projects and short, medium and long term courses, the Academy of INPI offers capacity building to technology managers and professionals of small, medium and large companies that daily deal with issues related to IP and technological innovation.

4. Germany

The DPMA is also committed to the future of young people by offering training for skilled jobs. At the DPMA locations in Munich, Jena and Berlin prospective trainees may choose between the following skilled occupations:

- office communication clerks (with an administrative focus)
- office communication clerks (with a commercial focus)
- media and information services clerks

- IT specialists
- administrative employees
- carpenters
- electricians for energy management and building services engineering

5. South Africa

In terms of the [South African Patent Act](#) 57 of 1978, the Companies and Intellectual Property Registry Office (CIPRO) is the custodian of all new [patent applications](#) that are filed within the Republic of South Africa.

6. United States (USPTO)

The USPTO advises the President of the United States, the Secretary of Commerce, and U.S. Government agencies on intellectual property (IP) policy, protection, and enforcement; and promotes the stronger and more effective IP protection around the world. The USPTO furthers effective IP protection for U.S. innovators and entrepreneurs worldwide by working with other agencies to secure strong IP provisions in free trade and other international agreements. It also provides training, education, and capacity building programs designed to foster respect for IP and encourage the development of strong IP enforcement regimes by U.S. trading partners.

The **Public Advisory Committees for the USPTO**² were created by statute in the [American Inventors Protection Act of 1999](#) to advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management of the patent and the trademark operations. The Advisory Committees consist of citizens of the United States chosen to represent the interests of the diverse users of the USPTO. *The Advisory Committees will review the policies, goals, performance, budget, and user fees of the patent and trademark operations, respectively, and will advise the Director on these matters.* Appointments to the Advisory Committee are made by the Secretary of Commerce.

- [Patent Public Advisory Committee](#)
- [Trademark Public Advisory Committee](#)

Global Intellectual Property Academy

² <http://www.uspto.gov/about/advisory/index.jsp>

The Academy offers capacity building programs in the United States and around the world on intellectual property protection, enforcement, and capitalization.

Capacity-building programs are offered to patent, trademark and copyright officials, judges, prosecutors, police, customs officials, foreign policy makers, examiners and rights owners.

The Global Intellectual Property Academy provides both multilateral programs and country specific programs. Some programs are developed to address specific legal issues, administrative issues and specific intellectual property areas.

7. United Kingdom

(i) The UKIPO is the official government body responsible for IPRs in the UK and is an executive agency of the [Department for Business, Innovation and Skills](#) (BIS). Some work on [copyright](#) policy is shared with the [Department of Culture](#). The IPO also has direct administrative responsibility for examining and issuing or rejecting [patents](#), and maintaining registers of intellectual property including patents, [designs](#) and [trademarks](#) in the UK.

(ii) Apart from the cost and the geographic scope of protection, there are some fundamental differences between a Community Trade Mark and a UK trade mark³. A Community Trade Mark (CTM) is a trade mark examined and registered at the community trade mark office (Office of Harmonization for the Internal Market) in Alicante, Spain. CTM registrations provide registered trademarks rights in all EU member states but in order to be successful an application must be deemed acceptable in all member states. In other words if an application fails in 1 member state the whole application fails. Obviously the CTM fee structure reflects the breadth of protection so it is more expensive than e.g. an application in the UK. That said, it is a sensible route if the applicant requires extensive EU protection but remember that you are open to opposition from others throughout the EU. If you apply in a single country e.g. the UK, your rights will be limited to that country. It really depends on how you envisage your trading and where you hope to use your trade mark. The registered rights in the UK are identical regardless of how they are obtained - UK or CTM to that country. It really depends on how you envisage your trading and where you hope to use your trade mark. The registered rights in the UK are identical regardless of how they are obtained - UK or CTM.

³ <http://www.ipo.gov.uk/types/tm/t-about/t-faq/t-faq-ctm.htm> as visited on 17/05/2010.

8. China

In 1998, China established the State Intellectual Property Office (SIPO), with the vision that it would coordinate China's IP enforcement efforts by merging the patent, trademark and copyright offices under one authority. However, this has yet to occur. Today, SIPO is responsible for granting patents (national office), registering semiconductor layout designs (national office), and enforcing patents (local SIPO offices), as well as coordinating domestic foreign-related IPR issues involving copyrights, trademarks and patents.

9. EU

There are two Council Bodies for the European Patent Organisation, namely:

- Technical and Operational Support Committee
- Committee on Patent Law

Technical and Operational Support Committee provides Administrative Council with opinions on operational aspects and matters like technical information and infrastructure, especially information dissemination, trilateral technical co-operation between the EPO, the USPTO and the JPO, as well as other forms of technical co-operation in international fora, operational issues concerning quality, especially monitoring of the European Quality System as well as technical arrangements for reuse of available patent procedure results (e.g. searches, examination communications).

In addition, the TOSC shall provide the Council with advice where required on any further technical matters.

Committee on Patent Law advises the Administrative Council on any proposal relating to the amendment of time limits laid down in the European Patent Convention or the amendment of the Implementing Regulations to the EPC; on any legal matters concerning a revision of the European Patent Convention; on matters concerning the harmonisation of national law in the Contracting States relating to the implementation of the European Patent Convention; on matters on international patent law which may affect the European Patent Convention or in respect of which the Contracting States may desire to co-operate pursuant to the preamble of the European Patent Convention.

At the request of either the Administrative Council or the President of the European Patent Office, the Committee shall advise the Administrative Council on any legal question relating to the European patent system.

Training

The EPO organises training for the following target groups:

- Institutions- staff of IP offices and other public bodies

- Patent Libraries
- EQE candidates
- Industry and SMEs
- Judges and litigators
- Research centres and technology transfer officers
- Patent information users
- Users of online services

For the dissemination of further information on Intellectual Property, the EPO also conducts seminars and conferences.