

Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP)

Introduction

Intellectual Property Rights (IPRs) are emerging as a strategic business tool for any business organization to enhance industrial competitiveness. Startups, with limited resources and manpower, can sustain in this highly competitive world only through continuous growth and development oriented innovations; for this, it is equally crucial that they protect their IPRs in India and outside. The scheme for Startups Intellectual Property Protection (SIPP) is envisaged to facilitate protection of Patents, Trademark and Designs of innovative and interested Startups in India and outside.

World Intellectual Property Organization's (WIPO) Technology and Innovation Support Centers (TISCs) have been established in India by way of mutual co-operation agreement between Department for Promotion of Industry and Internal Trade (DPIIT), Government of India and WIPO so as to help Indian innovators and entrepreneurs to exploit their innovative potential and to create, protect and manage their Intellectual Property Rights (IPRs). Therefore, to promote and protect innovations and to utilize the services of TISCs established in India, the scheme is also envisaged to facilitate protection of Patents, Trademark and Designs of all Indian innovators/ creators and educational institutes using the services of the TISCs established in India.

The Scheme was started in 2016 on pilot basis and extended upto 31-03-2023. In addition, the scheme was made applicable to all Indian innovators/ creators using the services of the TISCs established in India w.e.f. 06-09-2019. To further encourage the IP facilitators to provide quality services to the eligible applicants, the scheme was revised and facilitation fees notably increased by at least 100% w.e.f. 02-11-2022. The scheme is now being extended further for a period of three years upto 31-03-2026. However, based on the experience gained from implementation of the scheme so far, certain aspects of the scheme have been amended w.e.f. 01-04-2023.

Vision

To protect and promote Intellectual Property Rights of Startups and thus encourage innovation and creativity among them and to utilize the services of TISCs established in India.

Objective

The scheme of SIPP aims to promote awareness and adoption of Intellectual Property Rights amongst Startups and utilization of services of the TISCs established in India. The Scheme is inclined to nurture and mentor innovative and emerging technologies among Startups, individual innovators/ creators and educational institutes and assist them in protecting and commercialize their IP in India and outside by providing them access to high-quality IP services and resources.

Who Can Apply (Eligible Applicants)

- a. Any startup recognized in terms of the notification GSR 127(E) published in the Gazette of India dated 19.2.2019, as may be amended from time to time.

The Certificate of Recognition given by DPIIT may be verified from the Startup India web portal <http://www.startupindia.gov.in>.

The startups covered under this scheme will not be required to obtain certificate of an eligible business from the Inter-Ministerial Board of Certification.

However, startups will be required to give a self-declaration that they have not availed funds under any other Government scheme for the purpose of paying the facilitator/ patent agent/ trademark agent for filing and prosecuting their IP application.

- b. Any Indian innovator/ creator who files an IP application (a patent/ design/ trademark) through any TISC established in India and facilitated by a facilitator.

However, the innovator/ creator will be required to give a self-declaration that they have not availed funds under any other Government scheme for the purpose of paying the facilitator/ patent agent/ trademark agent for filing and prosecuting their IP application.

- c. Any Indian educational institute fulfilling conditions specified in clause (f) and clause (h) of sub-rule (1) of rule 24C of Patents Act, 1970 (as amended) files an IP application (a patent/ design/ trademark) through any TISC established in India.

However, the educational institute will be required to give a self-declaration that they have not availed funds under any other Government scheme for the purpose of paying the facilitator/ patent agent/ trademark agent for filing and prosecuting their IP application.

- d. Eligible Indian applicant filling an international patent application as Receiving Office, India (RO/IN) or International Bureau, WIPO (RO/IB), electing India as International Search Authority (ISA);

Empanelment of Facilitators

For effective implementation of the scheme, facilitators shall be empanelled by the Controller General of Patents, Designs and Trade Marks (CGPDTM). The CGPDTM may revise the list of facilitators from time to time. The list of facilitators was last updated by CGPDTM in February 2020.

The CGPDTM shall regulate conduct and functions of empanelled facilitators from time to time. In case of any complaint by a startup about a facilitator or refusal by facilitator to provide services to the startup or on getting information about professional misconduct through any source, the CGPDTM can remove the facilitator from the panel without notice.

Who can be a Facilitator

- i. Any Patent Agent registered with the CGPDTM.
- ii. Any Trademark Agent registered with the CGPDTM.
- iii. Any Advocate as defined under The Advocates Act, 1961 who is entitled to practice law as per the rules laid down by Bar Council of India from time to time, who is well-versed with the provisions of the relevant Acts and Rules, and is actively involved in filing and disposal of applications for trademarks.
- iv. A government department/ organization/ agency or CPSU (like TIFAC, NRDC, BIRAC, MeitY, CSIR, Patent Information Centres (PICs) through an authorised representative; and Technology and Innovation Centres (TISCs) in accordance with DPIIT Notification No. 5/1 /2017-CIPAM, dated 19.11.2018.

However, it is to be clarified that the IP application has to be signed by a person authorized to do so under the provisions of the relevant Act and Rules.

Functions and duties of Facilitators

Among other functions as may be decided by the CGPDTM, facilitators will be responsible for, on pro bono basis,:

- providing general advisory on different intellectual property rights;
- providing information on protecting and promoting IPRs in other countries,;
- providing assistance in filing to disposal of the IP applications related to patents, trademarks and designs under relevant Acts at the national IP offices under the CGPDTM;
- providing assistance in filing of an international patent application by an eligible applicant filed before Receiving Office, India (RO/IN) or International Bureau, WIPO (RO/IB), electing India as International Search Authority (ISA);
- drafting provisional & complete patent specifications and an ISA patent application for inventions;
- providing assistance in filing to disposal of International Trade Mark application originating from India under the Madrid Protocol;
- preparing and filing responses to search & examination reports and other queries, notices or letters by the IP office, India or WIPO;
- appearing on behalf of an eligible applicant at hearings, as may be scheduled,;
- contesting opposition, if any, by other parties; and
- ensuring final disposal of the IPR application.

Period of Scheme

The scheme shall be applicable for a period of 3 years w.e.f. 1st April 2023.

Fees of Facilitators

Following fees structure will be applicable to the empanelled facilitators, for any number of patents, trademarks or designs that may be applied for by an eligible applicant. The facilitator

shall not charge anything from the eligible applicant, and this fees shall be paid directly to the facilitator by the Central Government through the office of the CGPDTM and disbursed by the respective IP office.

This structure may be revised from time to time by the Department for Promotion of Industry and Internal Trade.

The applicable fee structure is as under:

(Figures in Rupees)

Stage of Payment		Patent	Trademark	Design
At the time of filing of Application		15,000	3000	3000
At the time of final disposal of Applications	Without Opposition	25,000	5000	5000
	With Opposition	35,000	10000	10000

Notes for Payment of Fees to facilitators:

- A facilitator shall claim the fee from the IP office as per the stage of work completed.
- The bill for claim of fee shall be accompanied by the self-declaration from the concerned applicant that it has not availed of funds from any other Government scheme for the purpose of paying the facilitator/ patent agent/ trademark agent for filing and prosecuting their IP application.
- If any application is withdrawn or abandoned before disposal of application, facilitator shall be entitled to fees only for filing of application and not for disposal of application.
- For claiming the reimbursement of fees, the facilitator shall submit an invoice to the respective IP Office mentioning the Registration ID No. obtained from DPIIT for the startup in respect of which the IP application is filed by the facilitator.
- In case of an IP application filed through a TISC and facilitated by an empanelled facilitator under this Scheme, the facilitator will eligible for claiming fees on

submission of a certificate as prescribed by the Office of the CGPDTM, issued by the respective TISC whose services have been utilized by the applicant.

- In the case of a Trademark application or an International Trade Mark application, final disposal of the application implies registration of the Trademark/ international Trade Mark or final rejection of the application (except through withdrawal or abandonment), as the case may be.

Statutory Fees

- a. The cost of the statutory fees payable for each patent, trademark or design applied for by an eligible applicant shall be borne by the eligible applicant itself.
- b. In case of an ISA application for a patent, the cost of PCT fees (transmittal fee, international filing fees, search fees etc.) shall be borne by the eligible applicant itself.
- c. In case of an International Trade Mark application, the cost of fees and payments under Madrid System shall be borne by the eligible applicant itself.

Budget

The budget for the scheme shall be provided from the funds available with the CGPDTM under object head OE (3475.00.102.11.01.13).

Ownership of IPR

This scheme shall in no way transfer, either wholly or partially, ownership rights on the IPR created to the facilitator or the Government, and the eligible applicant shall have full rights on the IP generated.

Disclaimer

The scheme does not in any way entitle the eligible applicant or the facilitator to grant or registration, as the case maybe, of the IPR; the applications shall be disposed off as per the relevant laws and rules.
