

I Have to Publish, But I Also Want to Patent”

An IP survival guide for Indian student researchers

If you're doing a final-year project, a PhD, or lab research anywhere in India, you've probably felt this pull. Your guide wants a publication, your CV needs a conference presentation, and somewhere at the back of your mind is a nagging thought: can I still patent this after I've shown it to people?

That question, alongside “is my research even eligible for a patent in the first place,” is the most common IP dilemma student researchers run into. Here's the straight answer, plus what actually happens with ownership and fees once you decide to file.

The core rule: disclosure before filing is risky

India runs on a first-to-file system. The moment your invention becomes public, through a conference talk, a published paper, video or even a public demo, it can be treated as prior art against your own patent application if filed later. In plain terms: disclose it before you file, and you can lose the right to patent it, even though you invented it.

The safety net and its limits

Indian law does provide a limited safety net. Section 31 of the Patents Act, 1970, allows certain public disclosures to be ignored if you file your patent application within 12 months. This applies only in specific situations, such as presenting your work before a “learned society” or displaying it at a government-notified exhibition. Since 2024, you'll also need to file Form 31 under Rule 29A, along with evidence of the disclosure, to claim this protection. The catch? Not every journal, conference, or seminar qualifies, and the law doesn't clearly spell out what counts as a “learned society.” Therefore Section 31 could be treated as a safety net, not a filing strategy.

So what should you actually do?

It depends on whether your research is patentable in the first place. Start by checking it against the three pillars of patentability: novelty, inventive step, and industrial applicability.

Novelty is usually the easy one. As a researcher doing a literature review, your topic is often already novel simply because nothing quite like it exists in the published record. The part people skip is inventive step: would someone skilled in your field have arrived at this easily, or did it take real, non-obvious effort? And then there's industrial applicability, which students tend to overlook entirely. If your research establishes something foundational, like identifying a new biological pathway, it may not be patentable on its own, since a discovery with no stated industrial use doesn't meet that third pillar. But a specific method or process built on that discovery, one that does something useful and applicable, can still be patentable even when the underlying discovery isn't.

Get a rough sense of all three before you think about filing. If your invention clears that bar, the safest sequence is:

- File a provisional application first, using Form 1 along with Form 2 marked as provisional. Even without complete data, this secures a priority date and gives you 12 months to file the complete specification. See the [Patents Forms & Official Fees page](#).
- Publish, present, or demo only after filing.
- Remember that filing is only the beginning. Patent applications are ordinarily published after 18 months from the filing or priority date (unless early publication is requested), and examination begins only after a Request for Examination (RFE) is filed. Publication and examination are therefore separate stages in the patent process.
- If you've already disclosed before filing, check immediately whether Section 31 and Form 31 can still cover you. Don't assume it does; verify against the provisions of [Patents Act and Rules](#).

The blind spot most PhD students miss: your thesis is a disclosure too

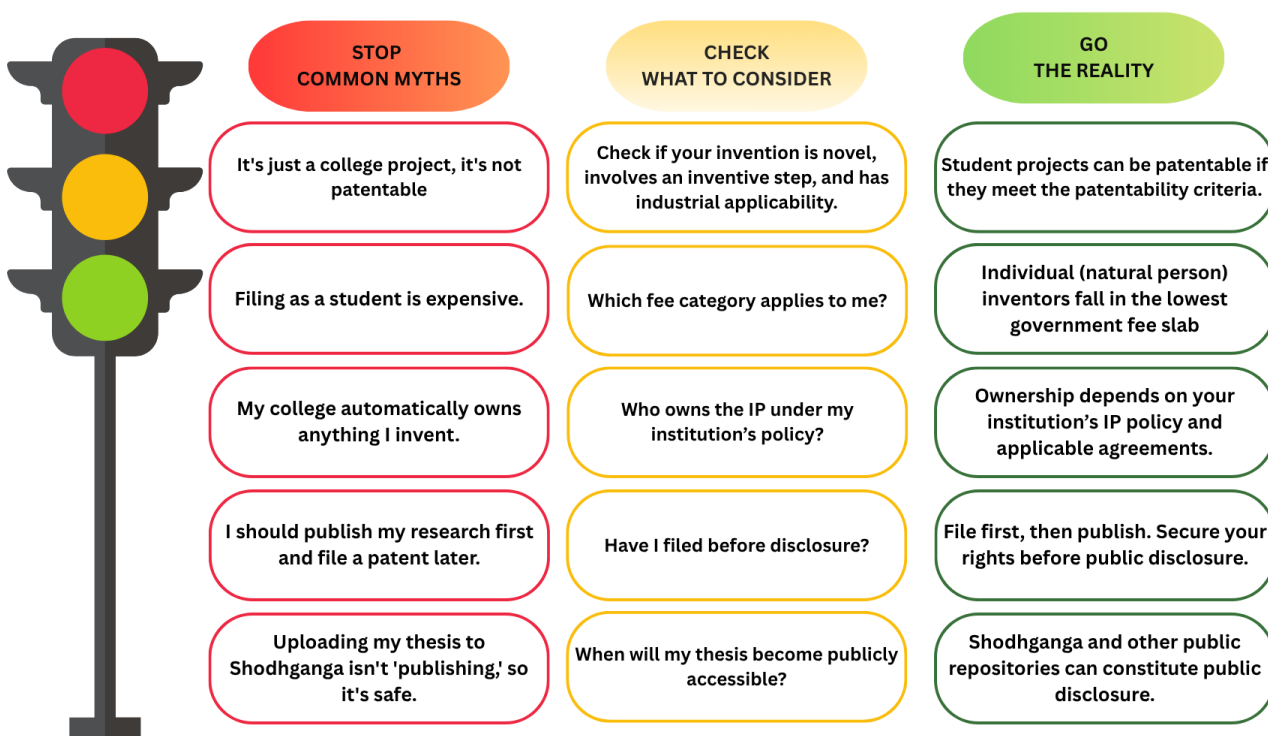
Most Indian universities require PhD theses to be uploaded to a public repository, commonly Shodhganga, before or around the time your degree is conferred. Students think of “disclosure” as conferences and papers, but a thesis sitting in a public, searchable repository is just as much a public disclosure. If your invention is described in that thesis and it goes online before you've filed, you can lose novelty exactly the way you would with a conference talk, except this one is easy to miss because nobody thinks of a mandatory repository upload as “publishing.” Check your university's thesis submission timeline against your filing timeline early, not in your final semester.

One more thing worth knowing if you're thinking beyond India: Section 31 only protects your Indian filing. Grace period rules vary from country to country. Many jurisdictions, including the European Patent Office, generally do not offer a grace period comparable to India's limited exceptions. If you plan to seek patent protection abroad, filing before any public disclosure is usually the safest strategy.

Who Owns the Patent: You, Your College, or Your Funder?

There's no single national rule here. It depends on your specific college or university's IP policy, and any funding or project agreement you signed. Some institutions claim ownership of research output and share royalties with the inventor; others let students retain rights, especially for personal projects done outside funded lab work. Government-funded research (DST, DBT, CSIR, ICMR, and similar grants) often carries its own IP clause too, which can sit alongside, or occasionally override, your institution's default policy. Knowing the ownership position before filing can help avoid disputes and delays later.

It is also important to know the difference between an inventor and an applicant. Your guide or PI can be listed as a co-inventor without being the applicant, and vice versa; this affects both credit and which fee category the application falls under. If you're unsure who should be named as what, this is worth a direct conversation with your guide before you file and not based on assumption.



The forms look complicated. I don't know where to start.

Many institutions have a designated IP cell that can file on your behalf. CSIR institutes, for instance, can route filings through the CSIR-IPU office. If your institution doesn't have one, a registered patent agent can help, either independently or through a law firm.

Always verify an agent's credentials against the office's own Electronic Register of Patent Agents before engaging anyone. There are people who falsely claim to be registered agents, so check the directory rather than taking someone's word for it.

“IP Mitra” facilitators, listed under the Startups Intellectual Property Protection (SIPP) scheme, offer subsidized help, but they're specifically for DPIIT-recognized startups. If you're a student who's also running a recognized startup, this is worth exploring through the list of empanelled IP Mitras. If you're not, this route doesn't apply to you, and the patent agent directory or your institution's IP cell is the better starting point.

Now, the fees, which usually surprise people

Filing a patent as a student is cheaper than most people expect.

- Individuals (natural persons) already qualify for the lowest fee category by default. No extra form required.
- Eligible educational institutions filing in their own name get an 80% reduction in official fees when compared to other legal entity under Rule 7 of the Patents Rules, 2003, bringing

their fees down to the same level as an individual. They must file Form 28 to claim this status.

- Professional or attorney fees, if you hire someone, are separate from government fees and vary independently.

Quick decision checklist before you present or publish

- Have I filed a provisional application for patent (Form 1 + Form 2), or do I plan to before disclosing anything?
- Have I checked my institution's IP ownership policy, and also the IP clause in my funding or fellowship agreement, if any?
- If I've already disclosed, does the event potentially qualify under Section 31, and have I tracked the 12-month clock from that date?
- Am I filing as a natural person, or does my institution need to file (and submit Form 28)?
- Have I used the patent public search tools to check whether something similar already exists?
- Does my thesis or dissertation need to go on a public repository before I graduate? If so, when, and does that date fall before or after my planned filing date?
- If I eventually want protection outside India too, have I checked whether the country I'm targeting even has a grace-period provision like Section 31?

Where to go next

[Basics of Patents](#)

[Patents: Forms & Official Fees](#)

[Patents: Public Search](#)

[Comprehensive e-Filing Services \(Patents\)](#)

[Electronic Register of Patent Agents](#)

[Patents Act and Rules \(Resources\)](#)

[Patents e-Citizen FAQs](#)

[Startups Intellectual Property Protection \(SIPP\) / IP Mitra](#)

This article explains general provisions of Indian patent law for awareness purposes. It is not legal advice. Confirm current fees, forms, and procedures with the Indian Patent Office or a registered patent agent before filing.

The views in this blog are the author's own and are not those of the Office of the CGPDTM.

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