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Analysing developments impacting business

DRAFT PATENT (AMENDMENT) RULES, 2018 PUBLISHED FOR OBJECTIONS AND SUGGESTIONS

10 December 2018

The Ministry of Commerce and Industry has published Draft Patent (Amendment) Rules, 2018 (Draft Rules) for objections and suggestions. The key highlights of the Draft Rules are broadly set out below:

International Applications:

- Patent agents will be required to file all documents, including scanned copies of documents, only by electronic transmission at the time of filing an international application under the Patent Co-operation Treaty (PCT). Original documents will require to be submitted within a period of fifteen days.
- There will be no transmittal fee for international applications filed through e-PCT.
- There will be no fee for preparation of certified copy of priority documents and e-transmission.

Addition of Applicants: Eligible to File Request for Expedited Examination:

- Applicants eligible to file a request for expedited examination will include a) a small entity; b) a female applicant or at least one of the applicants being a female (in case of natural persons only); c) a government undertaking; and d) an applicant who is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office and another participating patent office.
- In order to claim this benefit, necessary documents will be required to establish the eligibility by filing a requisite application.

Pre-grant Opposition:

- Similar to post-grant opposition, the pre-grant opposition will be decided by a Bench comprising two members. If the Bench differs in opinion on any issue,

the Controller will nominate a third member to the Bench and a majority decision will be treated as final.

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