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News / Business / Economy / With high withdrawals, patent process still under stress; approvals up, says govt

# With high withdrawals, patent process still under stress; approvals up, says govt

In 2018, the anti-corruption branch of the Central Bureau of Investigation (CBI) booked SP Subramaniam, Deputy Controller and branch head in the office of Controller-General of Patents, Designs and Trademarks for demanding a bribe of Rs 10 lakh for releasing a patent.

Written by [Ravi Dutta Mishra](#)

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The patent applicant in this case had first applied for the patent in 2010 and was allegedly made to wait for five years to get a patent. (File Photo)

A little over two days after Proctor and Gamble (P&G) received a request for clarification on its patent application on October 5, 2018 for a detergent composition, the patent office rejected its application on October 8 without giving the company the prescribed six months to deal with the issue. Following a legal challenge, the Delhi High Court in a order on December 8, 2023 pulled up the patent office saying that the manner of dealing with the application filed by the American multinational company was “extremely arbitrary and whimsical”.

In March 2023, the Delhi High Court pulled up the patent office for passing “mechanical, cut-paste order” while rejecting [Blackberry Ltd’s](#) invention application saying that the patent office “must bear in mind that the question of grant and rejection of a patent is a serious matter”. Not only did the court order the application to be decided by another officer, it suggested the Controller General of Patents, Designs and Trademarks (CGPDTM) take “necessary administrative action”.

In 2018, the anti-corruption branch of the Central Bureau of Investigation (CBI) booked SP Subramanian, Deputy Controller and branch head in the office of Controller-General of Patents, Designs and Trademarks for demanding a bribe of Rs 10 lakh for releasing a patent.

	Total application processed	Granted	Rejected	Withdrawn or abandoned	Number of examiners (FTE)	First office action (months)	Final office decision (months)
2022	51,052	30,490	5,198	15,337	597	4	51
2021	42,525	30,721	5,720	6,084	600	6	50
2020	50,341	26,361	4,994	18,986	615	18	42
2019	62,757	23,578	5,157	34,022	616	27	48
2018	48,755	14,130	2,325	32,300	521	36	52

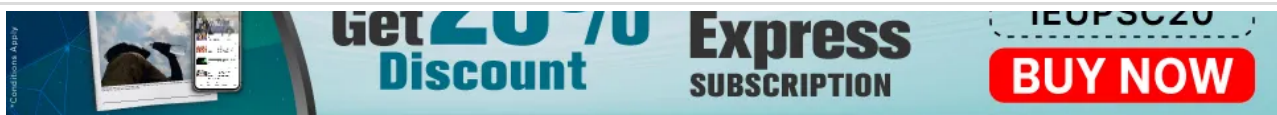
FTE: Full time equivalent Source: World Intellectual Property Indicators (WIPO)

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The patent applicant in this case had first applied for the patent in 2010 and was allegedly made to wait for five years to get a patent.

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Arbitrary refusals and procedural inconsistencies have marred the track record of India’s patent office, pushing the share of patent applications withdrawn in the country to one of the highest in the world at a time when countries such as the US, Japan, South Korea and China are using their patent processing systems to foster scientific research and technological innovation.



While admitting to key shortcomings such as shortage of manpower in the patent office, government officials contend that they have begun addressing these issues and started conducting open house sessions to address grievances, which have improved the process of granting patents over the last 12 months.

### **Allegation of corruption filed with CVC**

Amid multiple cases raising question marks over the operations of Controller General of Patents Designs and Trademarks (CGPDTM), which is responsible for administering Intellectual Property Laws in India, a new complaint regarding mismanagement has been filed with the Central Vigilance Commission (CVC) which looks into corruption in administration and public services. Citing a whistleblower, the Leader of the Opposition in Lok Sabha and Congress Member of Parliament (MP) [Adhir Ranjan Chowdhury](#), in a letter to Vigilance Commissioner Praveen Kumar Srivastava earlier this year, sought an inquiry over allegations that intellectual property (IP) cases are handled by “compromised officials” for monetary gains. A government official, seeking anonymity, said that the patent department has given show cause notices to officers for adopting incorrect practices or passing incorrect orders.

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“I am not saying that officers don’t make deliberate mistakes. In a recent Delhi High Court case involving a patent officer, the court asked a patent officer to file an affidavit as he did not give a reason to reject a patent, which is wrong as per law.

case because filing an affidavit could have resulted in him potentially losing his job,” a government official seeking anonymity told [The Indian Express](#). In legal parlance, an affidavit is a written statement sworn before a person having the authority to administer an oath.

### **‘Patent office has taken action’**

The fresh corruption allegation comes at a time when India is witnessing record patent filings. India reported a sharp 44.6 per cent growth in international patent filing in 2023 compared to 2022, as per the World Intellectual Property Organization (WIPO). The growth rates in 2022 stood at 31.6 in 2022 compared to 2021. WIPO ranked India third in terms of trademark registrations in force in 2022 at nearly 2.9 million, after China at 42.7 million and the US at 3.1 million.

Chowdhury, in his missive, has stated that the arbitrary engagement of contractual manpower through the Quality Council of India (QCI) and the arbitrary manner of processing applications have had a “disruptive effect” on the ecosystem of granting Intellectual Property (IP) rights. He also alleged the misutilisation and misappropriation of government funds in violation of statutorily laid-down rules and norms.

“The department has taken action against officials in cases where complaints have been received. People don’t give evidence of alleged corruption, which is the biggest problem. Wherever the department feels an officer has done something wrong...we change the workstation of the officer during routine transfers. The department has seen 400 promotions or transfers in the last one year,” the government official quoted earlier said.

Chowdhury, however, alleged that mass transfer of officials was followed by reversion to the original place of posting for monetary considerations and thereby demanded a third party administrative audit to investigate the same. “Corruption used to be a big problem earlier because businesses used to pay to get patents approved faster. Such cases have come down because we have put in place a Standard Operating Procedure (SOP). The wait time has come down from 14 days to 72 hours so there is no need for bribes,” the official added.

A country’s IP rights ecosystem involves granting patents, trademarks, and copyright to incentivise research and inventions across industries. Typically,

“Specific facts and figures that have been cited in the letter on matters which smack of illegality, arbitrariness and corruption in the office of the CGPDTM include, (i) hiring more than 400 contractual employees through the QCI with designations such as Associate Manager, Analyst and Coordinator for performing statutory duties of Hearing and Analyzing applications/cases of Intellectual Property Rights – an act which is violative of Trademarks and Geographical Indications Registry (Registrar and Examiners) Recruitment Rules,” Chowdhury said.

Questioning the legality of delegating the discharge of legal, judicial, and quasi-judicial functions to an external agency, the QCI, Chowdhury said that there was a lack of progress in granting TradeMark (TM) registrations and Geographic indications (GI). “Despite the increase in the strength of manpower from 115 in April 2022 to 159 in April 2023 to over 400 in April 2024, there is no change in the pendency level of cases, and as a matter of fact, the number of pending cases has gone up from 46,615 in April 2023 to 50,420 as of February 2024,” the Congress MP said in the letter.

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However, the official quoted above said the data used in the letter is a misrepresentation of facts as pendency has come down and that the additional workforce has been added to deal with sharply rising patent applications.

### **‘Over 1 lakh patents granted’**

“There used to be a lot of corruption related concerns in the patent office 10 years back. Prior to 2014, patents being granted annually used to be 6,500 but this year

patents are issued and the patent office receives patent applications every six minutes online. Everyday, an open house is conducted which has brought ease in the patent ecosystem,” Commerce Minister [Piyush Goyal](#) had said.

In 2023-24, 98 new GIs (geographical indicators) have been registered, and another 62 will be registered by March 31 this year. Similarly, so far this fiscal year, copyright and design registrations totalled at 36,378 and 27,819 respectively, the commerce and industry ministry said.

“Every 6 minutes one technology is seeking IP protection in India. In 2023, an all-time high of 90,300 patent applications were received. The patent office granted over one lakh patents in the last one year (15-Mar-2023 to 14-Mar-2024). Every working day, 250 patents were granted,” the ministry further added.

Responding to a query on whether the Commerce and Industry Ministry has received a communication from the CVC over the issue, a ministry spokesperson said: “The ministry is not in receipt of any such complaint from CVC. No such correspondence has been received in the CVC in this matter”.

On patent dismissals, the spokesperson said: “The Patent Dismissals are Judicial Proceedings, the Ministry is not involved directly in patent dismissal cases, which are handled by various courts across the country. The said information is not maintained by the Ministry”.

Query mailed to the CVC remained unanswered till press time.

A Economic Advisory Council to PM (EAC-PM) report in August 2022 on patent problems had noted that despite the overall jump in patent applications, India lags behind in overall patent granted in India. The reports said that in 2020, the number of patents filed in India was 56,771, merely 4 percent of China where 14.97 lakh applications were filed and 9.5 percent of US where 5.97 lakh applications were filed in the same year. Similarly, the patents granted in India were 26,361 as compared to 5.3 lakh in China and 3.5 lakh in US.

Moreover, in India, it takes about 58 months on average to dispose of a patent application as compared to about 20 months in China and 23 months in the US, the EAC-PM report said.

The EAC-PM analysis in this paper suggests that the major cause of this delay is the shortage of manpower in the patent office as only 860 people were employed in the patent office in India at the end of March 2022, including both examiners and controllers, as compared to 13704 in China and 8132 in US. Thus, approximately 1.64 lakh applications were pending at the controller level as on 31st March 2022.

“The paper further identifies few places in the registration system, where no human intervention is required- for instance, giving notice of opposition, abandonment of application in case response to opposition notice has not been received in the stipulated time, etc and argues for putting in place an automatic process to reduce the processing time further,” the paper further said.

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