

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

UNSTARRED QUESTION NO:3935
ANSWERED ON:19.12.2006
PATENT APPLICATIONS
Senthil Dr. Raman

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) Whether several companies are filing patent applications on different versions of drugs in different patent offices ;
- (b) If so, the reasons therefor;
- (c) Whether the Government is considering to hear these applications together by one patent office; and
- (d) If so, the details of the measures taken by the Government?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY(SHRI ASHWANI KUMAR)

(a)&(b) : No filing of different patent applications by any company on different versions of a drug in different branches of Patent Office has been reported so far by the Controller General of Patents, Designs and Trade Marks.

(c)&(d) : The application for a patent for an invention may be made by any person claiming to be the true and first inventor of the invention, or by the assignee of the right to make such an application or by the legal representative of any deceased person, who immediately before his death, was entitled to make such an application. Patent applications are processed by the Patent Office and its branches as per the provisions of the Patents Act, 1970, as amended last in 2005 and the Patents Rules, 2003, as amended last in 2006. Under Rule 4 of the Patents Rules, an applicant is required to file the application at the appropriate office which shall be the head office of the Patent Office or the branch office, as the case may be, within whose territorial limits

(a) The applicant normally resides or has his domicile or has a place of business or the place from where the invention actually originated, or

(b) If he has no place of business or domicile in India, the address for service in India is situated. As per this rule, the appropriate office once decided shall not ordinarily be changed.

A patent application is examined only after publication under Section 11A and on the request of the applicant or any other interested person under section 11B of the Patents Act. As per Rule 24B, a request for examination can be filed any time within forty-eight months from the date of filing of the application. The Patent Office is required to take up the examination within one month of the date of filing of request for examination and the examination is to be made in the order in which the request is filed. Therefore, clubbing together of applications for examination would not be feasible. However, Patent Office, while examining the application under Section 12 of the Act for ascertaining novelty or prior art, can detect the existence of similar inventions in pending applications from the Patent Office Journal and take objection. A third party can also bring such matter to the notice of the Patent Office before the grant of a patent under Section 25(1) of the Patents

Act. Further, a granted patent can be opposed under Section 25(2) of the Patents Act on the grounds of lack of novelty, inventive step, etc., within one year of the grant.

A revocation proceeding can also be initiated in a court of law under Section 64 of the Act on the grounds of lack of novelty, inventive step, etc.