

Trademarks section to move out of IP office

By C.H. Unnikrishnan

Mumbai: India plans to spin off the trademark registry from its intellectual property (IP) office, which currently deals with trademarks, patents and designs.

A government official and a patent law expert said the move will bring more focus to both offices and help them deal with complex issues, but critics claim the change has been prompted by a desire to stop reforms instituted by the IP office's new chief from changing the way trademarks are given.

To separate the two offices, the department of industrial policy and promotion (DIPP), the commerce ministry body under which the IP office falls, has already shifted some powers of the Controller General of Patents, Designs and Trademarks related to trademarks to another officer.

In January 2009, the government appointed P.H. Kurian to the top post in the IP office, the controller general. He has since tried to reform the way the office works and, in an attempt to cleanse the system of corrupt practices, transferred at least a dozen senior officials, mostly from the trademarks section, to other posts. He also made most information related to the processing of patents, designs and trademarks accessible online, reducing scope for corruption.

A senior official at the trademarks registry in Mumbai confirmed that the government had already made the change. "Part of the administrative powers of the trademark office has been shifted to senior joint registrar V. Ravi since 10 May by an internal order," said this person, who did not want to be identified.

Ravi has been with the department for at least two decades. He declined to comment as he is not authorized to speak with the media.

V. Bhaskar, joint secretary, DIPP, said that a formal separation of patents and trademarks has been considered for better focus. "We are looking into the legal aspects of it," he said.

An expert said the move could work for the better.

"Our current law makes it very clear that there can only be one controller general with overall powers of superintendence over both the patents and the trademark regimes. Given the increasing complexity of these regimes, and patents in particular, it may be desirable to have two heads in this regard," said Shamnad Basheer, a patent law expert and ministry of human resource development chair at the National University of Juridical Sciences, Kolkata.

He added that such a change can be brought about only by amending the present Trademarks Act.

Under the trademark legislation, as it stands now, the government's power is limited to appointing another officer to discharge some functions of the registrar (or controller general), as the latter may from time to time authorize. But the controller general remains in charge.

Meanwhile, critics of the government's move said it would mean a return to the trademark office's bad old ways. One of these, a patent and trademark agent in Mumbai, who didn't want to be named due to

business reasons, said that there have been at least a dozen cases of trademark officials receiving bribes being caught in the act. The change would “see many of these officers back to their earlier locations”.

“The administrative shuffle is quite vindictive to the strong reforms that the current controller general has initiated in the department in the last one-and-a-half years, and it will shift the system back to its inefficient past,” said Prabudha Ganguly, a Mumbai-based patents and trademarks consultant.

The trademarks office has been dogged with more corruption allegations than the patents office, which makes it even more imperative for the government to bring in a clean and efficient officer from the outside, if it is serious about reforming this office, said Basheer.

That also makes it imperative for the government to go about the change in the right way.

“If the government intends to change this scheme, it must do so through an amendment in the proper way. And must ensure that it gets someone from the outside to head up the trademarks division as well,” he added.

In 2008, *Mint* had investigated through a series of reports, instances of corruption in the IP office, related to the issuance of patents.

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