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Analysing developments impacting business

PATENT (AMENDMENT) RULES, 2019 COME INTO FORCE

20 September 2019

The Patent (Amendment) Rules, 2019 (Revised Rules) have come into force from 17 September 2019. The key highlights of the Revised Rules are broadly set out below:

Digitization:

- Patent agents will have to file all documents electronically. Original documents will have to be produced only upon specific request from the patent office within 15 (fifteen) days of such request.

Applicants Eligible to File Request for Expedited Examination:

- Applicants eligible to file a request for expedited examination in addition to applicants electing Indian patent office as an international search authority or an international preliminary examination authority and start-ups, now also include small entities; female applicants; certain Government departments, Government companies, Government owned or controlled or financed institutions; an applicant who is eligible under an arrangement for processing a patent application pursuant to an agreement between Indian Patent Office and a foreign patent office.
- In order to avail of expedited examination, necessary documents will be required to establish the eligibility of the applicant.

Fees:

- There will be no transmittal fee for international applications filed through e-portal of the Patent Cooperation Treaty (PCT).
- There will be no fees for preparation of certified copies of priority document and e-transmission through WIPO DAS (Digital Access Service).

Comments:

The Revised Rules will ease filing of applications at the first instance. However, the 15 (fifteen) day time period to submit original documents when specifically requested for by the Indian Patent Office may pose a challenge to applicants, especially applicants residing in foreign jurisdictions. Other changes such as fee incentives and expanding the type of applicants who can avail expedited examination is a welcome move. Foreign applicants seeking to expedite examination of patent applications will especially benefit

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from any arrangement between the Indian Patent Office and foreign patent office(s) pursuant to the Revised Rules.

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