



TEAMWORK: (L-R) Chirra Electronics' M.V. Rayudu and V. Nagesh's innovations were successfully patented by patent agents A. Narasani and K. Kankanala of Brain League IP Services

HEMANT MISHRA

Wanted: Patent Agents

An acute shortage of IP agents may slow down the pace of innovation in small and medium enterprises

VISHAL KRISHNA

NAGESH V. owns Chirra Electronics, a company that makes nuclear reactor parts. Last year, he had to file two important patents. Unfortunately, every time he went to the patent office with a lawyer, he found himself hitting a dead end with bureaucratic processes. Further, his lawyer did not really understand his business. Explaining his innovations to both the lawyer and the patent examiners cost him time and money.

Then, a few months ago, he was introduced to a 'patent agent', who had a science background. The agent understood the science behind Nagesh's innovation and took less than two weeks to

draft the patent application. A lawyer would have taken at least a month. Now, Nagesh has been granted a patent for his innovations and is awaiting publication from the patent office. "We need agents to understand our invention and explain it in the language that the patent office understands," he says.

All patent agents have to be authorised by the Indian Patent Office (IPO). To qualify, one should write the Patent Agent Examination conducted by the patent office every year. Usually one goes through a diploma in patent law before attempting the examination. Once qualified, an agent would be able to search and analyse patentability of an invention, draft patent specifications, file patents on behalf of the client and prosecute the patent application. One

will also interact with the patent office for clarifications, examinations, etc.

But India is facing an acute shortage of patent agents and does not have many qualified in the sciences. There are only 928 registered patent agents in the country, but merely 250 are said to be practising actively. Even less are from a science background. That's too small a number to cater to India's increasing investments in research. Last year alone, 27,846 patents were published in India. And in the last three years, it is estimated that over 50,000 patent applications were filed and the number is rising. A patent usually takes about 18 months to be published.

A culture of research and innovation is sweeping across India. The electronics industry, for example, is filing patents in a big way. Sources from the Technology Information, Forecasting and Assessment Council (TIFAC) say that every year the industry files at least 600 applications. "There are entrepreneurs

who want good advice on the global patent scenario, but there isn't much of that available" says a TIFAC official. Indian firms, especially small and medium enterprises, desperately need more and better agents, qualified in the sciences, to make the most of their research.

Large companies like Sterlite Optical Technologies and Dr. Reddy's do not face a problem. Dr. Reddy's, which has a Rs 254 crore R&D budget, has the resources to hire a top-notch IP firm in the US for its requirements. Sterlite Optical has filed 42 patents. Says COO Pankaj Khanna: "Our lawyers have helped us file 27 international patents and the rest through national filings." Sterlite was recently awarded three patents by the State Intellectual Property Office of the People's Republic of China for optical fibre inventions. But that success came only after Sterlite spent years training its patent lawyers on its shop floor.

Smaller companies are struggling. Say sources from Dr. Reddy's Labs: "SMEs have a major problem because they may not have the resources to hire good advice." But a new breed of IP agents are trying to fill the gap. They are very different from the old-style patent lawyers; understanding the sciences as much as they understand IP laws. They use their knowledge of the sciences to draft applications and convince the patent office to publish them. They have created a new business model to help companies that need constant information on patent services.

Komal Shah, a chemical engineer and a registered patent agent with the US Patent and Trademark Office and the IPO, has floated Innovar IP Consulting Group. A knowledge process outsourcing firm, it provides IP services to comp-

NEW BREED: Komal Shah, chemical engineer and patent agent, runs her own IP services company

anies in India, Europe and the US. Similarly, Kalyan C. Kanakanala, CKO, Brain League IP Services is a qualified patent agent from the Franklin Pearce Law Centre, US, and he has teamed up with an IIT-IIM graduate, Arun Narasani, to develop IP strategy for firms.

Firms such as Innovar IP Consulting and Brain League IP Services have hired around 20 IP agents with a technology background, including PhDs and scientists. Both firms handle more than 150 applications each from clients (including many small businesses) every year. And the number is increasing.

Their key task is patent drafting, but there are other activities as well, including prosecution, litigation and tracking management. "All this requires more than 3,000 patent agents today. If we include filing by Indian companies in the US and other countries, the number is much higher," says Kanakanala.

A patent agent could charge anything between \$1,500 and \$5,000 for an end-to-end solution relating to a patent grant in India. In the US, for example, a patent agent's service ranges from \$10,000 to \$40,000 based on technology and it may go up to \$100,000.

But why do companies need such specialised patent agents? Writing a patent is a craft, requiring both intelligence and rigour. "The quality of the patent drafted is very important. A badly drafted patent is a waste of time and money. Not only that, it destroys the value of the IP created," says Komal. You wouldn't want your invention's exclusivity eroded by a poorly drafted patent.

Rigour is equally important. Before



SAVJIT KUNDU

drafting, agents trawl through tonnes of data on patents that have already been filed. Such databases tell the entrepreneur if his innovation is valid to be patented. A meticulous scan of such data could well make the difference between an Indian innovation competing globally or losing out due to infringement upon an already published patent. "What we need to know is whether the process or innovation in our company is globally patentable. This is where the patent agent becomes important," says Suresh Narasimha, CEO, TELiBrahma Convergent Communications, a mobile applications company.

Moreover, India is a signatory to the Patent Cooperation Treaty (entailing that once a patent has been filed in India and is not an invalid patent, the innovation is valid in 150 countries). Indian patent agents need to liaise with patent examiners from the US, Europe and China. Thus, it is necessary for agents to be able to deal with foreign examiners, who are well versed in technology.

Patent agents at such firms also help innovator companies shape an IP strategy. This involves observing their internal documentation procedures, training their people, advising them on creating intellectual property that would create entry barriers for their competitors, etc. Soon, IP consulting could be a big business opportunity. ■

PATENT PROBLEM

Why scarcity of patent agents is proving to be a bottleneck.

- There are only 928 registered agents in India, of which only about 250 are practising.
- Of the 27,846 patents published in 2005, only 3,630 were filed by Indian entities.
- It takes 18 months for a patent application to be published.
- At most, a patent agent can draft only two applications a month.
- Patent agents charge anything between \$1,500 and \$5,000 for an end-to-end solution relating to a patent grant in India.
- Companies requiring a patent need to be able to liaise with examiners from the US, Europe and China.