

Stake holders meeting on Draft Manual of Patent Practice and Procedures to be held in Chennai on August 28, 2008 between 10 A.M. to 1 P.M.

First Stake holders meeting on Draft Manual of Patent Practice and Procedures was held in New Delhi on July 22nd, 2008 and was chaired by Shri N.N. Prasad, Joint Secretary of the Department of Industrial Policy and Promotion at the Ministry of Commerce. The aim of stake holder meet is to gather views, suggestion of Patent Attorneys, Inventors, Industries and other interested groups to reach a consensus as to interpretation of various provisions of the Indian Patent Act & Rules and to act as a guide to Examiners while dealing with the Patent Applications and prosecution.

Controversy has crept into the meeting already on the sensitive interpretation of Section 3(d) and (k) of the Indian Patent Act in the Manual.

Section 3(d) sets out what is not patentable subject matter and as per it “mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance” is not a patentable invention in India.

Still the manual is silent over how the Examiner shall interpret the “enhancement in known Efficacy” and how much enhancement shall suffice. If literal interpretation of the section is taken then hydrates of salts results in enhancement of known efficacy be it in stability or dissolution in water or alcohol.

The issue is debatable if enhancement in known efficacy shall satisfy the requirement of Section 3(d) then why Novartis case for “Gleevac” was rejected by Chennai Patent Office. But the reason for rejection of “Gleevac” has to be the disclosure in the earlier Patent Application by Novartis for the base salt where hydrates of the salt were disclosed in specific embodiment of the invention.

The other issue was interpretation of Section 3(k) of the Indian Patent Act that states “A mathematical or business method, or a computer programme per se or algorithms” not to be patentable invention in India.

For which protest has been started by people who do not want the softwares to be patented and available for free to them.

The Stake holders meeting scheduled in Kolkata on August 21, 2008 has been postponed and next meeting is scheduled in Chennai on August 28, 2008. The meeting was originally scheduled between 2 P.M. to 4 P.M. and has now been preponed and shall be held on the same date between 10 A.M. to 1 P.M.