

Patents (Amendment) Act, 2002

Section 8 - Amendment of Section 10

In section 10 of the principal Act,--

(a) in sub-section (4), after clause (c), the following clause shall be inserted, namely :--

"(d) be accompanied by an abstract to provide technical information on the invention :

Provided that--

(i) the Controller may amend the abstract for providing better information to third parties; and

(ii) if the applicant mentions a biological material in the specification which may not be described in such a way as to satisfy clauses (a) and (b), and if such material is not available to the public, the application shall be completed by depositing the material to an authorised depository institution as may be notified by the Central Government in the Official Gazette and by fulfilling the following conditions, namely :--

(A) the deposit of the material shall be made not later than the date of the patent application in India;

(B) all the available characteristics of the material required for it to be correctly identified or indicated are included in the specification including the name, address of the depository institution and the date and number of the deposit of the material at the institution;

(C) access to the material is available in the depository institution only after the date of the application for patent in India or if a priority is claimed after the date of the priority;

(D) disclose the source and geographical origin of the biological material in the specification, when used in an invention."

(b) after sub-section (4), the following sub-section shall be inserted, namely :--

"(4A) In case of an international application designating India,--

(i) the title, description, drawings, abstracts and claims filed with the application shall be taken as the complete specification for the purposes of this Act; and

(ii) the filing date of the application and its complete specification processed by the patent office as designated office or elected office, shall be the international filing date accorded under the Patent Cooperation Treaty.";

(c) for sub-section (5), the following sub-section shall be substituted, namely :--

"(5) The claim or claims of a complete specification shall relate to a single invention, or to a group of inventions linked so as to form a single inventive concept, shall be clear and succinct and shall be fairly based on the matter disclosed in the specification."
