

Ethics in Patents

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Ethics in Patents: Professional Misconduct and Its Consequences

Context

In a recent landmark case, the **Department for Promotion of Industry and Internal Trade (DPIIT)** has removed a patent agent, Naveen Chaklan, from the **Register of Patent Agents** for **alleged professional misconduct**. This decision was prompted by negligence on the part of the agent, leading to significant client harm. The case highlights the importance of ethical conduct and accountability in the field of patent and trademark representation.

Understanding Patents and Intellectual Property (IP) Rights

What is a Patent?

- A patent is a type of **intellectual property right** that provides an inventor **exclusive rights** over their invention for a specified period, preventing others from using or replicating it without permission.

Types of Patents

1. **Product Patent:** Protects the final product, ensuring it cannot be manufactured or sold by others.
2. **Process Patent:** Allows others to produce the product by modifying the manufacturing process.

Historical Context in India

- In the 1970s, India followed a **process patenting system**, enabling the country to excel in generic drug production.
 - Following the **TRIPS Agreement** under the WTO, India introduced **product patenting** to align with global norms.
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Patent Act, 1970 and Amendments

The Patents Act, 1970

- Came into effect in **April 1972**, replacing the Indian Patents and Designs Act of 1911.
- Based on recommendations from the **Ayyangar Committee Report**, led by Justice N.

Rajagopala Ayyangar.

India's International Patent Commitments

- **Paris Convention (1998):** Promotes international protection of patents, trademarks, and designs.
- **Patent Cooperation Treaty (1998):** Simplifies filing across multiple countries.
- **Budapest Treaty (2001):** Facilitates microorganism patent submissions.

Patents (Amendment) Rules, 2021

- **Key Changes:**
 1. Educational institutions are included as a separate applicant category.
 2. An **80% rebate** on patent filing fees is provided to educational institutions to promote innovation.
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National Intellectual Property Rights (IPR) Policy, 2016

Theme

- "Creative India; Innovative India"

Objectives

1. **Awareness:** Promote understanding of the social, economic, and cultural benefits of IPR.
 2. **Encouraging Innovation:** Foster the generation and protection of new IPRs.
 3. **Modernizing Laws:** Update laws to balance owner rights with public interest.
 4. **Human Capital Development:** Enhance teaching, research, and skills in IPR.
 5. **Efficient Administration:** Strengthen IPR systems for better service delivery.
 6. **Commercialization:** Maximize the economic potential of IPRs.
 7. **Enforcement:** Strengthen mechanisms to combat IPR infringements.
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The Case of Professional Misconduct

- **Key Allegation:** Patent agent **Naveen Chaklan** was accused of negligence while handling a patent application, causing **financial loss and mental anguish** to his client, Saurav Chaudhary.
- **Negligence:**
 - Charged Rs. 51,000 for filing a patent for a sewing machine in 2019.
 - Failed to inform the client about the **First Examination Report (FER)**, leading to the application's abandonment.
- **Legal Proceedings:**
 - Chaudhary filed a writ petition in 2023.
 - The **Delhi High Court** directed DPIIT to form a five-member ad-hoc committee to investigate.

Committee Findings

- **60% of Chaklan's applications** were either abandoned or withdrawn, showing poor accountability and ethical lapses.
- Chaklan defended himself, citing lack of mentorship and resources, but the committee viewed this as insufficient justification.

Action Taken

- Chaklan was **removed from the Register of Patent Agents**, with the case serving as a precedent for accountability in the profession.

Broader Implications and Way Forward

Strengthening Professional Ethics

- The High Court directed the **Controller General of Patents, Designs, and Trade Marks (CGPDTM)** to draft and publish a **Code of Conduct** for patent and trademark agents.

Framework for Handling Complaints

- An ad-hoc committee will manage complaints until a formal mechanism is established.
- The committee will consist of senior IP practitioners with at least **15 years of experience**.

Encouraging Accountability

- The decision underscores the need for patent agents to uphold **fiduciary duties** and maintain ethical standards.

Conclusion

The removal of a patent agent for professional misconduct signals a **strict stance on ethical practices** in intellectual property rights management. This case highlights the necessity for **accountability, mentorship, and professional standards** in patent representation. As India advances in innovation and intellectual property generation, robust systems for enforcement, education, and ethical conduct will play a critical role in shaping a responsible IPR ecosystem.

