Indian Patent System

Why in news?

Centre's Patent (Amendment) Rules, 2024 has raised concerns about public health implications.

Status of patents in India
• A patent is an exclusive right granted for an invention. • To get a patent, technical information about the invention must be disclosed to the public in a patent application. • Once a patent expires, the protection ends, and an invention enters the public domain. • **Patent publications**-There has been a 56% increase in patent publications in 2023 compared to 2019. • **Patent grants**-The number of patents granted in 2023 has seen a 220% jump since 2019. • **Application refusal**- There was a 94% increase in application refusals in 2023 compared to the previous years. • **Bangalore**- It has emerged as an innovation hub, overtaking Delhi in patent fillings. • **Global Innovation Index**- It is released by *World Intellectual Property Organization*, India has moved up the Global Innovation Index rankings from 81 in 2015–16 to 46 in 2021.

What are the legal provisions that govern patent system in India?

- **Indian Patents and Designs Act, 1911**- The Controller of Patents and Designs was responsible for patent administration.
- **Justice N Rajagopala Ayyangar Committee-** The report stated the monopoly that a patentee obtains is only in exchange for the disclosure of the invention to the public, free to be used after the monopoly period is over.
- **Patent Act, 1970**- It is India's first independent patent law which palyed vital role in the growth of industries, notably the pharmaceutical sector, earning India the title "***the pharmacy of the world***."

  Patent Act, 1970 is based on the recommendations of Bakshi Tekchand Committee (1949) and the Justice Rajagopal Ayyangar Committee

- **Globalisation-** In 1991, India liberalized its economy and adhered to the General Agreement on Tariffs and Trade (GATT 1947), which was succeeded by the WTO, resulting in amendments being introduced in line with the TRIPS Agreement.
- **Patent (Amendment) Act, 2005**- It extending product patents in all areas of technology including food, medicine, chemicals and microorganisms.
- **Patent (Amendment) Rules, 2024**- The aim of the amendments was to streamline the working of the Indian Patent Office, enhance protection and support innovation in India.

International obligations of India in patent system
• **TRIPS agreement-** The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement that establishes *minimum standards* for the regulation by the national governments of different forms of IP between all the member nations of the World Trade Organization (WTO). • **Doha declaration-** In 2001, the WTO Ministerial Conference in Doha, Qatar emphasized interpreting the TRIPS Agreement to support public health. Developing economies like India stressed the importance of expanding health coverage at low and affordable costs. • **Patent Cooperation Treaty-** India signed and acceded in 1998, Patent (Amendment) Act, 2002 has incorporated provisions for PCT applications into Indian law. • **Receiving offices-** India (New Delhi, Kolkata, Chennai and Mumbai) and International Bureau in Geneva were designed to receive international applications. • **Patent Prosecution Highway (PPH)**- It facilitate the sharing of search reports and other relevant information, Indian Patent Office launched its first bilateral PPH program with ***Japan Patent office***.

What are the key provisions of Patent (Amendment) Rules 2024?

- **Expedited examination-** Applicants can request an examination within 31 months of the priority date to accelerate the patent process.
- **Digitalization-** Transition to digital platforms for submissions and communications, with revised deadlines for providing information on foreign applications.
- **Certificate of inventorship**- Inventors can now request a certificate via Form 8A, which will include their name, recognizing their contribution.
- **Pre-grant opposition process**- The process has been streamlined, representations must be considered by the Controller within one month, and an official fee is introduced, discouraging frivolous oppositions.
- **Advance payment discount**- Patentees are offered a 10% discount for advance payments covering atleast 4 years, made electronically.
- **Simplification**- The patentees are no longer required to submit value or sales data for the patent in India annually.

What are the issues in India' patent system?

- **Manpower shortage**- The major reason for delays in the patents is the lack of sufficient manpower in patent office.
- **Limited application**- The number of patents applied and granted in India is still a fraction compared to the patents granted in China, USA, Japan, and Korea.
- **Special 310 report-** India continues to be on the 'Priority Watch List' of the United States Trade Representatives for lack of adequate IP rights protection and enforcement, this would impact US investments in India.
- **Lack of transparency**- Recent 2024 amendment has been made without parliamentary discussion or transparent justification, have drawn criticism for potentially compromising public health and access to essential medications.
- **Dilution of patent provisions**- The government has been making concessions to meet the demands of industrialized countries and pharmaceutical companies, which may have influenced the dilution of certain patent provisions.
- **Lack of accountability**- The companies no longer need to file Form 27 that compelled

patent holders to disclose every year if their patents are being worked in India or not, with details of quantity and value.

Now, Form 27 has to be submitted just once in three years and with no insistence of details

References

1. Down To Earth- Unhealthy patent amendments
2. WIPO- FAQ on patents

