

**MEMORANDUM OF UNDERSTANDING
ON BILATERAL CO-OPERATION**

between

**The Office of the Controller General of Patents, Designs and Trade Marks,
Department of Industrial Policy and Promotion,
Ministry of Commerce and Industry of the Republic of India**

and

**The United States Patent and Trademark Office,
U.S. Department of Commerce**

The Office of the Controller General of Patents, Designs and Trade Marks, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry of the Republic of India, on the one hand, and the United States Patent and Trademark Office (USPTO), U.S. Department of Commerce, on the other hand,

Hereinafter called the Participants,

Considering:

- The Joint Statement made by the Governments of India and the United States of America on the 2nd of March, 2006, on the occasion of the visit of the President of the United States of America to India, to work together to promote innovation, creativity and technological advancement by providing a vibrant intellectual property rights regime, and to cooperate in the field of intellectual property rights in capacity building activities, human resource development and public awareness programmes; and
- The benefits of closer cooperation in fostering the protection and promotion of intellectual property rights; and
- The desire of both Participants to continue building upon the successful cooperation established during implementation of the first MOU;

Have arrived at the following understanding:

Article 1

Objective

The objective of this expanded Memorandum of Understanding is to reaffirm and further co-operation between the Participants in the field of Intellectual Property Rights, in accordance with the responsibilities of the two institutions in this area.

Article 2

Areas of Cooperation

The Participants intend to co-operate in the strengthening of the Intellectual Property Offices, both in India and in United States, for the benefit of their respective industry and citizens.

To this end the Participants plan to develop a relationship on the basis of mutual trust, respect and common values, in the areas of capacity building, human resource development, and public awareness programmes in Intellectual Property (IP).

Article 3

Capacity Building

The Participants plan to work together in capacity building in Intellectual Property Rights including automation and modernisation of Intellectual Property Offices, development of databases, and procedural rationalization and simplification of processing of Intellectual Property applications, *inter alia*, through the exchange of information on patent data, best practices in patent and trademark examination procedures.

Article 4
Human Resource Development

The two Participants plan to cooperate in the training of personnel and human resource development in the area of Intellectual Property Rights with a view to strengthening the working of the Intellectual Property (IP) systems in the two countries, including in patent and trademark examination training.

Article 5
Public Awareness Programmes

The two Participants plan to work together in the organisation of public awareness and sensitisation programmes in the area of Intellectual Property Rights. This could include the joint organisation of seminars, symposia, and workshops for stakeholders, including inventors, scientists, professionals, and IP managers, as well as for the general public with the objective of creating an IP sensitive society.

Small and Medium-sized Enterprises (SMEs) are expected to be given special focus in the sensitisation programmes.

Article 6
Annual Action Plan

The Participants would jointly draw up an Annual Action Plan that would set out the specific co-operation activities to be carried out each year.

The Annual Action Plan, *inter alia*, would include,

- a. Exchange of experiences between U.S. and India in training of Intellectual Property Office functionaries, IP managers, IP professionals, IP policy makers, public prosecutors and IP law enforcement officials.
- b. Development of appropriate modules and curricula for such training.

- c. Development of continued institutional cooperation for regular academic exchanges between IP institutes in the two countries.
- d. Exchange of information and best practices in the automation of IP offices, developing IP databases, as well as examination, opposition and rectification/cancellation procedures of patents, trademarks, designs, geographical indications, etc.
- e. Exchange of best practices in spreading awareness about IP among students, industrialists, and the civil society.
- f. Exchange of information about institutional mechanisms for addressing potential concerns between right holders and consumers.
- g. Joint activities on specific IP issues.
- h. Exchange of experience in the area of protection of traditional knowledge.
- i. Exchange of experiences with regard to capacity building, technology transfer training, and implementation strategies for economic development.
- j. Exchange of information and best practices in the administration of an efficient and effective International Searching Authority/International Preliminary Examining Authority (ISA/IPEA) under the Patent Cooperation Treaty.
- k. Exchange of information and best practices in the administration of an efficient and effective trademark filing and prosecution system under the Madrid Protocol.

Each Annual Action Plan should include plans for carrying out the co-operation activities, such as the scope of the action, administration and assignment of resources, total costs and their distribution, and time schedule.

Each Annual Action Plan need not necessarily include co-operation activities in all the fields specified in this Memorandum of Understanding.

Article 7

Monitoring Mechanism

A Joint Consultative Mechanism (JCM) is to be established for drawing up the Annual Action Plans, for overseeing their implementation, and for facilitating the exchange of views on any point of interest for the two Participants.

The JCM should meet at least once a year to approve the Annual Action Plan, and monitor and evaluate the co-operation activities carried out. It should meet also at the formal written request of either of the Participants, subject to the concurrence of the other party.

Article 8

Funding

The implementation of each activity is to be subject to the availability of the required funds in the annual budgets of the respective Participants.

Article 9

Commencement

This Memorandum of Understanding is intended to commence on the day following the date of the final signature.

Article 10

Termination

Cooperation under this Memorandum of Understanding is intended to continue for two years, and may be renewed, subject to the Parties' mutual understanding.

Either Participant may terminate its participation under this Memorandum of Understanding at any time, but it should endeavour to provide at least 90 calendar days' written notice to the other Participant.

The early termination of this Memorandum of Understanding should not affect the completion of any ongoing co-operation measures that were established under the annual work programmes.

Signed in Washington, DC, on 23 November 2009, in two originals in the English language.


For the Office of the Controller
General of Patents, Designs and
Trade Marks, Department of
Industrial Policy & Promotion



Ajay Shankar

Secretary
Department of Industrial Policy &
Promotion
Ministry of Commerce & Industry
Government of India

For the United States Patent and
Trademark Office, U.S. Department of
Commerce



David J. Kappos

Under Secretary of Commerce for
Intellectual Property and
Director of the United States Patent and
Trademark Office