

IN THE NEWS

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1.0 RBI proposes regulatory framework for CICs

The Reserve Bank of India (“**RBI**”) announced¹ the proposed regulatory framework for governing Core Investment Companies (“**CICs**”) having an asset size of more than INR 1 billion. The proposed framework acknowledges that CICs find it difficult to comply with the statutory net owned funds requirements and exposure norms for non-banking financial company (“**NBFC**”). NBFCs, and has accordingly been drafted considering the peculiar business model of CICs such as holding stake in group companies and also aiding their funding requirements. A detailed guideline will be issued by April 30, 2010.

Under section 45 IA of the RBI Act, 1934, every company in the business of acquisition of shares, stock, bonds, debentures or securities issued by a government or local authority or other marketable securities of a like nature has to mandatorily procure a certificate of registration from the RBI as a NBFC. Historically, there has been a lack of clarity on the applicability of the RBI Act and the NBFC directions issued thereunder amongst CICs. All previous attempts to seek a clarification from the RBI made the matter more complicated as some RBI offices have been granting exemptions from registration, while some have directed the applicants to pursue registration.

2.0 Steps to streamline Indian IP structure

To streamline the procedural aspects in the IP structure, the Controller General of Patents Design and Trade Marks (“**Controller**”) has mandated to make available the copies of all the letters/correspondence between the Patent office and the applicant/agent or vice-versa along with the application and complete specification and provisional specification together with the drawings, if any, to any applicant on payment of prescribed charges.

Also, it has been directed to the officers in the Trade Marks office attending hearing proceedings to not adjourn any hearing without giving any reason for such an adjournment and providing the next date of hearing, failing which disciplinary action will be initiated by the Controller.

¹ Vide Circular DNBS (PD) CC. No. /03.10.001/2009-10 dated April 21, 2010.

In an attempt to increase transparency and make available information to the public, the Indian Patent Office published in its official website a list of details of pharmaceutical product patents granted by it in the last three years,² along with a separate list which specifically lists pharma product patents granted to foreign applicants.³ This will surely add to the rate of post-grant oppositions.

3.0 New “specified territory” for double taxation relief

The Central Government has approved notification of the following areas as “specified territory”⁴ – (i) Bermuda; (ii) British Virgin Islands; (iii) Cayman Islands; (iv) Gibraltar (all British Overseas Territories); (v) Guernsey; (vi) Isle of Man; (vii) Jersey (all British Crown Dependencies); (viii) Netherlands Antilles (an Autonomous Part of the Kingdom of Netherlands); (ix) Macau (a Special Administrative Region of the People’s Republic of China); and (x) Hong Kong, a Special Administrative Region of the People’s Republic of China.⁵

Section 90 of the Income Tax Act which provides for relief from double taxation, was amended by the Finance Act 2009 to enable the Central Government to enter into an agreement with any specified territory outside India, in addition to the already existing provision of agreement with the government of any country. The Central Government can, now, initiate and negotiate agreements for exchange of information for the prevention of evasion or avoidance of income tax and assistance in collection of income tax with these specified territories.

4.0 Strategy Paper on auto industry released

A Strategy Paper on the growth of auto & auto component exports commissioned by EEPIC India and carried out by Ernst & Young (“**Strategy Paper**”) was released by the Commerce Secretary, Dr. Rahul Khullar which gives a holistic analysis of both the global and Indian auto industry. The Strategy Paper identifies that the Indian auto and auto component industry accounts for around 18% of India’s total engineering exports. The automotive industry accounted for 6% of the total GDP in 2007-08 up from 5% in 2005-06.

The broad objectives of the Strategy Paper includes understanding the issues and challenges facing Indian automotive exporters and recommending solutions; identifying the opportunity arising for the Indian automotive industry; identifying the major products and markets Indian exporters need to focus; setting aspirations for the growth of Indian automotive exports over the next five years; and laying a strategic framework that the Indian automotive industry, EEPIC India and government bodies need to follow to achieve these aspirations. The study also lists the key imperatives for India to achieve the targeted growth which are broadly related to enhancing the alignment and effectiveness of trade drivers, boosting the competitiveness of the Indian automotive industry, and strengthening enablers for growth by clearing infrastructural and procedural bottlenecks.

² For details visit - http://www.patentoffice.nic.in/iponew/TotalPharma_200708_200809.pdf- as visited on April 27, 2010.

³ For details visit - http://www.patentoffice.nic.in/iponew/TotalPharma_Foreign_200708_200809.pdf - as visited on April 27, 2010.

⁴ For the purpose of Explanation 2 to Section 90 of the Income Tax Act 1961 and Explanation 2 provides for notification of such specified territories.

⁵ Notification No. 22/2010 [F.NO.142/5/2010-SO (IPL)], dated April 8, 2010 and Notification No. 25/2010 [F.NO. 500/124/97-FTD-II], dated April 20, 2010.