
Draft Manual of Patent

Practice & Procedure

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भारत सरकार

वाणिज्य और उद्योग मंत्रालय

कार्यालय महानियंत्रक एकस्व अभिकल्प एवं व्यापार चिन्ह

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PREFACE

The Patents Act, 1970 was amended in 1999, 2002 and 2005 for product patents in chemicals, pharmaceuticals, food and agro-chemicals and brings in other necessary amendments in line with Trade Related Aspects of Intellectual Property Rights (TRIPS). Patents Rules, 2003 have been amended several times in 2005, 2006, 2012, 2013, 2014, 2016, 2017, 2019, 2020(i), 2020 (ii), 2021 and 2024. India became a signatory to Patent Cooperation Treaty (PCT) in 1998. Consequently, patent filing in India, including National Phase applications under PCT, has increased exponentially. Indian Patent Office is a major PCT filing country and also functions as ISA/IPEA under PCT since October 15, 2013.

The Indian Patent Office has been modernized in terms of automation, IT enablement and electronic processing of patent applications during the last decade. The objective of the modernization project was to increase the functional efficiency and streamline the procedures in tune with international best practices.

Considerable changes have been effected in patenting procedures from time to time in accordance with the provisions of the amended Act and Rules and also to bring in automation, electronic work-flow, comprehensive e-filing, simplified and transparent procedures and efficient public service delivery of IP services.

The office has been regularly publishing the Draft Manual of Patent Office Practice and Procedure to codify patent procedures for streamlining the functioning, provide benefit to stakeholders and also to provide guidance for prosecution of patent applications at Patent Office.

In view of the recent amendments of Patent Rules, reengineering of patent procedures and automation in almost all activities in the Patent Office, there has been demand to revise and update the present Draft Manual.

Accordingly, the present version of Draft Manual of Patent Office Practice and Procedure, hereinafter referred to as -Draft Manual, has been prepared which is yet another step to fulfill our commitments towards more efficiency and transparency in the functioning of Patent Office.

This Draft Manual may be considered as a practical guide for effective prosecution of patent applications in India. However, it does not constitute rule making and, hence, does not have the force and effect of law.

The Draft Manual will be revised from time to time based on interpretations by courts of law, statutory amendments and valuable inputs from the stakeholders.

Schedules and Forms are not reproduced in this Draft Manual for the sake of brevity and conciseness.

Prof. (Dr) Unnat P. Pandit
Controller General of Patents, Designs and Trademarks



IPO Delhi



IPO Mumbai



IPO Kolkata



IPO Chennai

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1. This Draft Manual has been compiled with an intention to codify the practices and procedures being followed by the Indian Patent Office and the same is intended to serve as a procedural guide for practitioners and other users of the Indian Patent System.
2. Indian Patent Office functions from four locations viz. Delhi, Mumbai, Kolkata and Chennai with defined areas of territorial jurisdiction. Introduction of office automation and electronic processing of Patent applications has resulted in uniformity and transparency in functioning of the office. A complete file wrapper in respect of published Patent applications including, information related to publication, examination reports, status of application, amendments, grant, opposition, renewal and decisions of Controllers as well as legal status of Patents in the form of electronic Patent Register, has been made available to the public. This Draft Manual is expected to bring in further transparency and uniformity in Patent office practices.
3. Processing of Patent applications is a multi-stage process, involving filing of an application, electronic data processing, screening and classification, publication, examination, hearing required, pre-grant opposition, grant/refusal, review petition and post grant opposition (if any).
4. This Draft Manual is intended to spell out Patent office practices and procedure and bridge any information gap that may currently exist in this regard. It is not intended to be the interpretation of the Indian Patents Act and Rules made thereunder.
5. The procedure for filing Patent application and its processing up to grant/refusal, maintenance etc. is explained in the following chapters except infringement proceedings. Certain matters like exceptions to the rights of patentee, Government use, compulsory licensing, etc. have also been included.
6. Some of the key definitions have been explained in Chapter-2.
7. Chapters 3 to 8 relate to the procedure for filing of Patent applications including ordinary and PCT national phase applications, convention and PCT international applications, Patent of addition, divisional application and functioning of Indian Patent Office as ISA/IPEA.
8. Chapters 9 to 10 relate to examination, grant, pre-grant oppositions (Chapter 9A) and post-grant oppositions.
9. Chapters 11 to 14 relate to the post-grant procedures such as maintenance of patent, appeal, revocation and compulsory licensing.
10. Chapters 15 to 21 relate to use of patents for the purpose of Government, Patent Agents, offences and penalties, general powers of Controller, general services, scientific Advisers and miscellaneous provisions.

11. Timelines prescribed under the Act and Rules have been dealt with separately in Chapter 22.
12. The officers, appointed under section 73 (2) of the Act having delegated statutory powers, have some discretionary powers under the Statute, which are to be exercised cautiously and judiciously. They shall not be guided solely by the contents of this Draft Manual, but shall take judicious decisions based on the Act, Rules and judicial decisions available in the matter.
13. Common Procedures and Practices:
 - a) Affidavit and Evidence: Subject to anything contrary to the directions issued by the Controller, evidence shall be given by way of an affidavit in all proceedings before the Controller, as may be required under the Act or Rules. As per Section 77(1)(c) of the Act and Rule 126 of the Patents Rules, the Controller has the power to receive evidence on affidavits which shall be duly sworn in. Nevertheless, a self-declaration signed before the Controller, who is legally empowered to receive the evidence, may also be considered as admissible evidence in any proceeding before the Controller under the Patents Act, if the Controller so allows.
 - b) Consequent upon adopting the e-filing system, where certain documents are required to be filed in original, only one copy of such documents shall be submitted to the appropriate Patent Office.
 - c) The latest document filed by the applicant shall be considered as final and the corresponding earlier document shall be deemed to have been superseded and cancelled by the applicant.
 - d) Power of Attorney in Form-26 shall be stamped appropriately under the Indian Stamps Act.

Clause		Sections and Rules
02.01	General	
	For better appreciation of the Draft Manual, the user may require to have clear understanding of certain terms which are defined in the Act and Rules. Some of the important definitions are as under:	
02.02	Definitions	
02.02.01	“appropriate office” means the appropriate office of the Patent Office as specified in rule 4.	Rule 2(b), 4
02.02.02	"assignee" includes an assignee of the assignee and the legal representative of a deceased assignee and references to the assignee of any person include references to the assignee of the legal representative or assignee of that person.	Section 2(1)(ab)
02.02.03	"capable of industrial application", in relation to an invention, means that the invention is capable of being made or used in an industry	Section 2(1)(ac)
02.02.04	"Controller" means the Controller General of Patents, Designs and Trade Marks (CGPDTM) referred to in Section 73(1). The Controller General of Patents, Designs and Trade Marks is appointed by the Government of India under Section 3 of the Trademarks Act, 1999. The person so appointed will be the Controller of Patents for the purposes of the Patents Act, 1970. The Central Government may appoint Examiners and other officers with designations as deemed fit. The officers so appointed shall discharge, under the superintendence and directions of the Controller General of Patents, Designs and Trade Marks, such functions of the Controller under this Act, as he may authorize in writing from time to time, by general or special order. Any reference to the Controller shall be construed as including a reference to any officer discharging such functions of the Controller in pursuance of Section 73. The Controller General has authorized Assistant Controller, Deputy Controller, Joint Controller and Senior Joint Controller to discharge certain functions of the Controller, under the Act.	Section 2(1)(b), 2(2)(a), and 73; Section 3 of Trademarks Act, 1999

	The Controller General has the power to withdraw any matter pending before an officer, by an order in writing and for reasons to be recorded therein, and deal with such matter himself, either <i>de novo</i> or from the stage it was so withdrawn or transfer the same to another officer who may, subject to special directions in the order of such transfer, proceed with the matter either <i>de novo</i> or from the stage it was so transferred as referred to in Section 73 (4).	
02.02.05	"educational institution" means a university established or incorporated by or under Central Act, a Provincial Act, or a State Act, and includes any other educational institution as recognized by an authority designated by the Central Government or the State Government or the Union territories in this regard;	Rule 2(ca)
02.02.06	"Government undertaking" means any industrial undertaking carried on— a) by a department of the Government, or b) by a corporation established by a Central, Provincial or State Act, which is owned or controlled by the Government, or c) by a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or d) by an institution wholly or substantially financed by the Government.	Section 2(1)(h) of Patent Act 1970 Section 617 of the Companies Act, 1956
02.02.07	"international application" means an application for a patent made in accordance with the Patent Cooperation Treaty.	Section 2(1)(ia)
02.02.08	"invention" means a new product or process involving an inventive step and capable of industrial application.	Section 2(1)(j)
02.02.09	"Inventive step" means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art.	Section 2(1)(ja)
02.02.10	"legal representative" means a person who in law represents the estate of a deceased person.	Section 2(1)(k)
02.02.11	"Opposition Board" means an Opposition Board constituted under sub-section (4) of section 25.	Section 25(3), 2(1)(la)
02.02.12	"patentee" means the person for the time being entered on the register as the grantee or proprietor of the patent.	Section 2(1)(p)

02.02.13	“patent office” means the patent office referred to in section 74; Unlike many other Countries, Indian Patent Office functions from four locations viz. Delhi, Mumbai, Kolkata and Chennai for the purpose of facilitating processing of patent applications.	Section 2(1)(r), 2(2)(b), 74
02.02.14	"person" includes the Government.	Section 2(1)(s)
02.02.15	"person interested" includes a person engaged in, or in promoting, research in the same field as that to which the invention relates.	Section 2(1)(t)
02.02.16	"prescribed" means - (A) in relation to proceedings before a High Court, prescribed by rules made by the High Court; (C) in other cases, prescribed by rules made under the Act.	Section 2(1)(u)
02.02.17	"prescribed manner" includes the payment of the prescribed fee.	Section 2(1)(v)
02.02.18	"small entity" means, - a) in case of an enterprise engaged in the manufacture or production of goods, an enterprise where the investment in plant and machinery does not exceed the limit specified for a medium enterprise under clause (a) of sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006); and b) in case of an enterprise engaged in providing or rendering of services, an enterprise where the investment in equipment is not more than the limit specified for medium enterprises under clause (b) of sub-section (1) of Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006. Explanation 1: For the purpose of this clause, "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951) or engaged in providing or rendering of any service or services in such an industry. Explanation 2: In calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other things as may be specified by notification under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), shall be excluded. Explanation 3: The reference rates of foreign currency of the Reserve Bank of India	Rule 2(fa), Section 7(1)(a) and (b) of MSME Development Act, 2006

	shall prevail.	
02.02.19	"Startup" means- a) an entity in India recognised as a startup by the competent authority under Startup India initiative. b) In case of a foreign entity, an entity fulfilling the criteria for turnover and period of incorporation/ registration as per Startup India Initiative and submitting declaration to that effect. Explanation: In calculating the turnover, reference rates of foreign currency of the Reserve Bank of India shall prevail.	Rule 2(fb)
02.02.20	"true and first inventor" does not include either the first importer of an invention into India, or a person to whom an invention is first communicated from outside India.	Section 2(1)(y)

Clause		Section and Rules
03.01	Applicant • An application for a patent for an invention may be made by any of the following persons either alone or jointly with any other person: - True and first inventor - True and first inventor's assignee - Legal representative of any deceased true and first inventor or his/her assignee • The term "person" as defined in the Patents Act includes Government. • True and first inventor does not include either the first importer of an invention into India or a person to whom an invention is first communicated from outside India. • An applicant is required to disclose the name, address and nationality of the true and first inventor(s). • "Assignee" can be a natural person or legal person such as, a registered company, small entity, startup, research organization, an educational institute or the Government. • Assignee includes assignee of an assignee also. • Where the inventor(s) is/are not the applicant(s), a proof of right to apply for a patent shall be submitted by way of endorsement in the appropriate paragraph of Form-1 or as an assignment from inventor(s) in favour of applicant(s), duly authenticated, irrespective of whether the application is a Convention or National Phase application. It shall be filed within 6 months from the date of filing of the application in India. • "Natural person" means any individual or a group of individuals. • "Other than natural person" includes a registered company, small entity, startup, research organization, educational institute or Government. • "Legal representative" means a person who in law represents the estate of a deceased person. In such a case, the Legal Representative is required to file appropriate legal instruments as proof of right.	Section 2(1)(ab), 2(1)(y) 6, 7(2), 54, 134, 135; Rule 10, Rule 138, Form -1
03.01.01	Procedure to be followed for substitution of applicants etc. (1) a) If the Controller is satisfied with the claim that, by virtue of any assignment or agreement in writing made by the applicant or one of the applicants for the patent or by operation of law, the claimant would, if the patent were then granted, be entitled thereto or to the interest of the	Section 20, 34-36, Form-6

	applicant therein, or to an undivided share of the patent or of that interest, the Controller may direct that the application shall proceed in the name of the claimant or in the names of the claimants and the applicant or the other joint applicant or applicants accordingly, as the case may require. Such a claim shall be made in Form 6 in the prescribed manner at any time before a grant of patent. b) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for a patent except with the consent of the other joint applicant or applicants. c) The original assignment or agreement or an official copy or notarized copy thereof shall also be produced for the Controller's inspection and the Controller may call for such other proof of title or written consent, as he may require. d) Further, the Controller shall not issue any such direction unless: - i . the invention is identified in the agreement or assignment by reference to the number of applications for the patent, or ii. there is an assignment/ agreement produced before the Controller by the person to whom it was made, indicating that the assignment or agreement relates to the invention in respect of which the application is made, or iii. the rights of the claimant in respect of the invention have been finally established by decision of a court, or iv. The Controller takes a decision after hearing the disputed parties as per the proceedings under section 20 (5) of the Act. (2) Where one of two or more joint applicants for a patent dies at any time before the grant of patent, the Controller may, upon a request in that behalf made by the survivor or survivors, and with the consent of the legal representative of the deceased, direct that the application shall proceed in the name of the survivor or survivors alone. Such request shall be made in Form 6 and shall be accompanied by proof of death of the joint applicant and a certified copy of the probate of the will of the deceased or letters of administration in respect of his estate or any other document to prove that the person who gives the consent is the legal representative of the deceased applicant	
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	(3) If any dispute arises between joint applicants for a patent as to whether or in what manner the application should be proceeded with, the Controller may, upon application made to him in the prescribed manner by any of the parties, and after giving an opportunity to be heard to all parties concerned, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it should be proceeded with, or for both those purposes, as the case may require. Such application shall be made in Form 6 in duplicate and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks. A copy of the application and statement shall be sent by the Controller to every other joint applicant.							
3.02	Jurisdiction Unlike many other Countries, Indian Patent Office functions from four locations viz. Delhi, Mumbai, Kolkata and Chennai for carrying out all procedures relating to patents. An application for patent shall be filed with the Patent Office having appropriate jurisdiction. A territorial jurisdiction of patent office in respect of a patent application is decided based on any of the following: a) Place of residence, domicile or business of the applicant (first mentioned applicant in case of joint applicants) or, b) Place from where an invention actually originated or, c) Address for service in India given by the applicant, when the Applicant has no place of business or domicile in India (Foreign applicants). d) Also, the further application referred to in section 16 of the Act shall be filed at the appropriate office of the first mentioned application only. Territorial jurisdictions are as under: <table><tr><th>Patent Office</th><th>Territorial Jurisdiction</th></tr><tr><td>Delhi</td><td>The States of Haryana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand, National Capital Territory of Delhi and the Union Territories of Chandigarh, Jammu and Kashmir, and Ladakh</td></tr><tr><td>Mumbai</td><td>The States of Gujarat, Maharashtra, Madhya Pradesh, Goa, Chhattisgarh, the Union Territories of Daman & Diu and Dadra & Nagar Haveli</td></tr></table>	Patent Office	Territorial Jurisdiction	Delhi	The States of Haryana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand, National Capital Territory of Delhi and the Union Territories of Chandigarh, Jammu and Kashmir, and Ladakh	Mumbai	The States of Gujarat, Maharashtra, Madhya Pradesh, Goa, Chhattisgarh, the Union Territories of Daman & Diu and Dadra & Nagar Haveli	Section 16, 74. Rule 4, 5.
Patent Office	Territorial Jurisdiction							
Delhi	The States of Haryana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand, National Capital Territory of Delhi and the Union Territories of Chandigarh, Jammu and Kashmir, and Ladakh							
Mumbai	The States of Gujarat, Maharashtra, Madhya Pradesh, Goa, Chhattisgarh, the Union Territories of Daman & Diu and Dadra & Nagar Haveli							

	<table><tr><td>Kolkata</td><td>Rest of India (States of Bihar, Jharkhand, Orissa, West Bengal, Sikkim, Assam, Meghalaya, Manipur, Tripura, Nagaland, Arunachal Pradesh and Union Territory of Andaman and Nicobar Islands)</td></tr><tr><td>Chennai</td><td>The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana and the Union Territories of Pondicherry and Lakshadweep.</td></tr></table> An appropriate office where a patent application is filed shall not be ordinarily changed. However, the Controller may allocate an application for patent to any of the four Patent Offices, if required. All applicants and patent agents are required to give an address for service including postal address in India, an email address and a mobile number registered in India. Patent agent shall file, leave, make or give all documents only by electronic transmission duly authenticated however if any document is asked by the Controller to be submitted in original shall be submitted within a period of fifteen days failing which such documents shall be deemed not to have been filed. Such address for service shall be considered for all proceedings under the Patents Act and Rules.	Kolkata	Rest of India (States of Bihar, Jharkhand, Orissa, West Bengal, Sikkim, Assam, Meghalaya, Manipur, Tripura, Nagaland, Arunachal Pradesh and Union Territory of Andaman and Nicobar Islands)	Chennai	The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana and the Union Territories of Pondicherry and Lakshadweep.	
Kolkata	Rest of India (States of Bihar, Jharkhand, Orissa, West Bengal, Sikkim, Assam, Meghalaya, Manipur, Tripura, Nagaland, Arunachal Pradesh and Union Territory of Andaman and Nicobar Islands)					
Chennai	The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana and the Union Territories of Pondicherry and Lakshadweep.					
3.03	Types of Patent Applications 1. Ordinary Application i.e., an application which has been filed directly in the Indian Patent Office without claiming priority of any foreign application. 2. Convention Application claiming the priority of a country which is a member of the Paris Convention (for further detail, refer to Chapter 7). 3. PCT National Phase Application (for further detail, refer to Chapter 7). 4. Divisional Application, i.e, a further application divided out of the st-mentioned patent application (for further detail, refer to Chapter 6). 5. Patent of Addition i.e. an application for patent in respect of any improvement in or modification of the invention for which the patent application has already been filed or patent has been granted (for further detail, refer to Chapter 6).	Section 7, 16, 54, 135				
03.04	Filing of patent application Every application for a patent shall be for one invention only and shall be filed in Form-1 at an appropriate office along with Provisional/Complete Specification (in Form 2), accompanied with the prescribed fee as given in the First Schedule. However, a provisional specification shall not be filed in case of Convention Application or PCT National Phase application filed in	Section 7, First Schedule				

	India. (For further description of Provisional /Complete Specifications refer to Chapter 5). Normal fee shall be applicable for applications containing up to 30 pages and up to 10 claims. If the application exceeds 30 pages or claims are more than 10 in number, additional fee, as given in the First Schedule, is payable. It may be noted that a 10% additional fee shall be payable when the application for patent and other documents are filed through physical mode, namely, in hard-copy format. e-Filing of Patent Application: IPO has developed the comprehensive e-filing system for patents, wherein, in addition to online filing of new applications, subsequent filing of all the documents has also been integrated. New and enhanced features of comprehensive e-filing services include: • Web-based filing system • Dual way login (Digital Signature as well as Password based) and password regeneration • e-filed document can be signed using digital signature or aadhar based e-sign • Provision for filing of all entries as per First Schedule of the Patents Rules, 2003 (as amended) • Proper validations with Patent Office database • Facility to upgrade/update digital signatures (https://ipronline.ipindia.gov.in/epatentfiling/goForLogin/doLogin) e-sign user guide: (https://ipronline.ipindia.gov.in/epatentfiling/UsefullDownloads/eMudhra_eSign_User_Guide%20v1.2.pdf) For further help, please contact ipo-helpdesk@nic.in	
03.04.01	Documents required for filing patent application A patent application should contain the following: 1. Application for grant of patent in duly filled Form-1 mandatorily including the email-id. 2. A proof of right is required from the inventor(s) by way of endorsement in the appropriate paragraph of Form-1 or as an assignment from inventor(s) in favour of applicant(s), duly authenticated, irrespective of whether the application is a Convention or National Phase application. Accordingly, it shall be filed within 6 months from the date of filing of the application in India and within an extended time period as prescribed in Rule 138.	Section 7 and 135 Rule 2(fa)/ 2(fb), 7(1), 8, 10, 12, 13, 13(6), 10(4)(d), 21, 135 and 138 Form-1, 2, 3, 5, 26, 28. Section 6

	3. Provisional/Complete Specification in Form-2. 4. Information and Undertaking regarding foreign applications under Section 8: The statement and undertaking required to be filed by an applicant for a patent under sub-section (1) of section 8 shall be made in Form 3, either along with the application or within 6 months from the date of filing of the application. The time within which the applicant for a patent shall keep the Controller informed of the details in respect of other applications filed in any country in the undertaking to be given by him shall be 3 months from the date of issuance of first statement of objections. The Controller may, under sub-section (2) of section 8, for reasons to be recorded in writing, direct the applicant to furnish a fresh statement and undertaking in Form 3 within two months from the date of such communication by the Controller. The Controller may condone the delay or extend the time for filing Form 3 for a period up to three months upon a request made in Form 4 and within an extended time period as prescribed in Rule 138. 5. Declaration as to inventorship shall be filed in Form-5 along with the Complete Specification where the Complete Specification is filed after Provisional Specification, and also, where the application is either a Convention Application or national phase application filed in India under PCT. However, the Controller may allow Form-5 to be filed within one month from the date of filing of Complete Specification, if a request is made to the Controller in Form-4 or within an extended time period as prescribed in Rule 138. 6. If an applicant is MSME or Startup or Claiming status of the educational institution, Form 28 accompanied with appropriate evidence in accordance with rule Rule 2 (fa)/ 2(fb)/ 2(ca) respectively shall be submitted. In the case of “small entity or startup or educational institution”, every document for which fee has been specified, shall be accompanied by Form-28. 7. Form of Authorisation: Authorisation of an agent shall be filed in Form 26 or in the form of a power of attorney which is to be appropriately stamped as per Indian	of Biological Diversity Act, 2002.
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	Stamps Act within a period of three months from the date of filing of such application or document, failing which no action shall be taken on such application or documents for further processing till such deficiency is removed. In case a General Power of Attorney (GPA) has already been filed in another application, a self-attested copy of the same shall be filed by the authorized Patent Agent with reference to the application number in which the original GPA was filed. 8. Priority document is required in the following cases: Convention Application (under Paris Convention). PCT National Phase Application wherein requirements of Rule 17.1 (a or b or b-bis) of regulations made under the PCT have not been fulfilled. A priority document shall be filed along with PCT National phase application before the expiry of 31 months from the date of priority. 9. Every application shall bear the signature of the applicant or authorized person/patent agent along with name and date in the appropriate space provided in the forms. The specification shall be signed by the applicant or his authorized patent agent with date on the last page of the claims contained in the specification. Drawing sheets should bear the signature of an applicant or his authorized patent agent in the right hand bottom corner. Where the documents have been digitally signed / e-signed by the Applicant/Patent Agent, there will be no requirement of physical signature of the agent or applicant. However, pasting a copy of the physical signature on the forms/documents is not allowed. 10. If the invention as disclosed in the patent specification uses biological material obtained from India, the applicant is required to obtain approval from or register with the National Biodiversity Authority (NBA), as applicable, at any time before the grant of the patent. (Please refer to Section 6 of the Biological Diversity Act, 2002, as amended in 2023). 11. If any biological material is used in the invention, the application shall disclose the source and geographical origin of the biological material in the specification.	
03.04.02	Comprehensive e-filing:	Rule 6

	e-filing portal of the Patent Office, available in the official website of Controller General of Patents, Designs & Trade Marks (www.ipindia.gov.in), provides a comprehensive platform for online submission of patent application and subsequent forms in a secure and authenticated electronic way. Authentication of filing is done via a digital signature/aadhar based e-sign which the applicant or his agent must procure as Digital Signature Certificate (DSC) of class II or III from authorized vendors. Online payment of fees shall be made through a payment gateway with all the prevalent major modes of payment like Net banking, Credit Cards, Debit Cards and Unified Payments Interface (UPI). The e-filing portal provides flexibility to applicants or their authorized agents to work from their premises on a 24x7 basis, even on holidays. Steps of e-filing: 1. Visit www.ipindia.gov.in and proceed to e-Gateways 2. Register for new user and creation of “user-id” 3. Install Digital Signature Certificate (DSC) and configure the system as per the DSC Draft Manual 4. Login to the e-filing module 5. Select new application filing or any particular form which is to be filed 6. Draft the form(s) for new application or any other subsequent form (s) 7. Upload the PDF version of required documents 8. Save the draft 9. Go to the drafted forms 10. Enter the mobile number, if SMS alert are required 11. Select the drafted form and proceed for signing of drafted form 12. After the forms are digitally signed/e-signed, it is ready for making the payment though the available Payment Gateways	
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	13. Select the digitally signed form and proceed for payment 14. Select the payment gateway (NTRP-Bharatkosh payment gateway) 15. Select the bank and payment mode to make the payment of fee 16. After making payment, the acknowledgement receipt would be generated. Submitted forms would then proceed to the respective section of the Patent Office for processing and official actions. (For more and updated information on the steps for e-filing, you may also refer to the Comprehensive E- Filing Portal at https://ipronline.ipindia.gov.in/epatentfiling/goForLogin/doLogin). For further help, please contact ipo-helpdesk@nic.in	
03.04.03	Leaving and Serving Documents at Patent Office 1. Any Application, notice or other document authorized or required to be filed, left, made or given at the Patent Office, or to the Controller or to any other person under the Act or the rules, may be tendered by hand or sent by a letter addressed to the Controller at the appropriate office or to that person through post or registered post or speed post or by electronic transmission duly authenticated. 2. If any such document is sent by post or registered post or speedpost or by electronic transmission duly authenticated, it shall be deemed to have been filed, left, made or given at the time when the mail containing the same would have been delivered in the ordinary course of post or registered post or speed post or by electronic transmission duly authenticated, as the case may be. In proving such sending, it shall be sufficient to show that the mail was properly addressed and transmitted. 3. A patent agent shall file, leave, make or give all documents only by electronic transmission duly authenticated; 4. Any document, if asked to be submitted in original, shall be submitted within a period of fifteen days, failing which such documents shall be deemed not to have been filed. 5. Any written communication addressed to a patentee at his postal address or email address, as it appears on the register of patents or this address for service given under rule 5, or to any applicant or opponent in any proceedings under the Act or the rules, at the postal address or	Rule 5, 6, 6 (1A)

	email address, preferably on first email address appearing on the Application or notice of opposition, or given for service, shall be deemed to be properly addressed. 6. All notices and all written communications addressed to a patentee, or to any applicant or opponent in any proceedings under the Act or the rules, and all documents forwarded to the patentee or to the said applicant or opponent, shall, except when they are sent by special messenger, be sent by registered post or speed post or by electronic transmission duly authenticated. This office will preferably communicate through the first email provided by the applicant/opponent provided in the application forms /Notice of Opposition and all the stake holders are required to provide the latest email id for properly receiving the communications/Hearing notice/ orders/ decisions/ patent certificate etc. 7. The date of notice or written communication addressed to a patentee or to any applicant or opponent in any proceedings under the Act and the rules shall be the date of dispatch of the said notice or written communication, by registered post or speed post or fax or electronic transmission duly authenticated, as the case may be, unless otherwise specified under the Act or the rules. 8. (i) In case of delay in receipt of a document or communication sent by the Patent office to a party to any proceedings under the Act or the rules, the delay in transmitting or resubmitting a document to the Patent office or doing any act by the party may be condoned by the Controller if a petition for such condonation of delay is made by the party to the Controller immediately after the receipt of the document or communication along with the statement regarding the circumstances of the fact and evidence in support of the statement. Whenever an applicant is unable to submit the documents in time due to failure of server/Bharat Kosh/IT infrastructure on part of the Office, the applicant/patent agent is required to take screen shot of the problem and submit the same to the Office along with a statement regarding the circumstances of the facts as evidence in support as per Rule 6(5), whereupon such delay may be condoned after due verification by the Office. Such delay condoned by the Controller shall not exceed the period between the date on which the party was supposed to have received the document or communication by ordinary course of mail or electronic transmission duly authenticated and the actual date of receipt of the same. (ii) The condonation of such delay can also be made for reasons of war, revolution, civil disorder, strike, natural calamity, a general unavailability of electronic communication services or other similar reasons occurred in	
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	the locality where the applicant/agent resides or has place of business. The delay can be allowed when the applicant/agent files a petition for condonation of such delay to the Controller provided the situation was of such severity that it disrupted the normal communication in that area and that the petition is filed within maximum one month from the date of cessation of the such situation. Such delay condoned by the Controller shall not exceed the period for which national emergency was in force, or six months from the expiry of the prescribed period, whichever is earlier. (iii) A petition(s) as referred to above can be filed in Form 30, as no specific Form is provided for petition under rule 6 (5) and 6 (6).	
03.04.04	Receiving Documents in office: 1. The application and any other documents with or without accompanying fees are received at the Patent Office at separate counters i.e., Fee Counter and Non-Fee Counter, respectively. 2. The fee bearing documents are sent to the fee counter and the non-fee bearing documents are sent to the non-fee counter. 3. The staff at the fee counter makes relevant entries in the module, stamps the documents so received, generates the Cash Book Receipts (CBRs) and enters the CBR number, date, amount of fee received, application number, patent number or other relevant entries. 4. The staff at the non-fee counter makes a relevant entry in the document receipt module and stamps the documents. 5. The documents from both the counters are sent to Electronic Data Processing (EDP) Section for digitization.	
03.04.05	Language and Paper-size etc. All documents and copies of the documents, except affidavits and drawings, filed with patent office, shall be: 1. typewritten or printed in Hindi or English (unless otherwise directed or allowed by the Controller) in large and legible characters not less than 0.28 centimeter high with deep indelible ink with lines widely spaced not less than one and half spaced, only upon one side of the paper; 2. on such paper which is flexible, strong, white, smooth, non-shiny, and durable of size A4 of approximately 29.7 centimeter by 21centimeter with a margin of at least 4 centimeter on the top and left hand part and	Rule 9

	3 centimeter on the bottom and right hand part thereof; 3. numbered in consecutive Arabic numerals in the centre of the bottom of the sheet; and 4. containing numbering to every fifth line of each page of the description and claims at the right half of the left margin. 5. additional copies of all documents shall be filed at the appropriate office as may be required by the Controller. 6. names and addresses of applicant and other persons shall be given in full, together with their nationality and such other particulars, if any, necessary for their identification. Signature Any signature which is not legible or which is written in a script other than Hindi or English shall be accompanied by a transcription of the name, either in Hindi or in English, in block letters.													
03.04.06	Sequence listing If the application for patent discloses sequence listing of nucleotides or amino acid sequences, such sequence listing shall be filed in the computer readable text format along with the application and no print form of the sequence listing of nucleotides or amino acid sequences will be required to be given. Requirements of WIPO Standard ST.25/ST.26 compliant sequence listings and fee calculation: <table><tr><td>1.</td><td>PCT International applications filed on or after 1st July 2022</td><td>ST.26</td></tr><tr><td>2.</td><td>PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022</td><td>ST.25</td></tr><tr><td>3.</td><td>Divisional of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022</td><td>ST.25 or ST.26 (Preferably ST.26)</td></tr><tr><td>4.</td><td>Patent of Addition in respect of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022</td><td>ST.25 or ST.26 (Preferably ST.26)</td></tr></table>	1.	PCT International applications filed on or after 1st July 2022	ST.26	2.	PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25	3.	Divisional of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)	4.	Patent of Addition in respect of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)	Rule 9
1.	PCT International applications filed on or after 1st July 2022	ST.26												
2.	PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25												
3.	Divisional of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)												
4.	Patent of Addition in respect of a PCT National Phase entry corresponding to PCT International Application with international filing date before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)												

	5.	National applications including Complete after provisional filed on or after 1st July 2022	ST.25 or ST.26 (Preferably ST.26)
	6.	Divisional of a national application wherein the national application is filed before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)
	7.	Patent of Addition in respect of a national application wherein the national application is filed before 1st July 2022	ST.25 or ST.26 (Preferably ST.26)
How to calculate the filing fee: The fee shall be calculated from the number of pages of the Sequence listing on a .docx or .pdf file compliant with the requirements of Rule 9 of the Patents Rules, 2003 and containing the complete sequences and identifiers. Please refer to Public Notice issued by CGPDTM on 17th June, 2022 and 8th August, 2022 at https://ipindia.gov.in/ Note: “WIPO Sequence”, a free global software tool, enables patent applicants to prepare amino acid and nucleotide sequence listings compliant with WIPO Standard ST.26. It may be accessed at: https://www.wipo.int/standards/en/sequence/index.html			
03.04.07	Fee: 1. Fee payable under the Act in case of offline filing may either be paid in cash or may be sent by bank draft or banker's cheque payable to the Controller of Patents and drawn on a scheduled bank at the place where the appropriate office is situated. Fee can also be paid through the BHIM app in the Controller of Patents Account. 2. If the draft or banker's cheque is sent by post, the fee shall be deemed to have been paid on the date on which the draft or banker's cheque has actually reached the Controller. 3. Ten percent additional fee shall be payable when the application for patent and other documents are filed through physical mode, namely, in hard copy format.		Section 142, Rule 7, First Schedule

	4. In case of online filing, payment of fees can be made through a payment gateway with all the prevalent major modes of payment like Net banking, Credit Cards, Debit Cards or ATM Cards. 5. In the case of a small entity, or startup, or educational institution, every document for which a fee has been specified shall be accompanied by Form-28. 6. In case an application processed by a natural person, startup, small entity or educational institution is fully or partly transferred to a person other than a natural person, startup, small entity or educational institution, the difference, if any, in the scale of fees between the fees charged from the natural person, startup, small entity or educational institution and the fees chargeable from the person other than a natural person, startup, small entity or educational institution, shall be paid by the new applicant along with the request for transfer. Explanation: Where a startup or small entity, having filed an application for a patent, ceases to be a startup or small entity due to the lapse of the period during which it is recognized by the competent authority, or its turnover subsequently crosses the financial threshold limit as notified by the competent authority, no such difference in the scale of fees shall be payable. 7. When an application processed by a small entity is fully or partly transferred to a person other than a natural person (except a small entity), the difference, if any, in the scale of fee(s) between the fee(s) charged from a small entity and the fee(s) chargeable from the person other than a natural person (except a small entity) in the same matter for all previous proceedings shall be paid by the new applicant with the request for transfer in Form 6 along with Form 30. 8. When an application is filed by a startup is fully or partly transferred to any person other than a natural person or a startup, the difference, if any, in the scale of fees between the fees charged from a startup and such person to whom the application is transferred, shall be paid by the new applicant for all previous proceedings along with the request for transfer in Form 6 along with Form 30. Explanation- Where the startup ceases to be a startup after having filed an application for patent due to lapse of more than seven/ten years from the date of its incorporation or registration as applicable or the turnover subsequently crosses the financial threshold limit as defined, no such difference in the scale of fees shall be payable.	
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	9. Where a fee is payable in respect of a document, the entire fee shall accompany the document. 10. Where a fee is payable in respect of the doing of an act by the Controller, the Controller shall not do that act until the fee has been paid. 11. Fee once paid in respect of any proceedings shall not be ordinarily refunded whether the proceedings have taken place or not. However, on the request by the applicant/agent in Form 30 and if the Controller is satisfied that during the online filing process, the fee was paid more than once for the same proceeding, the excess fee shall be refunded. 12. Prescribed fee for various proceedings under the Act is given in the First Schedule.	
03.05	Processing of Application	
03.05.01	Initial processing: 1. On receipt of an application, the Office accords a date and serial number to it. Requests for examination are accorded separate serial numbers. 2. Applications and other documents filed in physical form are digitized, verified, screened, classified and uploaded to the internal server of the Office. 3. Patent applications and other documents are arranged in an e-wrapper. 4. All the filed applications (both Online and Offline) looked for Screening and Classification Manually by the Screening and Classification team upon which, they will be directed to allotment. 5. During the process of screening and Classification, the following aspects are looked in: ● Identifying Technical field of invention for allocation to an examiner in the respective field ● Identifying the primary and secondary discipline in case of a multidisciplinary application ● Assigning International Patent Classification (IPCs) codes ● Relevance to defence or atomic energy. ● Correctness and completeness of abstract. 6. If the abstract is found as not appropriate, the same will be amended suitably by the office, so as to provide better information to third parties.	

	However, care is taken that such amendment does not result in a change in the nature of invention.	
03.05.02	1. Numbering System for Applications FORMAT: YYYY J T NNNNNN , Where, □ "YYYY" is Four digit fixed length "Year of filing" (in YYYY/MM/DD) □ "J" is fixed length single digit "Jurisdiction" in numerals (1 for Delhi, 2 for Mumbai, 3 for Kolkata, 4 for Chennai) □ "T" is fixed length single digit "Type of Application" in numerals: (1 for Ordinary; 2 for Ordinary-Divisional; 3 for Ordinary-Patent of Addition; 4 for Convention; 5 for Convention-Divisional; 6 for Convention-Patent of Addition; 7 for PCT NP; 8 for PCT NP-Divisional and 9 for PCT NP-Patent of Addition) □ "NNNNNN" is 6 digits fixed length common continuous running serial number of applications applicable for all Patent Offices in India Thus, the 1st application (Ordinary) filed in Delhi in 2019 will be numbered as 201911000001. If 2nd application in 2019 is "Convention application from Mumbai it would be numbered as 201924000002.	
03.05.03	2. Numbering Format for Request for Examination Format: RYYYYJNNNNNN, Where, □ "R" denotes Request for examination u/r 24B(1)(i) "YYYY" denotes four digit fixed length "Year of filing" □ "J" denotes Jurisdiction for Patent Application against which Request of Examination has been filed □ "NNNNNN" denotes 6 digits fixed length common continuous running serial number applicable for all Patent Offices in India. 3. Numbering Format for Request for Expedited Examination Format: EYYYYJNNNNNN Where, "E denotes Request for Expedited Examination under rule 24 (C).	
03.05.04	Scrutiny of Application 1. The Office checks whether the Application has been filed in Appropriate Jurisdiction (see 03.02). The address for service shall mandatorily include e-mail address, mobile number and PIN code. If the	

	address for service is not complete, the application shall be returned and the applicant will be informed accordingly. 2. The Office checks for Proof of Right to file the application (See 03.04). If proof of right is not filed along with the application, the same shall be filed within a period of six months from the date of filing of the application. Otherwise, the applicant shall file the same along with a petition under Rule 138. The Office checks whether the application and other documents have been filed in the prescribed format i.e. prescribed forms, request, petitions, assignment deeds, translation etc.. Copy of the world wide assignment may be considered as proof of right in case of PCT national phase applications; however, proof of right submitted in one of the Country and specific to that country alone may not be considered as a worldwide assignment. 3. Further, the Office checks whether: - the documents have been prepared on a proper sized paper and typed in appropriate font with proper spacing, - the documents are duly signed - abstract, drawings (if any) have been filed in proper format (see particular chapter related to Abstract, Drawings etc.) - meaningful claim(s) are present in a Complete Specification, - whether authorisation of an Agent in Form 26 or in the form of a power of attorney is filed within a period of three months from the date of filing of such application or document. - whether Form-5 has been filed, if required. - whether the invention has been assigned to another person, and if yes, whether Form 6 has been duly filed along with the deed of assignment. If the right is assigned from an individual to a legal entity, the legal entity is invited to pay the balance fees.	
03.05.05	Secrecy Directions and consequences thereof- 1. If in the opinion of the Controller, an invention pertains to a subject matter relevant for the purpose of defence, as notified by the Central Government, or otherwise the invention appears to the Controller to be so relevant, he will issue directions prohibiting the publication of the application and will notify the applicant. 2. Where the Controller gives any such direction, he shall refer the matter to the Central Government for consideration as to whether the publication of the application would be prejudicial to the defence of India. 3. If the Central Government, after considering the merits of the secrecy direction, is of the opinion that the publication of the invention would not so prejudice, will give notice to the Controller to that effect, who	Section 35, 36, 37, 38 Rule 72

	shall thereupon revoke the directions and notify the applicant accordingly. 4. The Central Government reviews the continuation of secrecy directions in the following circumstances: a) periodically at an interval of six months, or b) on a request made by the applicant. If the applicant requests for reconsideration of the secrecy direction already imposed, and, if the same is found reasonable by the Controller, he shall request the Central Government for review. If on such reconsideration, it appears to the Central Government that the publication of the invention would no longer be prejudicial to the defence of India, it shall forthwith give notice to the Controller to revoke the direction and the Controllers shall thereupon revoke the directions previously given by him. c) In case the application filed by a foreign applicant is found to be relevant for defence purposes by the Central Government but published outside India, it shall give notice to the Controller to revoke the directions previously given by him. The result of every re-consideration under sub-section 36 (1), shall be communicated to the applicant within 15 days of the receipt of the notice by the Controller. 5. If the Central Government is of the opinion that an invention in respect of which the Controller has not imposed a secrecy direction and is relevant for defence purposes, it may at any time before the grant of the patent notify the Controller to that effect. Thereupon, the Controller invokes the provisions of Section 35(1) and notify the Central Government accordingly. 6. So long as any directions under Section 35 are in force, the Controller shall not take a decision on grant of the application. Further, no appeal shall lie from any order of the Controller passed in respect thereof. 7. Where a patent is granted in pursuance of an application in respect of which directions have been given under section 35, no renewal fee shall be payable in respect of any period during which those directions were in force.	
03.05.06	Inventions relating to Atomic Energy No Patent is granted in respect of an invention relating to atomic energy falling within sub-section (1) of Section 20 of the Atomic Energy Act, 1962. According to Section 20(1) of the Atomic Energy Act, 1962 atomic energy means energy released from atomic nuclei as a result of any process including the fission and fusion processes. Under this Act,	Section 4 of the Patents Act, 1970; Section 2 of the Atomic

	"prescribed substances" means any substance including any mineral which the Central Government may, by notification, prescribe, being a substance which in its opinion is or may be used for the production or use of atomic energy or research. The updated list of —prescribed substances under Atomic Energy Act 1962, published vide notification dated 28th April, 2016, may be accessed at https://dae.gov.in/document/gazette-notification-on-schedule-ofprescribed-substances-under-atomic-energy-act-1962-28-april-2016/ Upon screening, if an Application is found to be falling within the purview of the Atomic Energy Act, the Controller refers the Application to the Central Government. The Central Government upon consideration may issue a direction to the Controller, which is final. The same shall be informed to the applicant. However, before taking a final decision on this ground, the Controller shall offer an opportunity of being heard to the applicant. In case of the amendment carried out by the applicant during the hearing proceedings application may be resent to the Department of Atomic Energy for review of their decision as the authority on deciding the atomic energy cases as raised in accordance with the Atomic Energy Act. The opinion of the Central Government in this regard is not open to an appeal. Disclaimer: No Patent is granted in respect of an invention relating to atomic energy falling within section 38 of the SHANTI Act, 2025. The Sustainable Harnessing and Advancement of Nuclear Energy for Transforming India (SHANTI) Act, 2025 was published in the official Gazette on 21.12.2025 and it, under section 91(1), provides for repeal of the Atomic Energy Act, 1962. However, in terms of section 1(2) of the SHANTI Act 2025, the Act shall come into force on such date as the Central Government may appoint by notification in the Official Gazette. THE SUSTAINABLE HARNESSING AND ADVANCEMENT OF THE SUSTAINABLE HARNESSING AND ADVANCEMENT Of (SHANTI ACT 2025).pdf	Energy Act 1962. Sections 38, 1(2), 91(1) of SHANTI ACT ,2025
03.06	Withdrawal of patent application The applicant may, at any time after filing the application but before the grant of a patent, withdraw the application by making a request in writing. A request for withdrawing the application under sub-section(4) of section 11B shall be made in Form 29. However, if the applicant makes a request for withdrawal within 15 months from the date of filing or priority of the application, whichever is earlier, the application shall not be published. Withdrawal and Refund of Fees: If request for withdrawal of an application is filed in respect of which a	Section 11A (3)(c), 11B(4), Rule 7(4A) and 26, Form 29, First Schedule 204

	request for examination has been filed but FER has not been issued,90% of the fee paid for request for examination/expedited examination shall be refunded as prescribed in the First Schedule, on a request made by the applicant in Form 29.	
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Clause		Sections and Rules
04.01	Publication of Patent Application 1. An application for Patent is not open to public before the expiry of 18 months from the date of filing or date of priority, whichever is earlier. 2. At the end of the period as mentioned in para (a) above, the Application is published in the Official Journal except in the cases, where: a. Secrecy direction u/s 35 is in force. b. Application is abandoned u/s 9 (1) (i.e. Complete Specification not filed within twelve months from the date of filing of Provisional Specification). c. Application is withdrawn three months prior to the due date of publication, i.e., before the end of 15th month from the date of filing or priority, whichever is earlier. 3. The Patent Office publishes applications in the official e-Journal, ordinarily within one month from the date of expiry of the period as specified in para (1) above. 4. Where a secrecy direction has been imposed, then the application shall be published after the expiry of the period as mentioned in para (1) above or when the secrecy direction has ceased to operate, whichever is later. 5. Publication of application under sub-sections (2) and (5) of section 11A shall be identified by the letter 'A' along with the number of applications.	Section 11A, Rule 24
04.02	Early Publication 1. A request for early publication may be made in Form-9 with the prescribed fee. 2. Such a request shall be considered only if the Complete Specification has been filed in the instant case. 3. Further, a patent application shall not be considered for early publication if an invention pertains to subject matter relevant for defence purpose or atomic energy. 4. The application is published within one month from the date of such request.	Section 11A(2), Rule 24-A, Form-9, First Schedule

04.03	Particulars of Publication The Patent Office Journal is published every Friday with the following particulars in respect of application: 1. Application number 2. Country 3. Date of filing 4. Publication date 5. Title of invention 6. International Patent Classification 7. Priority details like Priority document number, Priority date, Priority country, International Application No. and Filing date, etc. 8. Name and address of the applicant 9. Name of the inventor(s) 10. Reference in respect of Patent of Addition shall be the application number and filing date of the main application. 11. Reference in respect of Divisional Application shall be the application number and filing date of the first mentioned application. 12. Abstract 13. No. of pages 14. No. of claims	Section 11A, Rule 24
04.04	Effects of Publication 1. Upon publication, the Patent Office makes the specification (Complete as well as Provisional, if any), abstract, drawings and any other documents filed in respect of the application available to the public on its website and copies of the same shall also be made available on payment of the prescribed fee as given in the First Schedule of Patents Rules 2003 (as amended), if such a request is filed. 2. After publication of the application for Patent, the depository institution shall make the biological material, mentioned in the specification, available to the public. 3. On and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application: Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted.	Section 11A(6) and 11A(7), Rule 27, 55 (1A).

	4. No patent shall be granted before the expiry of six months from the date of publication of the application.	
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Clause		Sections and Rules
05.01	Specification The Specification is a techno-legal document containing scientific and technical disclosure and claims for the invention which is the basis of rights for a patent. The Specification, thus, forms a crucial part of the patent application. A specification may be filed either as a Provisional or Complete Specification. Provisional or Complete Specification shall be submitted in Form-2 along with the Application Form-1 and other documents accompanied with the prescribed fee as given in the First Schedule. The first page of Form - 2 shall contain: a) Title of the invention; b) Name, address and nationality of each of the applicants for patent; and c) Preamble to the description: i) For a Provisional Specification, the Preamble shall be as under: “The following Specification describes the invention”. ii) For a Complete Specification, the Preamble shall be as under: “The following specification particularly describes the invention and the manner in which it is to be performed.” Fees for Filing a Specification The applicable fees depending on the type of applicant (e.g., natural persons/start-up/small entity, or others) [e-filing or physical filing] are outlined in the First Schedule of the Patents Rules. - On application for a patent accompanied by Provisional or Complete Specification with upto 30 pages and including upto 10 claims, the basic application fees as given in the First Schedule of the Patents Rules shall be submitted. - For each page of the Specification exceeding 30 pages, an additional fee is applicable, as prescribed in the First Schedule of the Patents Rules. - For each claim beyond the first 10 claims, an extra fee is charged. - For each page of sequence listing of nucleotides and/or amino acids sequences under rule 9(3) of the Patents Rules, additional	Section 10, Rule 9, 13 Section 57, R. 81(1)

fee as per First Schedule shall be submitted. - A specification in respect of an application for a patent made under Section 54 shall be eligible for a reduction of 50 percent in fee as compared to other specifications. Drawings and Illustrations (if applicable) The applicant shall submit drawings, wherever required. Further, the Controller may also ask the applicant to submit drawings, if necessary at the examination stage. Such drawings shall form a part of the Specification and suitable references thereto shall be made in the Specification. The Controller may ask the applicant to submit, any time before the grant, models or samples related to the invention for better illustration of the invention. However, such models or samples shall not form part of the Specification. Filing amendments to the specification: 1. Section 57 of the Patents Act provides provisions for amending a patent application, the Complete Specification, or related documents, subject to the provisions of Section 59. 2. An application for amendment under Section 57 shall be made using Form 13, clearly state the nature of the proposed amendment and provide full particulars of the reasons for seeking the amendment. 3. The provisions of Section 57 are without prejudice to the applicant's right to amend the specification or any related document to comply with the Controller's directions issued prior to the grant of the patent. 4. The Provisions of section 59 for considering the amendment of application or specification are as follows: - No amendment is allowed for a patent application, Complete Specification, or related documents, except by way of disclaimer, correction, or explanation; and - No amendment is allowed except for the purpose of incorporation of actual fact; and - No amendment of the Complete Specification is allowed, the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed or shown in the specification before the amendment; or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment. 5. When amendments are made to a Provisional or Complete Specification or any drawing accompanying it, the pages incorporating such amendments shall be retyped and submitted to form a continuous	
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	document. 6. In construing the specification as amended, reference may be made to the specification as originally accepted. 7. A marked copy clearly identifying the amendments carried out and a statement clearly indicating the portion (page number and line number) of the specification or drawing being amended along with the reason shall also be filed. 8. Amendments shall not be made by slips pasted on, or as footnotes or by writing in the margin of any of the said documents. 9. When a retyped page or pages incorporating amendments are submitted, the corresponding earlier page(s) shall be deemed to have been superseded and cancelled by the applicant. 10. Case Laws related to Section 57, read with Section 59 of the Patents Act, 1970 (as amended): In the matter of THE REGENTS OF THE UNIVERSITY OF CALIFORNIA Vs CONTROLLER GENERAL OF PATENTS, DESIGNS & TRADEMARKS & ANR. [C.A.(COMM.IPD-PAT) 143/2022]¹ on 05.02.2024, Hon'ble Delhi High Court at para 10 and 22 observed that <i>“10... It is, therefore, evident that amendments to the original application can be made only by way of the following: -</i> <i>(i) Disclaimer; or (ii) Correction; or (iii) Explanation...</i> <i>Additionally, the proposed amendments are tested against the following parameters:</i> <i>(iv) Amendment should serve the purpose of incorporation of actual facts;</i> <i>(v) Effect of the amendment should not allow matter not in substance, disclosed originally or shown in the specification;</i> <i>(vi) Amended claim of the specification should fall within the scope of the original claim of the specification...”</i> <i>“22...Thus, in the opinion of this Court, the amendments serve only as an explanation to the original claims, amount to incorporation of actual facts, and do not disclose any matter which was not originally disclosed in the claims of specification filed before the amendment...”</i> Further, in the matter of OPENTV INC Vs THE CONTROLLER OF PATENTS AND DESIGNS [(C.A.(COMM.IPD-PAT) 14/2021)]² on 11.05.2023, Hon'ble Delhi High Court at para 50, 53 and 56 observed that <i>“50...The fundamental principle governing amendment of Claims is</i>	
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¹ [THE REGENTS OF THE UNIVERSITY OF CALIFORNIA Vs CONTROLLER GENERAL OF PATENTS, DESIGNS & TRADEMARKS & ANR. \[C.A.\(COMM.IPD-PAT\) 143/2022\] on 05.02.2024](#)

² [OPENTV INC Vs THE CONTROLLER OF PATENTS AND DESIGNS \[\(C.A.\(COMM.IPD-PAT\) 14/2021\] on 11.05.2023](#)

	<i>therefore, that amendments are permissible in the Claims so long as the said amendments are within the scope of the originally filed Claims as filed and do not expand the said Claims. Thus, reduction or narrowing down a Claim is permissible, but broadening, widening or expansion of Claims is not permissible... ”</i> <i>“53...Thus, amendments having been held to be permissible at the appellate stage, this Court is of the opinion that irrespective of whether the amendment is directed by the Court or is at the instance of Patent Applicant, so long as the requirements as laid down under Section 59 of the Act are fulfilled such that the amended claims are within the scope of original claims, is not breached, the amendment is permissible...”</i> <i>“56...Conversion of method claims into system claims in the manner sought to be done, would be broadening of the claims which is impermissible as per section 59 of the Act. There may be some exceptional cases where such a conversion may be permissible depending on the nature of the invention and the scope of Claims...”</i>	
05.02	Provisional Specification 1. When the applicant finds that his invention has reached a stage where it can be disclosed but has not attained the final stage, he may prepare a disclosure of the invention in the form of a written description and submit it to the Patent Office as a Provisional Specification. 2. A Provisional Specification secures a priority date for the application. 3. A Provisional Specification shall be filed in Form 2. 4. Provisional Specification is a techno-legal document which describes the invention and it is followed by a Complete Specification.	Section 9, 11A (3) (b), 10(1), Rule 13 (1)
05.02.01	Contents of Provisional Specification: 1. A provisional specification shall essentially contain the title and description of the invention. 2. Claims may or may not be included in Provisional Specification as the purpose of filing a Provisional Specification is to claim a priority date. 3. The description starts from the second page with the field of invention, background of the invention, object of the invention and	

	statement of the invention. 4. Provisional Specification shall contain as much information as the applicant has at the time of filing.	
05.03	Complete Specification Complete Specification is a technical cum legal document which fully and particularly describes the invention, its operation or use and discloses the best method of performing the invention which is known to the applicant at the time of filing of the Complete Specification. It is mandatory on the part of the applicant to disclose fully and particularly various features constituting the invention. Disclosure of invention in a Complete Specification shall be such that a person skilled in the art should be able to perform the invention based on what is disclosed in the specification.	Section 10
05.03.01	Contents of Complete Specification Every Complete Specification shall describe the following: - Title of the Invention - Field of Invention - State of Art/ Background Art - Objectives of invention - Summary of the Invention - Brief Description of the Drawings (if any) - Detailed Description of the Preferred Embodiment(s) - Abstract - Drawings (if any) - Claims Every Complete Specification shall: - fully and particularly describe the invention and its operation or use and the method by which it is performed; - disclose the best method of performing the invention which is known to the applicant for which he is entitled to claim protection; - end with a claim or set of claims defining the scope of the invention for which the protection is claimed; - make reference to deposit of the biological material in the international depository authority, if applicable; - disclose the source and geographical origin of biological material specified in the Specification; - be accompanied by an abstract; and - not include irrelevant or other matter, not necessary for elucidation of the invention, from the title, description, claims and drawings. - in case of a specification for Divisional Application, contain specific reference to the number of original application from which the divisional application is made.	Section 10, Rule 13

	9. in case of a specification for Patent of Addition, contain a specific reference to the number of main patent or application for patent, as the case may be, and a definite statement that invention comprises an improvement in or a modification of the invention claimed in the specification of the main patent granted or applied for.	
05.03.02	National phase applications In case of national phase applications, the title, description, drawings, abstract and claims filed with the International Application are taken as a Complete Specification. An application corresponding to an International Application filed under PCT may be made in Form-1. However, the applicant, while filing such an application corresponding to an International Application designating India, may delete a claim, as provided in Rule 20(1) in accordance with the provisions contained in rule 14. (For further details of the PCT National Phase Applications, please see Chapter 7)	Section 10(4A), Rule 20(1)
05.03.03	Title of invention The title shall be sufficiently indicative of the subject matter of the invention and shall disclose the specific features of the invention. It need not be the same as the preamble of the main claim. It shall be brief, free from fancy expressions or ambiguity and as precise and definite as possible, but it need not go into the details of the invention itself. Title shall not ordinarily exceed fifteen words.	Rule 13(7)(a)
05.03.04	Field of invention and use of invention The description shall preferably begin with a general statement of the invention so as to indicate briefly the subject matter to which the invention relates, e.g. This invention relates to Thereafter, the advantages of the invention may be mentioned to bring out clearly the areas of application and preferable use of the invention. The applicant may substantiate industrial applicability of the invention in this part.	
05.03.05	State of Art/ Background Art This part shall generally indicate the status of technology in the field of invention with reference to developments in the field including patents and pending patent applications in the specific art. This section provides a description of the existing knowledge, publications,	

	technologies, or solutions related to the invention. This includes published patents for similar or related inventions, scientific publications of research papers, articles and books that discuss relevant technologies and any other publicly accessible information related to the field of invention. The section shall explain the specific problem or challenge faced by the existing technologies and why there is a need for the new invention. It may discuss the limitations or shortcomings of prior solutions, which the new invention aims to improve upon or overcome.	
05.03.06	Objective of Invention The objective to be achieved by the invention shall clearly mention the technical problems associated with the existing technology and the solution for that, bringing out the differences between the claimed invention and the prior art. The solution sought by the invention shall be clearly brought out as object(s) of inventions with statements like, • The principal object of this invention is to provide a seal with tamper proof mechanism for electrical installations which can easily obviate the issues related to conventional seals.” • Another object of this invention is to provide a seal with a tamper proof mechanism for electrical installations which is tamper resistant and reliable.” • Still another object of the invention is to provide a seal with a tamper proof mechanism for electrical installations which is environmentally safe.	
05.03.07	Summary of invention The description shall include a summary of the invention before giving details of the invention and the method of performing it. The statement shall clearly set forth the distinguishing features and advantages of the invention for which protection is desired.	
05.03.08	Brief Description of Drawings, if any This section describes any drawings submitted, offering a brief explanation of what each drawing represents or illustrates. [Please see 05.03.10]	
05.03.09	Detailed Description of Invention 1. Description of an invention is required to be furnished in sufficient detail so as to give a complete picture of the invention and follows the Summary of invention. 2. The nature of improvements or modifications effected with respect to the prior art shall be clearly and sufficiently described. It may include examples / drawings or both for clearly describing and	

	ascertaining the nature of invention. 3. Further, in the matter of Bayer Pharm Aktiengesellschaft v. Controller General of Patents & Designs, [COMM.IPD- PAT) 255/2022]³³, judgement dated 13/03/2024, the Hon’ble Delhi High Court stated that <i>“...Working examples, on the other hand, are provided in the subject application to demonstrate the practical implementation of the invention. These examples are intended to show that the invention is feasible and workable and how it can be carried out in practice. They provide support and understanding for the claimed invention, showing that it is not just a theoretical concept, but has practical applicability. Thus, while working examples are essential for demonstrating the feasibility and workability of an invention, they do not define the patent's scope...”</i> Specification of Divisional Application 4. Specification of Divisional application shall contain specific reference to the application number of first mentioned application from which the divisional application is made [Please see Chapter 06.01.05]. Specification of Patent of Addition 5. The specification in respect of Patent of Addition shall contain at the beginning of the description, a reference number of the main patent/application number, and a definite statement indicating an improvement in or modification of the original invention claimed in the specification of the main patent/application. The Specifications shall also contain a short statement of the invention as disclosed in the earlier Specification [Please see Chapter 06.02.03] Deposition of Biological material 6. In case a biological material mentioned in the specification is not available to the public and is not described in such a way as to satisfy the requirements of clauses (a) and (b) of the Section 10 (4) of the Patents Act, such material shall be deposited with an International Depository Authority (IDA) recognized under the Budapest Treaty. 7. The deposit of the material shall be made on or before the date of filing of Patent application in India. 8. Reference to such deposition shall be made in the specification	
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³ [Bayer Pharm Aktiengesellschaft v. Controller General of Patents & Designs, \[COMM.IPD-PAT\) 255/2022\]. judgement dated 13/03/2024](#)

within three months from the date of filing the application. 9. If the applicant submits a request for publication in Form 9 under Section 11A(2), the reference to the deposition shall be included in the specification prior to or at the time of making such a request. 10. The applicant shall disclose all the available characteristics of the material necessary for its proper identification including the name, address of the depository institution and the date and number of the deposit of the material at the institution. 11. Access to the material deposited in the depository institution shall be available only after the filing date of the patent application in India or, if a priority is claimed, after the priority date. The International Depository Authority in India are: Microbial Type Culture Collection and Gene Bank (MTCC) Institute of Microbial Technology (IMTECH), CSIR-Institute of Microbial Technology, Sector 39-A, Chandigarh - 160036, INDIA. For further information on Microbial Type Culture Collection and Gene Bank (MTCC) please visit- https://mtccindia.res.in/ Microbial Culture Collection (MCC), Pune National Centre for Cell Science (NCCS), Savitribai Phule Pune University Campus, Ganeshkhind, Pune-411007, Maharashtra Please visit http://www.nccs.res.in National Agriculturally Important Microbial Culture Collection (NAIMCC) ICAR- National Bureau of Agriculturally Important Microorganisms Kushmaur, Maunath Bhanjan 275103, Uttar Pradesh, India, Please visit: https://nbaim.icar.gov.in 12. The specification should disclose the source and geographical origin of the biological material in the specification, when used in an invention. 13. In the case of Biotechnology related inventions, reference to the relevant sequence ID (SEQ ID), if any, shall be mentioned in the description/claims of the Specification. 14. If the invention as disclosed in the patent specification uses biological material obtained from India, the applicant is required to obtain approval from or register with the National Biodiversity Authority (NBA), as applicable, at any time before the grant of the patent. (Please refer to Section 6 of the Biological Diversity Act, 2002, as amended).	
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05.03.10	Drawings 1. If an invention needs to be explained through drawings, such drawings shall be prepared as per Rule 15 of the Patent Rules. It should be referenced in the description in detail, including in the claims, where any features illustrated in the drawings must include their reference numbers in parentheses. 2. If the applicant has already submitted a Provisional Specification with drawings and desires to adopt the same drawings in the Complete Specification, they may do so by referencing those drawings in the Complete Specification. 3. Drawings or sketches, which require a special illustration of the invention, shall not appear in the description itself. Such drawings shall be on separate sheet(s). 4. Drawings shall be prepared neatly and clearly on durable paper sheets. 5. Drawings shall be on standard A4 size sheets with a clear margin of at least 4 cm on the top and left hand and 3 cm at the bottom and right hand of every sheet. 6. Drawings shall be on a scale sufficiently large to show the inventions clearly and dimensions shall not be marked on the drawings. 7. Drawings shall be sequentially or systematically numbered and shall bear - a. in the left-hand top corner, the name of the applicant; b. in the right-hand top corner, the number of the sheets of drawings, and the consecutive number of each sheet; and c. in the right-hand bottom corner, the signature of the applicant or his agent. 8. No descriptive matter shall appear on the drawings except in the flow diagrams.	Rule 13 (4), 15
05.03.11	Abstract 1. Every Complete Specification shall be accompanied by an abstract to provide technical information on the invention. The abstract shall commence with the title of the invention. 2. The abstract shall be so drafted that it constitutes an efficient instrument for the purpose of searching in the particular technical field. 3. The abstract shall contain a concise summary of the matter contained in the specification. The summary shall indicate clearly the	Section 10(4)(d), Rule 13 (7)

	technical field to which the invention belongs, technical advancement of the invention as compared to the existing knowledge and principal use or uses of the invention excluding any speculative use. 4. Wherever necessary, the abstract shall contain the chemical formula which characterizes the invention. 5. The abstract may not contain more than 150 words. 6. If the specification contains any drawing, the applicant shall indicate reference numerals of drawings in the abstract, which may accompany the abstract when published. Each main feature mentioned in the abstract and illustrated by a drawing shall be followed by the reference sign used in that drawing. 7. The Controller may amend the abstract for providing better information to third parties.	
05.03.12	Best Method The Act specifically requires that the Complete Specification shall describe the best method of performing the invention known to the applicant, including the one, which he may have acquired during the period of provisional protection prior to the date of filing the Complete Specification.	Section 10(4)(b)
05.03.13	Claims Claims define the contours of rights, if and when a patent is granted for an invention. Hence, claims are the most critical part of a patent application. In a Complete Specification, the description is followed by claims. Since, claims of the invention define the scope of legal protection, it should be drafted carefully to cover all the aspects of the invention for which protection is being sought; at the same time adequately distinguishing the prior art from the claimed invention.	Section 10(4)(c)
05.03.14	Unity of invention and Clarity of claims 1. Claim(s) of a Complete Specification shall relate to a single invention, or to a group of inventions linked so as to form a single inventive concept. 2. Claims shall be clear and succinct and fairly based on the matter disclosed in the specification.	Section 10(5)
05.03.15	Significance of Claims 1. A claim is a statement of technical facts expressed in legal terms defining the scope of the invention to be protected. No exclusivity is obtained for any matter described in the Complete Specification unless it is claimed in the claims. 2. Claims define the boundaries of legal protection sought by the patentee and form a protective fence around the invention which is	

	defined by the words and phrases in the claims. Claims shall define clearly the scope of the invention with conciseness, precision and accuracy. 3. Each claim is evaluated on its own merit and, therefore, if one of the claims is objected, it does not mean that the rest of the claims are invalid.	
05.03.16	Scope of Claims a) Claims must not be too broad to embrace more than what the applicant has in fact invented. b) However, a claim may not be too narrow also because such a claim would not be sufficiently effective against potential infringement. c) Having multiple claims, where each claim has a different scope, allows the applicant to have a legal title to different aspects of the invention.	Section 10(4), 10(5)
05.03.17	Structure of Claims The description of invention in the Complete Specification is to be followed by a “statement of Claims” preceded by the phrase ‘I / We Claim’ as the case may be. Claims should start from a fresh page, after detailed description of the invention and should be serially numbered. 1. Each claim should be in a single sentence. 2. Each claim should be clear, concise and succinct. 3. A claim should not be verbose. 4. The claims should relate to a single invention, or to a group of inventions linked to a single inventive concept. 5. There is no restriction as to the number of claims that can be incorporated in the specification. The Applicant has to pay an additional fee for each claim, if the total number of claims is more than ten. 6. Each claim should be fairly based on the matter disclosed in the specification. 7. The claims should be fully supported by the description. 8. A claim shall be clear in the sense that it should not cause any speculation with respect to scope of the claimed invention. For example, words like “thin”, “strong”, “a major part”, “such as”, “more”, “less”, “greater than”, “less than”, “at least” “when required” or “any”, “can”, “can be”, “may”, “may be” are used in the claims, the same may lead to a subjective interpretation. In context to engineering	Section 10(4)

	cases reference numerals of the drawings may be incorporated in unavoidable circumstances so that it would be clear to the person skilled in the art. 9. A claim shall be specific and not vague, ambiguous or hypothetical in nature. Each claim shall be complete so that it covers the inventive feature. 10. Any term which is used in the claim, shall be either found in the description or fairly inferred from the description. 11. Trade Marks should not be used in Patent Applications where a generic term can be used instead, since a Trademark is an indication of the origin rather than the composition or content of goods, 12. A claim usually consists of three parts: ● Preamble, ● Transitional phrase; and ● Body 13. An introductory phrase (Preamble) identifies the category of invention with preferably an indication to the objective of the invention (for example, a machine for waxing paper, and a composition for fertilizing soil). 14. The transitional phrase is a phrase that connects the preamble of a claim to the specific elements listed in the body of the claim, such as: ● comprising ● including ● consisting of ● consisting essentially of If the invention is an improvement on a product or a process existing in the prior art, the invention should preferably be characterized by the feature(s) comprising such improvement over the prior art. In such cases, the claim will have two parts separated by the word “characterized by” or “wherein” as directed by the Controller during the communication of FER (First Examination Report) or hearing proceedings. Independent and Dependent claims In a patent application, there are primarily two types of claims: independent claims and dependent claims. The first claim is always an independent claim also known as “Principal Claim”. It should clearly define the essential features of	
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	the embodiment(s) of the process/product that constitutes the invention. The claim should be properly characterized with respect to the 'prior art', defining all the technical features essential to the invention or inventive concept. The claim should bring out sufficient details of interrelationship and/or operation to establish that the invention achieves the intended objectives. 15. There may be more than one independent claim in a single application if the claims are linked by a single inventive concept. A dependent claim derives antecedence from an independent claim and reads into it the features of the independent claim and may contain optional features. 16. Dependent claims that are not fully limited by the terms of the preceding independent claim, e.g. dependent claims should be drafted within the scope of independent claim. A claim shall not comprise a number of alternatives and/or variable parameters/ features which make it unsearchable. 17. Omnibus Claim The practice of including an omnibus claim does not have any legal basis under the Patents Act. In fact, such a claim shall not be allowed as per Section 10(4)(c) of the Act, being non- definitive with respect to scope of invention for which the protection is claimed.	
05.04	Priority of Claim Each claim of a Complete Specification shall have a priority date. When a Complete Specification is filed along with the application, the date of filing of the application is the date of the priority of the claim(s) of the specification if the claim(s) are fairly based on the matter disclosed in the specification.	Section 2(1)(w), 11
05.04.01	Priority Dates- General 1. When a Complete Specification is filed pursuant to a Provisional Specification, the priority date thereof shall be the date of filing of the Provisional Specification. 2. When a Complete Specification is filed based on two or more Provisional Specifications which are cognate, the priority dates for claims arising from each of the Provisional Specifications will be the date of the respective Provisional Specification. 3. When a Complete Specification is converted into Provisional Specification and a fresh Complete Specification is filed thereafter,	Section 9,11,17

	the priority date of claims shall be the date of disclosure of the relevant specification in which the claimed subject matter was first disclosed. 4. When a Complete Specification is filed after the Provisional Specification, the Controller may, on the request of the applicant made any time before the grant, cancel the Provisional Specification and post-date the Provisional Specification to the date of Complete Specification. 5. If the claim is fairly based on the matter disclosed partly in one and partly in another such previous application accompanying Provisional Specification, the priority date of the claim shall be the date of the later filed specification. 6. Where a Complete Specification based on a previously filed application in India has been filed within twelve months from the date of that application and the claim is fairly based on the matter disclosed in the previously filed application, the priority date of that claim shall be the date of the previously filed application in which the matter was first disclosed. 7. A claim in a Complete Specification of a patent shall not be invalidated by the reason only if: i. the publication or use of the invention so far as claimed in that claim on or after the priority date of such claim; or ii. the grant of another patent which claims the invention, so far as claimed in the first mentioned claim, in a claim of the same or a later priority date.	
05.04.02	Divisional application In case of a Divisional Application, the priority date of the claim(s) is the date of filing of the first mentioned application.	Section 11(4)
05.04.03	Convention application The priority date of the claim(s) of a Convention Application is the date of filing of the basic application filed in the convention country.	Section 11(6),135

Clause		Sections and Rules
06.01	Divisional Application	
06.01.01	General 1. An applicant may, at any time before the grant of a patent, if he so desires, or with a view to remedy the objection raised by the Controller on the ground that claims of a Complete Specification relate to more than one invention, file further application(s) in respect of invention disclosed in the Provisional or Complete specification already filed in respect of the first-mentioned application. 2. A patent applicant, if he so desires, files one or more Divisional Applications under section 16, including in respect of an invention disclosed in the Provisional or Complete Specification of the original application or a Divisional application filed under section 16. 3. The Divisional Application is considered a substantive application, and therefore, all applicable fees for a patent application shall be paid. Date of filing of Divisional Application 4. The date of filing of a Divisional Application shall be the same as that of the first mentioned application, from which it has been divided. Request for Examination 5. A separate request for examination has to be filed for Divisional Application. 6. The request for examination is to be filed within thirty-one months from the filing date or priority date of the first mentioned application, or six months from the filing date of the Divisional Application whichever is later. 7. Failure to submit a Request for Examination within the prescribed timeline will result in the application deemed withdrawn by the applicant. Power of Attorney	Section 16, Rule 24B, Rule 13(2A)

	8. If the Power of Attorney, filed with the first mentioned application, expressly authorizes patent agent to act on his/her behalf in connection with such application, including any divisional application(s) arising out therefrom, a Photocopy / copy of the power of attorney attested by the one of the authorized Patent agent to be filed again in case of divisional application so filed. Power of Attorney, Specific Power of Attorney attested by applicant/agent for the Applicant duly mentioned of original application number for Patent and appropriately stamped shall be filed in case of divisional application. In absence of such express authorization in the Power of Attorney filed with the first mentioned application, a fresh Power of Attorney is required to be filed in case of divisional application. Proof of Right 9. If the applicant has submitted the proof of right in the prescribed manner with the first mentioned application, a photocopy of the earlier endorsed Form 1 or assignment copy filed along with the first mentioned application is required to be filed again in case of Divisional Application Examination 10. Examination of a Divisional Application is always done vis- à-vis the first mentioned application. If two or more Divisional Applications are filed based on a first mentioned application, examination of the second or subsequent Divisional Application(s) shall be done vis-à-vis the first mentioned application, and other divisional application(s), examined earlier, if any, to avoid double patenting. 11. The order of reference for examination of Divisional Application shall be the same as that of the first mentioned application. 12. If the first mentioned application has already been referred for examination, the Divisional Application shall be published within one month and referred to examination within one month from the date of such publication. Term of Patent 13. The term of patent for a Divisional Application shall be twenty years from the date of filing of the first mentioned application or international filing date in case the application was divided out of National phase application under PCT.	
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06.01.02	Contents 1. The said Divisional Application shall be accompanied by a Complete Specification, but such Complete Specification shall not include any matter not in substance disclosed in the Complete Specification in pursuance of the first mentioned application. 2. The Controller may require amendments to the Complete Specification filed with either the first mentioned application or further application (divisional application) to ensure that the specifications do not include overlapping claims for the same subject matter.	Section 16(2), 16(3), Rule 13 (2)
06.01.03	Priority 1. When the claims of a Divisional Application are fairly based on the matter disclosed in any of the earlier specifications, provisional or complete, the priority date of that claim shall be the date of the filing of that specification in which the matter was first disclosed 2. A Divisional Application shall be examined vis-à-vis the first mentioned application so as to avoid claim overlap resulting in double patenting. 3. In case of a Divisional Application, it is being mentioned that: • separate fee(s) is required to be paid; • separate request for examination requires to be made; • it can be prosecuted separately; • it results in an independent patent.	Section 16, Explanation Section 11(4)
06.01.04	Appropriate Office The Divisional Application shall be filed at the appropriate office of the first mentioned application only.	Rule 4 (5)
06.01.05	Reference The Complete Specification accompanying the Divisional Application shall contain a specific reference to the original application from which the Divisional Application is made. In the matter of Syngenta Limited Vs Controller Of Patents [C.A.(COMM.IPD-PAT) 471/2022]⁴, judgement dated 13/10/2023, the	Rule 13(2)

⁴ [Syngenta Limited Vs Controller Of Patents \[C.A.\(COMM.IPD-PAT\) 471/2022\], judgement dated 13/10/2023](#)

	Division Bench of Delhi High Court stated that <i>“... whether the Application is filed by the applicant suo moto or to remedy an objection raised by the Controller, the Divisional Application could well be maintained in either of those situations, subject to the plurality of inventions being evidenced from the disclosures made in either the provisional or the complete specification...”</i> <i>“...a Divisional Application moved in terms of Section 16 of the Act would be maintainable provided the plurality of inventions is disclosed in the provisional or complete specification that may have been filed...”</i> “... Section 16 does not suggest or conceive of a distinction between the contingency of a Divisional Application when moved by the applicant of its own motion or where it comes to be made to remedy an objection raised by the Controller. In either of those situations, the plurality of inventions would have to be tested based upon the disclosures made in either the provisional or complete specification...”.	
06.02	Patent of Addition	
06.02.01	General 1. When an applicant comes up with an improvement in or modification of the invention described or disclosed in the main application for which he has already applied for or has obtained a patent, the applicant may make an application for patent of addition. Date of filing 2. A patent shall not be granted as a patent of addition unless the date of filing of the patent of addition application was the same or later than the date of filing of the application for the main invention. Fees 3. A specification in respect of an application for a patent made under section 54 shall be eligible for a reduction of 50 percent in fee as compared to other applications. Grant of Patent of Addition 4. A patent of addition shall be granted only after the grant of the main application. Conversion of Independent Patent to Patent of Addition 5. When a patentee holds two patents, it is possible to convert one of the independent patents to a patent of addition of the other, if the subject matter was an improvement in or modification of the other patented invention. On request made by the patentee, the controller (or the court, as the case may be) may revoke the patent for improvement or modification	Section 54, 55, First Schedule

	and grant a patent of addition in respect thereof bearing the same date as the date of patent so revoked. Term 6. The term of the patent of addition shall expire along with the term of the patent for main invention However,if the main patent is revoked, the patent of addition may be converted into an independent patent for the remaining term of the main patent, if so requested by the patentee and the renewal fee for the remaining term of the patent needs to be paid accordingly. Renewal Fee 7. There is no need to pay a separate renewal fee for the patent of addition However, renewal fees need to be paid, if the Patent of addition becomes an Independent Patent. The same fees shall be paid, on the same dates, as if the patent had originally been granted as an independent patent.	
06.02.02	Novelty and Inventive step 1. An application for Patent of Addition shall not be refused on the ground of lack of inventive step with respect to the disclosure in the main application or patent. But the disclosure in the main application or patent may be cited for novelty against the application for patent of addition. 2. The validity of a patent of addition shall not be questioned on the ground that the invention ought to have been subject of an independent patent. In the matter of Selfdot Technologies (OPC) PVT. LTD. Vs Controller General of Patents, Designs & Trade Marks; (T)CMA(PT)/61/2023⁵, Honourable Madras High Court on 28/11/2023 stated that <i>“...The nature of a patent of addition, i.e. involving an improvement in or modification of the parent or main invention, would invariably require additional disclosures to those contained in the complete specification of the main Invention. Therefore, I conclude that the reasoning of the respondent in the impugned order in support of the conclusion that a patent of addition stands on a different footing from a divisional application is sound and cannot be faulted...”</i> Further, in the matter of Ravi Kamal Bali v/s Kala Tech and others ⁶ The Bombay High Court on 12th February, 2008 dismissed the defendant’s	Section 56

⁵ [Selfdot Technologies \(OPC\) PVT. LTD. Vs Controller General of Patents, Designs & Trade Marks; \(T\)CMA\(PT\)/61/2023, Honourable Madras High Court on 28/11/2023](#)

⁶ [Ravi Kamal Bali v/s Kala Tech and others the Bombay High Court on 12th February, 2008](#)

	arguments that Patent of addition can only be granted if it has an inventive step over the main application. It was held that <i>“...Sections 54 and 55 in terms establish the link between the main invention and the patent of addition. It posits that the patentee of the main invention and the patentee of the patent of addition, are the same. Section 54 permits the grant of a patent of addition only if the applicant thereof applies or has applied for a patent of the main invention in respect whereof the modification or improvement is claimed. It is obvious therefore that only the patentee of the main invention is entitled to improve or modify the main invention for otherwise it would permit anybody to benefit from it by exploiting the main invention. A stranger to the main invention cannot apply for a patent of addition in respect of any modification or improvement of the main invention...”</i>	
06.02.03	Reference The Complete Specification of application for patent of addition shall include specific reference to the number of main patent or the application for main patent, as the case may be, and a definite statement that the invention comprises an improvement in, or a modification of the invention claimed in the specification of the main patent, granted or applied for.	Rule 13(3)

Chapter 7: Convention Application, International Application and National Phase Application

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Clause		Sections and rules
07.01	Convention Application	
07.01.01	Paris Convention and WTO Agreement Paris Convention on the Protection of Industrial Property (1883) provides reciprocity in filing with the right of priority. India became a member of the Paris Convention in 1998. India became a member of WTO Agreement in 1995 and member of Patent Co-operation Treaty in 1998. India became a member of the Budapest Treaty on the International recognition of the deposit of micro-organism for the purpose of patent procedure in 2001. The Treaty provides a mechanism for the applicants to deposit biological material in any internationally recognized depository authority for the purpose of supplementing the description in the specification	Section 133
07.01.02	Convention Country Any country which is a signatory or party or a group of countries, union of countries or inter-governmental organizations which are signatories or parties to an international, regional or bi-lateral treaty, convention or arrangement to which India is also a signatory or party, and which affords to the applicants for patents in India or to citizens of India similar privileges as are granted to their own citizens or citizens to their member countries in respect of the grant of patents and protection of patent rights, shall be a convention country or convention countries for the purposes of this Act. At present, India is a member of WTO and a member country to the Paris Convention and a contracting state to the PCT. Any country, union of countries or inter-governmental organizations, which are members/contracting states to the above convention/treaty/ agreement, are convention countries for the purposes of the Act.	Section 2(1)(d), 133, 134

07.01.03	Convention Application 1. Where a person has made an application for a patent in respect of an invention in a Convention country (basic application), and that person or the legal representative or assignee of that person makes an application under this Act for a patent within twelve months after the date on which the basic application was made, the priority date of a claim of the Complete Specification, being a claim based on matter disclosed in the basic application, is the date of making of the basic application. 2. Where applications have been made for similar protection in respect of an invention in two or more convention countries, the period of twelve months referred to in this sub-section shall be reckoned from the date on which the earlier or earliest of the said applications was made. 3. Where applications for protection have been made in one or more convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single convention application may be made in respect of those inventions at any time within twelve months from the date of the earliest of the said applications for protection. However, the fee payable in respect of such application shall be the same as if separate applications have been made in respect of each of the said inventions.	Section 135
07.01.04	Documents to be submitted 1. Every convention application shall: - be accompanied by a Complete Specification; - specify the date on which the first of such applications (basic applications) was made and the convention country in which such application for protection is sought and - state that no application for protection in respect of the invention had been made in a convention country before that date by the applicant or by any person from whom he derives title. 2. a Complete Specification filed with a convention application may include claims in respect of developments of, or additions to, the invention in respect of which the application for protection was made in a convention country, being developments or additions in respect of which the applicant would be entitled under the provisions of Section 6 to make a separate application for a patent. 3. be accompanied by an abstract	Section 135,136, 138. Rule 121

	4. a certified copy of the priority document or corresponding documents filed or deposited by the applicant in the Patent Office of the Convention country, if the Controller requires the same, shall be filed within 3 months from the date of communication by the Controller of such requirement. If the priority document is in foreign language, a translation into English of the specification or document, verified by affidavit or otherwise to the satisfaction of the Controller shall be furnished when required by the controller. WIPO Digital Access Service The WIPO Digital Access Service (DAS) is an electronic system allowing priority documents and similar documents to be securely exchanged between participating intellectual property (IP) offices. The system enables applicants and offices to meet the requirements of the Paris Convention for certification in an electronic environment in which India is a member so mentioning DAS code will be sufficient. The date on which a convention application was made is the date the controller is satisfied by the certificate of the Official Chief or Head of the patent office of the convention country or the date on which the application was made in the convention country.	
07.01.05	Multiple priorities 1. When two or more applications for patents constituting one invention have been made in one or more convention countries, one application may be made within twelve months from the date on which the earlier or earliest of those applications was made in respect of the inventions disclosed in the specifications which accompanied the basic applications. 2. The priority date of a claim of the Complete Specification, being a claim based on matters disclosed in one or more of the basic applications, is the date on which that matter was first so disclosed. 3. For the purposes of this Act, a matter shall be deemed to have been disclosed in a basic application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of a prior art) in that application, or any documents submitted by the applicant for protection in support of and at the same time as that application but no account shall be taken of any disclosure effected by any such document unless a copy of the documents is filed at the patent office with the convention application or within such period as may be prescribed after the filing of that application.	Section 135(2), 137

07.01.06	Other conditions 1. The term of patent of a Convention Application shall be twenty years from the date of filing of the Application in India. 2. A Convention Application can be divided as per Section 16 of the Act, and the divided Application shall have the same priority date. 3. A Convention Application shall not be post-dated under sub- section (1) of section 17 to a date later than the date on which the application could have been made under the provisions of this Act. 4. Except as otherwise stated in Chapter XXII of the Patents Act, 1970 , all provisions of the Patents Act, 1970 (as amended) shall apply to a convention application and any patent granted as a result, as they apply in relation to an ordinary application and a patent granted in pursuance thereof.	Section 136, 139
07.01.07	Requirement of prior permission for residents to apply for patents outside India: 1. Indian residents are required to obtain prior written permission (by filing Form 25 in the prescribed manner) from the Controller to file or make an application outside India, unless a) an application for a patent for the same invention has been made in India not less than six weeks before the application is filed outside India; and b) either no secrecy direction under section 35(1) has been given in relation to the application in India, or all such directions have been revoked. 2. The above provision is not applicable in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India. 3. The controller shall dispose of said request within 21 days from the date of filing such request, provided that for inventions related to defense or atomic energy, the twenty-one-day period shall begin from the receipt of consent from the Central Government. 4. In respect of an application for a patent, any contravention of provisions of section 39, the application for patent shall be deemed to have been abandoned and any granted patent shall be liable to be revoked under section 64. 5. Any contravention of the above provisions shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.	Section 39, 40, 118, Form 25, Rule 71(1), 71(2)

07.02	International Application under PCT	
07.02.01	PCT International application by Indian applicant An Indian applicant can file a PCT International application in the following manner: 1. If the International Application is filed directly at RO/IB or RO/IN (i.e. without a priority claim), foreign filing permission under section 39 has to be obtained from the appropriate patent office. 2. If the applicant fails to obtain the foreign filing permission under section 39, the application will not be considered as an International Application by RO/IN.	Section 39, 118, Rule 4
7.02.02	Indian Patent Office as Receiving Office and requirements: 1. (i) Online filing: An International patent application can be filed in Indian Patent Office as a Receiving Office, in request form (PCT/RO/101), through the ePCT module of WIPO (https://pct.wipo.int/ePCT/about-epct.xhtml), along with application body, declaration, PoA (In case of Patent agents), MSME Certificate in case of small entity or certificate of recognition as Startup issued by DPIIT for claiming fee reduction in transmittal and priority document fees. \ (ii) Offline filing: An International patent application can be filed in Indian Patent Office as a Receiving Office, in request form (PCT/RO/101), which can be downloaded from the WIPO website, and has to be submitted in triplicates along with application body, declaration, PoA (in case of agents), MSME Certificate in case of small entity or certificate of recognition as Startup issued by DPIIT for claiming fee reduction in transmittal and priority document fees. In case of both online and offline filing, a foreign filing permission under section 39 shall be submitted, if required. In case of both online and offline filing, a foreign filing permission under section 39 shall be submitted, if required. 2. The fees payable to an International Application shall include, in addition to the fees outlined in the regulations under the Treaty, those specified in both the First Schedule and the Fifth Schedule. 3. Where an International Application has not been filed in triplicate, the	Section 2(1)(ia), 7(1A), 39 Rule 19, Form - PCT/RO/101

	appropriate office shall, upon payment of fees specified in the First Schedule, prepare the required additional copies. 4. On receipt of a request from the applicant and on payment of the fees specified in the First Schedule, the appropriate office shall prepare a certified copy of the priority document and promptly transmit the same to the International Bureau and intimate the applicant and the Patent Office, Delhi branch. 5. If the applicant is a natural person, who is a national and resident of India, is entitled to a reduction of 90% of international filing fee. If there is more than one applicant, each must satisfy the above mentioned criteria. 6. In case ISA/US is selected as Search Authority is, the applicant has to submit the following documents: • Certificate of Micro Entity status in Form PTO/SB/15A of USPTO for claiming micro-entity fee reduction. • Small Entity assertion/declaration for claiming small entity fee reduction. International Bureau as Receiving Office An International patent application can be directly filed with IB along with the prescribed fee, in request form (PCT/RO/101), in duplicate. Permission under Section 39 is required for filing directly in IB. Such applications can also be filed electronically via e-PCT route.	
07.02.03	Functions of Indian Patent Office as Receiving Office: • Receiving Office (RO) receives International Application (IA) and does the following verifications: - Formality Check: Nationality/Residence - At least one of the applicants must have the right to file with the RO - The application must be in a language accepted by the RO (English/Hindi) - If formality criteria are not satisfied, then International Application may be referred to IB for further processing. - Accords or refuses the International filing date (Article 11(1) of PCT) • Checks the technical elements of International application. The application must contain at least: - An indication that it is intended as an International Application - A request which has the effect of making all possible	Section 35, Rule 19, PCT Article 3, 4, 11, 14, 16, PCT- Receiving Office Guidelines,

	designations (Article 4 of PCT and PCT Rules 3 and 4.9) - The name of the applicant (PCT Rule 4.5) - A description (PCT Rule 5) - A claim (PCT Rule 6) ● Decides on requests for incorporation by reference of missing elements or parts (PCT Rules 20.5 to 20.7) ● Checks whether translation of International Application is required (PCT Rules 12.3 and 12.4) ● Checks if the required fees (RO/IB /ISA) are timely paid (PCT Rule 14, 15, 16 bis) ● Checks priority claim(s) (PCT Rules 4.10 and 26 bis) ● Decides on requests for restoration of the priority right (PCT Rule 26 bis.3) ● Specifies the International Searching Authority ● Specifies the International Preliminary Examining Authority Checks for national security clearance/foreign filing permission) (as per section 39 of Patents Act 1970) ● Forwards the record copy to IB and the search copy to ISA, including any required translation (PCT Article 12, PCT Rules 22.1 and 23.1) ● Forwards and receives correspondence from applicants and the international authorities. ● Prepares the priority documents of PCT applications filed with it. COMPETENT INTERNATIONAL SEARCHING AUTHORITIES (ISAs) (PCT Article 16, PCT Rule 35) - Indian Patent Office (IN) - Austrian Patent Office (AT) - Australian Patent Office (AU) - European Patent Office (EP) - The State Intellectual Property Office of The People's Republic of China (CN) - United States Patent & Trademark Office (US) - Swedish Patent And Registration Office (SE) - Japan Patent Office (JPO) Updated information is available on WIPO website https://pctlegal.wipo.int/eGuide/view-doc.xhtml?doc-code=IN&doc-lang=en 7. Fees payable to the receiving Office (RO) [First and Fifth schedule] - transmittal fee (No fee , if applied through e-PCT)	
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	- International filing fee (for IB) - search fee (for ISA) - supplement to the International filing fee for each sheet in excess of 30 (for IB) - fee for priority document (No fee to be paid if applied through WIPO DAS) - late payment fee - late furnishing fee (translation of International application) - Fee for copies of documents (Fees indicated in italics are to be paid only as per instructions from RO). Intimation to the applicant concerning payment of the prescribed fee is sent in Form PCT/RO/102. - The applicant can make the payment towards International filing fee and ISA fee (except ISA/IN) directly through NEFT /RTGS and submit the UTR/Ref no via email to RO/IN. - RO prepares debit instructions to the bank and transmits the payment subsequently to IB and ISA and also intimate the same through e-mail to the concerned International authority.	
07.02.04	PCT Fee (may vary from time to time) All PCT fees are subject to change periodically. For latest fees, please refer the latest PCT newsletter at URL https://www.wipo.int/pct/en/fees/index.html	Rule 16 bis of Regulations under the PCT
07.02.05	International Search 1. An international search report is established by the International Searching Authority chosen by the applicant in international application. The International Searching Authority provides a written opinion on patentability along with the International Search Report. Time limit for establishing ISR from the priority date 2. If the International Application did not claim priority of a previously filed Indian patent application, the International Search Report is normally made available within nine months from the International filing date. If priority is claimed, that report is made available usually by the 16th month from the priority date. Even where priority is claimed, the International Search Report is normally made available before publication of the International	Article 15,16,17, 18,19 of PCT.

	Application. This allows time for the applicant to withdraw the application before publication, if desired. Article 19 Amendment 3. On receipt of the International Search Report (ISR) the applicant may amend the claims (under Article 19) in light of the International Search Report with effect in all designated States. 4. The time limit referred to in Article 19 is two months from the date of transmittal of the International Search Report to the International Bureau and to the applicant by the International Searching Authority or 16 months from the priority date, whichever time limit expires later. 5. However, any amendment made under Article 19 which is received by the International Bureau after the expiration of the applicable time limit is considered to have been received by the Bureau on the last day of the time limit if it reaches before the technical preparations for International publication have been completed. 6. Such amendments save costs for preparation of different sets of amendments and for local Agents filing such amendments before Designated Offices. 7. Indian Patent Office has been recognized as an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA) at the meeting of the General Assemblies of WIPO held in September – October, 2007. 8. The Indian Patent Office started functioning as an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA) from October, 2013.	
07.02.06	Withdrawals of International Application	
07.02.06.01	Withdrawal of Application [PCT rule 90bis.1] 1. The applicant may withdraw the International Application at any time prior to the expiration of 30 months from the priority date [PCT rule 90bis.1 (a)]. 2. Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the Receiving Office or, where Article 39(1) applies to the International Preliminary Examining Authority. [PCT rule 90bis.1(b)]. 3. No International publication of the International Application shall be	PCT Article 8(1), 20 (1), 21(2)(a), 23(2), 39(1), 40(2) .PCT Rule 4.15 (b), 45 bis 8, 53.8(b), 90 bis.1, 90 bis 2, 90bis3, 90 bis 4, 90bis5

	effected if the notice of withdrawal sent by the applicant or transmitted by the Receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for International publication have been completed. [PCT rule 90bis.1 (c)] Withdrawal of Designations [PCT rule 90bis.2] 1. The applicant may withdraw the designation of any designated State at any time prior to the expiration of 30 months from the priority date. Withdrawal of the designation of a State which has been elected shall entail withdrawal of the corresponding election under Rule 90bis.4 [PCT rule 90 bis.2 (a)] 2. Where a State has been designated for the purpose of obtaining both, a national patent and a regional patent, withdrawal of the designation of that State shall be taken to mean withdrawal of only the designation for the purpose of obtaining a national patent, except where otherwise indicated [PCT rule 90bis.2(b)]. 3. Withdrawal of designations of all designated States shall be treated as withdrawal of the International Application under Rule 90bis.1. [PCT rule 90bis.2(c)] 4. Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the Receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority. [PCT rule 90bis.2(d)] 5. No International publication of the designation shall be effected if the notice of withdrawal sent by the applicant or transmitted by the Receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for International publication have been completed. [PCT rule 90bis.2(e)]. Withdrawal of Priority Claims [PCT rule 90bis.3] 1. The applicant may withdraw a priority claim, made in the International application under Article 8(1), at any time prior to the expiration of 30 months from the priority date. 2. Where the International application contains more than one priority claim, the applicant may exercise the right provided for in paragraph (a) of PCT Rule 90bis3 in respect of one or more or all of the priority claims. 3. Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the Receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority. 4. Where the withdrawal of a priority claim causes a change in the priority date, any time limit which is computed from the original priority date and which has not already expired shall, subject to paragraph (e) of	and 90bis6 of Regulations under the PCT.
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	PCT Rule 90bis3, be computed from the priority date resulting from that change. 5. In the case of the time limit referred to in PCT Article 21(2)(a), the International Bureau may nevertheless proceed with the International publication on the basis of the said time limit as computed from the original priority date if the notice of withdrawal sent by the applicant or transmitted by the Receiving Office or the International Preliminary Examining Authority reaches the International Bureau after the completion of the technical preparations for International publication. Withdrawal of Supplementary Search Request [PCT Rule 90bis.3bis] 1. The applicant may withdraw a supplementary search request at any time prior to the date of transmittal to the applicant and to the International Bureau, under Rule 45bis.8(a), of the supplementary International Search Report or the declaration that no such report will be established. 2. Withdrawal shall be effective on receipt, within the time limit under paragraph (a) of PCT Rule 90bis.3bis, of a notice addressed by the applicant, at his option, to the Authority specified for supplementary search or to the International Bureau, provided that, where the notice does not reach the Authority specified for supplementary search in sufficient time to prevent the transmittal of the report or declaration referred to in paragraph (a) of PCT Rule 90bis.3bis, the communication of that report or declaration under Article 20(1), as applicable by virtue of Rule 45bis.8(b), shall nevertheless be effected. Withdrawal of Demand or of Elections [PCT Rule 90bis.4] 1. The applicant may withdraw the demand or any or all elections at any time prior to the expiration of 30 months from the priority date. 2. Withdrawal shall be effective upon receipt of a notice addressed by the applicant to the International Bureau. 3. If the notice of withdrawal is submitted by the applicant to the International Preliminary Examining Authority, that Authority shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been submitted to the International Bureau on the date marked. Signature [PCT Rule 90bis.5] 1. Any notice of withdrawal referred to in P C T Rules 90bis.1to 90bis.4 shall be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under PCT Rule 90.2(b) shall, not be entitled to sign such a notice on behalf of the other applicants.	
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	Effect of Withdrawal [PCT Rule 90bis.6] 1. Withdrawal under PCT Rule 90bis of the International Application, any designation, any priority claim, the demand or any election shall have no effect in any designated or elected Office where the processing or examination of the International Application has already started under PCT Article 23(2) or PCT Article 40(2). 2. Where the International application is withdrawn under PCT Rule 90bis.1, the International processing of the International application shall be discontinued. 3. Where a supplementary search request is withdrawn under PCT Rule 90bis.3bis, the supplementary International search by the Authority concerned shall be discontinued. 4. Where the demand or all elections are withdrawn under PCT Rule 90bis.4, the processing of the International application by the International Preliminary Examining Authority shall be discontinued.	
07.02.07	International Preliminary Examination	
	Significance 1. International Preliminary Examination is optional for the applicant and provides, in addition to the International Search Report, a second opinion on the usual criteria of patentability before expenses are incurred for the National Phase (for translation, fees for Agents/Attorneys etc.). 2. Helps the applicant to adapt the International application in accordance with the results of the International Search Report; 3. If the report is negative, the applicant may decide to abandon the application. However, the opinions from ISA & IPEA are non-binding on the member countries. International Preliminary Examining Authorities For an Indian applicant, the following are competent International Preliminary Examining Authorities (IPEAs): 1. Austrian Patent Office (AT) 2. Australian Patent Office (AU) 3. European Patent Office (EP) (Only if ISA was AT, EP or SE) 4. The State Intellectual Property Office of the People's Republic of China (CN)	PCT Article 33, 34, 35, 17(2)

	5. United States Patent & Trademark Office (US) 6. Swedish Patent and Registration Office (SE) 7. Indian Patent Office (IN) 8. Japan Patent Office (JP) Updated information is available on WIPO Website (https://pctlegal.wipo.int/eGuide/view-doc.xhtml?doc-code=IN&doc-lang=en) Demand for International Preliminary Examination 1. The demand for International Preliminary Examination shall be made separately from the international application. 2. The demand for International Preliminary Examination may be made to the Indian Patent Office, Delhi, International Bureau or to any of the seven competent International Preliminary Examining Authorities mentioned above. 3. The demand shall contain the prescribed particulars and shall be in the prescribed language and form. The demand shall be subject to payment of the prescribed fees within the prescribed time limit. 4. The demand for International Preliminary Examination has to be made: a. Within 22 months from the date of priority, or b. Within 3 months from the date of transmittal of International Search Report and written opinion to the applicant or the declaration under PCT Article 17(2), whichever is later. The fees to be paid by the applicant are given in the PCT Newsletter which is available on the WIPO website, www.wipo.int.	
07.03	PCT National Phase Application	
07.03.01	General 1. The National phase follows the International phase. It is necessary for an applicant to file a National phase application in each designated country, where protection is sought, within the time prescribed under PCT, i.e., within 30/31 months from the priority date, as the case may be. However, this time limit may be increased through national laws by each member country. 2. Indian Patent Law provides a time limit of 31 months from the priority date.	Rule 20 of The Patent Rules, 2003, PCT Article 22, 23 ,

	For making a National phase application before the Designated Office, the applicant shall: - pay the prescribed national fee; and - file a duly verified translation of basic application, if necessary. 3. International filing date is the deemed date of filing in India if the applicant enters the National phase in India by filing a national phase application within thirty one months from the date of priority. 4. The International filing allows the preservation of priority from the date of filing of first application in the convention country.	
07.03.02	Basic Requirements to enter National Phase in India Time line and Procedure - The applicant has to file a National phase application within 31 months from the priority date or International filing date of application, whichever is earlier. The application with respect to the National Phase application shall be made in Form -1(PCT Article 2(xi), Rule 23(2)) - The appropriate office for filing of National Phase application shall be decided as per address for service in India, which shall be furnished by the applicant in Form 1. - The applicant should provide a consistent address for service and e-mail id in prescribed Form-1 and e-filing module. - An applicant submitting a National Phase PCT application designating India must pay the national filing fee and any other required fees under the Patent Rules and Treaty regulations before the expiry of 31 months from either the priority date or the International filing date, whichever comes first (PCT Article 2(xi), Rule 23(2)) - The fee payable in respect of a National Phase application is calculated as per the number of pages and claims as they stand in the PCT International Application on the date of filing in India. An Applicant will no longer be required to file multiple copies of documents already available with IB, as IPO will be able to utilize such documents accessed electronically from IB. - For filing a PCT National Phase Application in India, which does not claim priority of any PCT National Phase Application filed previously in India, only the following contents are required to be populated in Form 2: - Column 1, 2 and 3 of Form 2; and - The last page of claims (first page, if claims consist of only one page) with date and signature. (to be redrafted) - It is clarified that if an Applicant, for the afore mentioned	Rule 14, 20, 21 of Patent Rule 2003 CGI Public Notice1P0/2012/15 Dated:02.07.2012

	category of applications, submits a Form 2 in which columns other than 1, 2 and 3 are also populated, the IPO will consider the contents accessed from IB. c. All other applicable documents are still required to be filed. For the applications of the type referred to above, columns 8 and 9 of Form I need not be populated in any case. 6. The documents filed by the Applicant should exactly correspond with the up-to-date information available on the record of IB on the date of filing of the PCT National Phase Application in India. The said information must have been notified/ published by the IB in accordance with the PCT and the Regulations made thereunder. Any request pending with the IB shall be of no consequence and should not be reflected in the documents. If any such request is reflected in the documents, the information notified/published by IB shall prevail. The requirement of filing Complete Specification and abstract in Form 2 at the time of filing of a PCT National Phase Application in India is dispensed with for the Applications under reference. However, where the international application was either not filed or has not been published in English, the Applicant shall file translation of the Application in English, duly verified by the Applicant or the person duly authorized by him that the contents thereof are correct and complete. 7. The applicant shall file the required Forms set out in Second Schedule before the appropriate Office as designated Office. 8. The patent office shall not commence processing of said National phase application before the expiry of 31 months from the priority date. Specification For the national phase application, the title, description, drawings, abstract and claims as filed with the International Application under PCT shall be taken as the Complete Specification. However, if the applicant has amended the Complete Specification under Chapter-I and/or Chapter-II of the PCT, such amended specification shall be taken as the Complete Specification for the purpose of filing in India. English Translation 9. Where the International Application has not been filed or published in one of the official languages (Hindi or English), a translation of the application, description, claims [if amended, both as originally filed and	
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	amended together with any statement under Article 19 of PCT or amendments that are annexed to International Preliminary Examination Report (Article 34 of PCT)], drawings, if any, and abstract duly verified by the applicant or person authorized by him should be submitted along with the application. In case of difference between the translation of title as translated by the PCT and that provided in the verified English translation, the latter shall be taken on record. 10. If the applicant fails to file a translation of the amended claims and annexures filed in PCT under Article 19 or 34 of PCT, even after being asked by the appropriate office, within the time limit set by that office, the amended claims and documents shall be disregarded during further processing of the application. Amendment to Specification 11. The applicant may make a request to the Controller for amendment of the Complete Specification which was filed with the National Phase application, as a separate request in Form-13, along with the application. 12. If the applicant makes an amendment in an International Application before ISA and/or IPEA prior to National Phase entry, it shall, if the applicant so desires, be taken as an amendment before the Patent Office. 13. However, at the time of filing the national phase application corresponding to International Application designating India, the applicant may delete a claim as provided in rule 20 (1), in accordance with the provisions contained in Rule 14 (by providing retyped pages and marked copy identifying the amendments), without filing an application for amendment. Change of Applicant / Name change 14. If a change in the name of applicant/ change of applicant has been made after the International filing date and has not been reflected in the notification from the International Bureau (Form PCT/IB/306), such change may be effected by filing Form 13/Form 6, as the case may be. Priority Document 15. If PCT/IB/304 is available on the website of WIPO, the Patent Office shall not ask the applicant to submit the priority document. If not available on the website of WIPO, the Office may request for the same from the applicant. If the applicant filed a priority document through WIPO-DAS in such case, the applicant shall provide the code for accessing the priority document. 16. However, if the applicant has not complied with the requirements of rule 17.1 paragraph(a) or paragraph (b) or b-bis of the regulations made	
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	under the PCT, he shall submit the priority document to the office before the expiry of thirty one months from the date of priority. 17. Where sub-paragraph (i) or sub-paragraph (ii) of paragraph (e) of rule 51bis.1 of the regulations under the Patent Cooperation Treaty is applicable, an English translation thereof duly verified by the applicant or the person duly authorized by him shall be filed within thirty one months from the date of Priority. 18. Where the applicant does not comply with the requirements of priority document as mentioned above, the Controller shall invite the applicant to file the priority document or the translation thereof within three months from the date of such invitation. If the applicant fails to do so, the claim of the applicant for the priority shall be disregarded for the purposes of the Act. Other Requirements 19. All other formalities that are required for filing and processing of an ordinary patent application shall apply to a national phase application. 20. Processing of a National Phase application shall not commence before the expiry of 31 months from the date of priority. However, the applicant may file an express request in Form 18 with the specified fees in the First Schedule for examination before 31months under Rule 20 (4)(ii). 21. If the applicant for National Phase application is willing for expedited examination under Rule 24 C (1) before the expiry of 31 months from the date of priority, he shall file Form 18-A with requisite fees for expedited examination. 22. An international application filed under PCT designating India is considered as a convention application under Section 135 for which the filing date is the date of International Application. 23. An International Application shall be deemed to be withdrawn if the applicant does not comply with the requirements of Rule 20.	
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**Chapter 8: Indian International Searching Authority and Indian
International Preliminary Examination Authority**

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Clause		Sections and rules
08.01	India as ISA/IPEA The Patent Cooperation Treaty, administered by the World Intellectual Property Organization (WIPO), provides the applicant from a member country, the facility for filing a single International Application for grant of patent in all the PCT member countries. It also has the additional benefits of obtaining an International Search Report (ISR), and an International Preliminary Examination Report (IPER) before entering the national phase in each individual country. The ISR and IPER are established according to high internationally regulated standards, by one of the Patent Offices of the world that are highly experienced in examining patent applications and that have been specially appointed by WIPO to carry out International Search and examination. The Indian Patent Office (IPO) was recognized as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the PCT and started functioning as ISA and IPEA from 15th October 2013. As per requirement for ISA/IPEA, IPO has access to the comprehensive collection of patent and non- patent literature in order to fulfill PCT minimum documentation requirement.. IPO has also established a Quality Management System to monitor the quality of ISA/IPEA reports. A fully electronic processing system ensures speedy disposal and dissemination of information on a real time basis.	
08.02	Applicants in ISA/IPEA Applicants for PCT International Applications who are nationals/ residents of India, Iran or Japan can select the Indian Patent Office as ISA/ IPEA. Indian applicants choosing IPO as ISA/ IPEA include individual inventors, startups, research institutions, universities, Indian multi-national conglomerates, Indian units of foreign multi-national firms and foreign firms with Indian inventors or Indian companies as co-applicants.	

08.03	Indian International Searching Authority 1. Patent Office, Delhi performs the functions of Indian International Searching Authority under the Treaty in accordance with the agreement between Indian Patent Office and International Bureau. 2. The fees payable to the Searching Authority includes fees as specified in the Fifth Schedule, in addition to the fees specified in the regulations made under the Treaty. 3. The Searching Authority establishes an International Search Report in respect of International Applications or, as the case may be, declares, in accordance with sub-rule (3) of Rule 19B that meaningful search cannot be established, in cases where India has been indicated as a competent International Searching Authority.	Rule 19-A
08.04	International Search Report 1. The Searching Authority, on receipt of the search copy, notifies International Bureau and the applicant about receipt of search copy, with identification mark 'ISA/IN' along with International Application number and its serial number and date of receipt of the search copy. 2. Upon receipt of the search copy, the Searching Authority shall refer the International Application, in the order in which the search copy is received, to an Examiner or another officer appointed under sub-section (2) of Section 73 of the Act for the preparation of the International Search Report in accordance with the provisions contained in the Treaty and the regulations under the Treaty, ordinarily within a period of one month but not exceeding two months from the date of such reference. 3. Non-Searchable subject matter i. The Searching Authority shall establish an International Search Report for international applications; or declare that a search is not required to be carried out under PCT Article 17(2)(a) due to reasons as provided in the following paragraphs. - When the International Application relates to a subject matter which the Searching Authority is not required to search and accordingly decides not to search, or - The description, claims or drawings fail to comply with the requirements prescribed under the regulation under the Treaty to such an extent that a meaningful search could not be carried out. - The Authority shall so declare and notify the applicant and the International Bureau that no international search report shall be established.	Rule 19-B

ii. If Search is not possible with certain claims only, the Searching Authority shall indicate this fact in the ISR in respect of such claims, and for other claims, it shall establish the ISR.

4. Lack of Unity of Invention

a. If the Searching Authority considers that the International Application does not comply with the requirement of Unity of Invention in accordance with the provisions contained in PCT Rule 13 of the regulations under the Treaty, then it shall send a notice specifying the reasons because of which the International Application is not considered as complying with the requirement of unity of invention.

Subsequently, the applicant is invited to:

b. pay the additional fees as specified in the Fifth Schedule indicating the amount of fees to be paid, within a period of one month from the date of such invitation; and,

c. pay, where applicable, the protest fee specified in the Fifth Schedule indicating the amount of fee to be paid, within a period of one month from the date of such invitation.

5. The Searching Authority shall establish the International Search Report on those parts of the International Application which relate to the invention first mentioned in the claims (main invention) and, subject to payment of additional fee within one month from the notice, on those parts of the International Application which relate to inventions in respect of which such additional fees were paid.

Protest

6. Any applicant may pay the additional fees under protest, that is, accompanied by a reasoned statement to the effect that the International Application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive.

7. The examination of the protest referred to in the above paragraph sub-rule (7) of Rule 19B is carried out by a Review Committee constituted by the Controller. The Review Committee constituted under sub-rule (8) of Rule 19B shall examine the extent to which the protest is justified and, accordingly, orders for the total or partial reimbursement of the additional fee to the applicant.

8. Where the applicant has not paid fees for the protest in accordance with clause (b) of sub-rule (5) of Rule 19B, the protest shall be considered not to have been made and the same is declared by the Searching Authority. 9. The protest fees shall be refunded to the applicant where the review committee finds that the protest was entirely

	justified. Sequence Listing 10. Where the International Application contains the disclosure of one or more nucleotide or amino acid sequences and the sequences are not furnished as per WIPO ST.26 format, the Searching Authority sends a notice to the applicant to submit the sequence listing as per WIPO ST.26 format and pay the late furnishing fee as specified in the Fifth Schedule, within a period of one month from the date of such notice and, if the applicant fails to comply with the notice, the Searching Authority searches the international application to the extent that a meaningful search can be carried out without the sequence listing.	
08.05	Time limit for establishing international search report The Searching Authority establishes the International Search Report and written opinion or, as the case may be, the declaration referred to in sub-rule (3) of rule 19B within a period of three months from the date of receipt of the search copy by the Searching Authority, or within a period of nine months from the date of priority, whichever expires later.	Rule 19-C
08.06	Transmittal of International Search Report and written opinion The Searching Authority transmits one copy of the International Search Report or of the declaration referred to in PCT Article 17(2)(a) of the Treaty, and one copy of the written opinion established under PCT Rule 43bis.1 of the regulations under the Treaty, to the International Bureau and one copy to the applicant, on the same day.	Rule 19-D
08.07	Confidential treatment All matters pertaining to international applications are kept confidential in accordance with the treaty and the regulations under the Treaty.	Rule 19-E
08.08	Indian International Preliminary Examining Authority 1. The Patent Office, Delhi branch performs the functions of the International Preliminary Examining Authority under the Treaty in accordance with an agreement between the Indian Patent Office and the International Bureau. 2. The Examining Authority establishes- a) the International Preliminary Examination Report in respect of all international applications electing India as an International Preliminary Examining Authority;	Rule 19-F

	b) the International Preliminary Examination Report in respect of the demands filed by the nationals or residents of other countries in accordance with an agreement between Indian Patent Office and the International Bureau, upon being notified by the International Bureau; c) the International Preliminary Examination in respect of demands made by the nationals or residents of other countries not party to the Treaty or not bound by Chapter II of the Treaty, if the Assembly has so approved.	
08.09	Period for making Demand 1. Demand for International Preliminary Examination is made within the period specified in the Treaty or regulations under the Treaty (within 22 months from the date of priority or within 3 months from the date of transmittal of ISR and WO or declaration to the applicant, whichever is later). 2. In case the demand is made after the expiry of the period specified in sub-rule (1) of Rule 19G, it is considered to have not been made and no International Preliminary Examination Report shall be prepared.	Rule 19-G
08.10	Fees payable to Examining Authority The fees payable to the Examining Authority includes the fees specified in the Fifth Schedule, in addition to the fees specified in the regulations under the Treaty.	Rule 19-H
08.11	Manner of making a demand A demand shall be made in accordance with the provisions contained in the rules, the Treaty and the regulations under the Treaty.	Rule 19-I
8.12	Processing of demands for international preliminary examination The Examining Authority, on receipt of the demand for international preliminary examination, if the Examining Authority is competent to conduct an international preliminary examination, assigns the identification mark 'IPEA/IN' and notifies the Applicant and the International Bureau. In case where the Examining Authority is not competent to conduct the international preliminary examination of the international application, it transmits the demand promptly to the International Bureau.	Rule 19-J

8.13	International Preliminary Examination Report	Rule 19-K
	1. Notwithstanding anything contained in the proviso to item (i) of sub-rule (2) of rule 24B, the Examining Authority refers the international application, in accordance with the provisions contained in the Treaty and the regulations under the Treaty, in the order in which the demand was received in the Examining Authority to an examiner or any other officer appointed under sub-section (2) of section 73 of the Act for preparing an International Preliminary Examination Report ordinarily within a period of three months but not exceeding four months from the date of such reference. 2. Claims relating to inventions in respect of which no International Search Report has been established shall not be the subject of international preliminary examination. 3. If the Examining Authority considers that - the international application relates to a subject matter on which the Examining Authority is not required to carry out an international preliminary examination, and, decides not to carry out such examination; or - that the description, claims, or drawings, are so unclear, or the claims are so inadequately supported by the description, that no meaningful opinion can be formed on the questions of novelty, inventive step (non-obviousness), or industrial applicability, - then the Examining Authority does not go into these questions and informs the applicant of this opinion and the reasons therefore. 4. In a case where any situation referred to in clause (a) or clause (b) of sub-rule (3) is found to exist in connection with certain claims only, the Examining Authority indicates this fact in the International Preliminary Examination Report in respect of such claims, and for other claims, it establishes the International Preliminary Examination Report. 5. Where the Examining Authority finds that the international application does not comply with the requirement of unity of invention, in accordance with the provisions contained in PCT Rule 13 of the regulations under the Treaty and chooses to invite the applicant, at his option, to restrict the claims or to pay additional fees, it issues a notice to the applicant. - specifying at least one possibility of restriction which, in the opinion of the Examining Authority, would be in compliance with the applicable requirement; - specifying the reasons for which the International Application is not considered as complying with the requirement of unity of invention;	

	c. inviting the applicant to comply with the invitation within one month from the date of such notice; d. indicating the amount of the required additional fees to be paid in case the applicant so chooses; and e. inviting the applicant to pay the protest fee within one month from the date of such notice, and indicate the amount to be paid, as specified in the Fifth Schedule. 6. Any applicant may pay the additional fees under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive. 7. The examination of the protest is carried out by a Review Committee constituted by the Controller. 8. The Review Committee constituted examines the extent to which the protest is justified and accordingly orders for the total or partial reimbursement to the applicant of the additional fee. 9. The protest fee is refunded to the applicant where the Review Committee referred to in sub-rule (6) finds that the protest was entirely justified.	
08.14	Period for establishing International Preliminary Examination Report and its transmission Report and its transmission The period for establishing the International Preliminary Examination Report shall be: a. twenty eight months from the priority date; or b. six months from the period specified under PCT Rule 69.1 of the regulations under the Treaty for the start of the international preliminary examination; or c. six months from the date of receipt by the Examining Authority of the translation furnished under PCT Rule 55.2 of the regulations under the Treaty, whichever expires last	Rule 19L

08.15	Transmittal of International Preliminary Examination Report The Examining Authority transmits one copy of the International Preliminary Examination Report and its annexures, if any, to the International Bureau, and one copy to the applicant, on the same day.	Rule 19M
08.16	Conditions for and extent of refund The fee paid by the applicant may be refunded, waived or reduced to the extent and in accordance with the conditions specified in the Treaty or the regulations under the Treaty and the agreement entered between the Indian Patent Office and the International Bureau.	Rule 19N

Clause		Sections and rules
09.01	<u>Request for Examination</u> 1. An Application for a Patent shall not be examined unless the applicant or any other person interested makes a Request for Examination. The request is to be filed in Form 18 or Form 18A (as the case may be) along with the fee as prescribed in First Schedule. 2. a. A request for examination has to be made within thirty one months from the date of priority of the application or from the date of filing of the application, whichever is earlier. If no such request for examination is filed within the prescribed time limit, the application shall be treated as withdrawn by the applicant. b. In a case where secrecy direction has been issued under Section 35, the request for examination may be made within six months from the date of revocation of the secrecy direction, or within thirty one months from the date of filing or priority, whichever is later. c. The request for examination of application as filed according to the 'Explanation' under sub-section (3) of section 16 (Divisional application) shall be made within thirty one months from the date of filing of the application or from the date of priority of the first mentioned application or within six months from the date of filing of the further application, whichever is later. d. The applications which are filed before the commencement of the Patent Amendment Rules 2024 (i.e. before 15/03/2024), the period for filing request for examination under section 11B(1) shall be the period specified under the sub rule (i.e. forty eight months) before the commencement of Patent Amendment Rules 2024. e. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form- 4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. Section 11B, 35. 16(3) Rule 20(2), 20(4)(ii), 24B, 24C. 77 7 Nippon Steel Corporation vs. Union of India (UOI) [WP (Civil) No. 801/2011 & CM APPL No.	Section 11B, 35. 16(3) Rule 20(2), 20(4)(ii), 24B, 24C.

	1694/2011] on 08/02/2011 f. If no such request for examination is filed within the prescribed time limit, the application shall be treated as deemed to have been withdrawn by the applicant. 3. The Patent Office shall not commence processing of an application filed corresponding to International Application designating India before the expiration of the thirty one months from the priority date. However, the Patent Office may, on the express request filed in Form 18 along with the fee specified in First Schedule, process or examine the application at any time before thirty one months. 4. The Office shall not examine an application unless it is published and a request for examination is filed. 5. When a request for examination is filed by a person interested other than the applicant, the Examination Report is sent to the applicant only, and intimation is given to the person interested. In the matter of Nippon Steel Corporation vs. Union of India (UOI) [WP (Civil) No. 801/2011 & CM APPL No. 1694/2011]⁷ on 08/02/2011, Hon'ble Delhi High Court at para 25 stated that: <i>"25. There is a logic to the time limits set out under the Act. The scheme of the Act and the Rules require time-bound steps to be taken by applicants for grant of patent at various stages. The provisions of the Act and the Rules have to expressly reflect the legislative intent to permit relaxation of time limits, absent which such relaxation cannot be „read into" the provisions by a High Court exercising powers under Article 226 of the Constitution. In other words, it is not possible for this Court to accept the submission of the learned Senior counsel for the Petitioner that the time-limits under Section 11-B (1) of the Act read with Rule 24-B of the Rules, notwithstanding Section 11-B (4) of the Act, are merely „directory" and not mandatory. In fact, the wording of Section 11-B (4) of the Act underscores the mandatory nature of the time limit for filing an RFE in terms of Section 11-B (1) of the Act read with Rule 24-B of the Rules."</i>	
09.01.01	<u>Expedited Examination of applications</u> 1. An applicant may file a request for expedited examination in	Section12, Rule 24B, 24C

⁷ [Nippon Steel Corporation vs. Union of India \(UOI\) \[WP \(Civil\) No. 801/2011 & CM APPL No. 1694/2011\] on 08/02/2011](#)

	Form 18A, along with the fee, only by electronic transmission, duly authenticated, within 31 months from the date of filing or Priority date, whichever earlier on any of the following grounds: a. India has been chosen as the competent International Searching Authority or elected as an International Preliminary Examining Authority in the corresponding International Application; or b. that the applicant is a startup; or c. that the applicant is a small entity; or d. that if the applicant is a natural person or in the case of joint applicants, all the applicants are natural persons, then the applicant or at least one of the applicants is a female; or e. that the applicant is a department of the Government; or f. that the applicant is an institution established by a Central, Provincial or State Act, which is owned or controlled by the Government; or g. that the applicant is a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013); or h. that the applicant is an institution wholly or substantially financed by the Government; Explanation:- For the purpose of this clause, the term "substantially financed" shall have the same meaning as in the Explanation to sub-section (1) of section 14 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971(56 of 1971); or i. that the application pertains to a sector which is notified by the Central Government on the basis of a request from the Head of a Department of the Central Government. Provided that public comments are invited before any such notification; or j. that the applicant is eligible under an arrangement for processing a patent application pursuant to an Section12, Rule 24B, 24C 79 agreement between Indian Patent Office and a foreign Patent Office. Explanation:- The patentability of patent applications filed under clause (j) above will be in accordance with the relevant provisions of the Act.. 2. A request for examination filed under rule 24B may be converted to a request for expedited examination under subrule (1) of rule 24C by paying the relevant fees and submitting requisite	
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	documents as prescribed. 3. If the application is not published or a request for early publication is not filed, the Applicant shall file Form 9 with prescribed fee along with Form 18A. 4. If the request for expedited examination does not comply with the requirements of this rule, such a request shall be processed as normal request for examination, with an intimation to the applicant, and shall be deemed to have been filed on the date on which the request for expedited examination was filed. 5. The Controller shall refer the request for expedited examination along with the application and specification and other documents to the Examiner, in respect of the applications where the request for expedited examination has been received, in the order of filing of such requests. 6. Provided that a request for expedited examination filed by a startup or small entity shall not be questioned merely on the ground that the startup or small entity, having filed an application for a patent, ceases to be a startup or small entity due to the lapse of the period during which it is recognised by the competent authority, or its turnover subsequently crosses the financial threshold limit as notified by the competent authority. The period within which the Examiner shall make the report under sub-section (2) of section 12, shall ordinarily be one month but not exceeding two months from the date of reference of the application to him by the Controller. 7. The period within which the Controller shall dispose of the report of the examiner shall be one month from the date of receipt of such report by the Controller. 8. A first statement of objections along with any document, if required, shall be issued by the Controller to the applicant or his authorised agent within fifteen days from the date of disposal of the report of examiner by the Controller. 9. Reply to the first statement of objections and subsequent reply, if any, in respect of an application where the request for expedited examination was filed, shall be processed in the order in which such reply for such application is received.	
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	10. The time for putting in an application in order for grant under section 21 shall be six months from the date on which the first statement of objections is issued to the applicant. 11. The time for putting an application in order for grant under section 21, as prescribed in sub-rule (10) of Rule 24C may be further extended for a period of three months on a request for extension made in Form 4 along with the prescribed fee, made to the Controller before the expiry of the period specified herein. 12. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. 13. The Controller shall dispose off the application within a period of three months from the date of receipt of the last reply to the first statement of objections or within a period of three months from the last date to put the application in order for grant under section 21 of the Act, whichever is earlier: Provided that this time limit shall not be applicable in case of pre-grant opposition. 14. Notwithstanding anything contained in this rule, the Controller may limit the number of requests for expedited examination to be received during the year by way of a notice to be published in the official journal.	
09.02	Reference for Examination 1. Once a request for examination is received, and the application is published under section 11A, the application is taken up for Examination in the chronological order of filing of request for examination. 2. Accordingly, the Controller shall refer the application, specification and other documents related thereto to the Examiner and such reference shall be made in the order in which the request is filed.	Section 11A,12. Rule 24B(2)

	3. Provided that in case of a further application filed under section 16, the order of reference of such further application shall be the same as that of the first mentioned application. 4. Provided further that in case the first mentioned application has already been referred for examination, the further application shall have to be accompanied by a request for examination, and such further application shall be published within one month and be referred to the examiner within one month from the date of such publication. 5. The patent application is referred to an Examiner by the Controller for conducting the formal as well as substantive examination as per the subject matter of the invention vis-à-vis the area of specialization of the Examiner. At present, the Patent Office has four examination groups based on the broad area of specialization viz.: a. Chemical i. Chemistry including Pharmaceuticals & ii. Polymer Science. b. Biotechnology iii. Biotechnology including Microbiology, iv. Biochemistry & v. Food Technology c. Electrical vi. Electrical, vii. Electronics & Communications, viii. Computer Science & Engineering, ix. Physics & x. Biomedical Engineering d. Mechanical xi. Mechanical, xii. Civil, xiii. Metallurgy & xiv. Textiles. 6. In case of a further application (Divisional Application) filed under section 16, if the first mentioned application has already been referred for examination, the further application shall have to be accompanied by a request for examination, and such further application shall be referred ordinarily within one month from the date of publication.	
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	7. When an application is referred by the Controller, the Examiner makes a report under sub-section (2) of section 12ordinarily within one month but not exceeding three months from the date of such reference. 8. The period within which the Controller shall dispose of the report of the Examiner shall ordinarily be one month from the date of the receipt of the report by the Controller. 9. A first statement of objections, along with any documents as may be required, shall be issued by the Controller to the applicant or his authorised agent within one month from the date of disposal of the report of Examiner by the Controller. 10. Provided that where the request for examination was filed by a person interested, only an intimation of such examination may be sent to such person interested.	
09.03	Examination of application When referred by the controller, the Examiner makes a report in respect of the following matter – 1. whether the application and the specification and other documents relating thereto are in accordance with the requirements of this Act and of any Rules made thereunder; 2. whether there is any lawful ground of objection to the grant of the patent under this Act in pursuance of the application; 3. the result of investigations made under section 13; and 4. any other matter which may be prescribed.	Section 13
09.03.01	Search for Anticipation by previous publication and Prior Claiming: 1. The Examiner conducts a search in the Indian Patent Database, starting from 1st day of January,1912, and all the available databases including patent/non patent literature. In addition to the above, PCT Minimum documentation is searched. 2. The search is conducted to find out any publication which may anticipate the claimed subject matter. 3. Another objective of the search is to ascertain whether an invention as claimed in any of the claims of the Complete	

	Specification has been claimed in any claim of any other Complete Specification, filed in India, which has been published on or after the date of filing of the applicant's Complete Specification being a specification filed in pursuance of an application for a patent made in India and dated before or claiming the priority date earlier than that date. 4. The search is conducted to ascertain whether the invention, so far as claimed in any claim of the Complete Specification, has been anticipated by publication in India or elsewhere in any document other than those mentioned in sub-section (1) of Section 13 before the date of filing of the applicant's Complete Specification. When a Complete Specification is amended before the grant of patent, the amended specification shall be examined and investigated in the same manner as the original specification. 5. The examination and investigations required under section 12 and 13 shall not be deemed in any way to warrant the validity of any patent. 6. The Examiner ascertains the following: - International Patent Classification. - Search strategy. - Keyword(s) used. - Databases consulted for both Patent and non-Patent literature. - Prior art findings and analysis regarding the patentability. - Limitation on search if any, such as non-clarity of claims or multiplicity of inventions or any other reason due to which a reasonable search cannot be conducted.	
09.03.02	Novelty 1. An invention is considered as new(novel), if it is not anticipated by prior publication in patent and non-patent literature, i.e., an invention is novel if it has not been disclosed in the prior art, where the prior art means everything that has been published, presented or otherwise disclosed to the public before the date of filing/priority date of Complete Specification. 2. An invention is considered as novel, if it has not been anticipated by prior use or prior public knowledge in India. 3. For the purpose of determining novelty, an application for patent filed at the Indian Patent Office before the date of filing of Complete Specification of a later filed application, but published after the same, is considered for the purposes of prior claiming.	Section 2(1)(j), 13, 29-34

	4. While ascertaining novelty, the Examiner takes into consideration, inter alia, the following documents: which have been published before the date of filing of the application in any of the specifications filed in pursuance of application for patent in India on or after 1st January, 1912. such Indian Patent Applications which have been filed before the date of filing of Complete Specification and published on or after the date of filing of the Complete Specification, but claims the same subject matter. 5. The Examiner shall make such investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the Complete Specification, has been anticipated by publication in India or elsewhere in any document other than those mentioned in Section 13(1) before the date of filing of the applicant's Complete Specification. 6. A prior art is considered as anticipating novelty if all the features of the invention under examination are present in the cited prior art document. 7. The prior art should disclose the invention either in explicit or implicit manner. Mosaicing of prior art documents is not allowed in determination of novelty. 8. A generic disclosure in the prior art may not necessarily take away the novelty of a specific disclosure. For instance, a metal spring may not take away the novelty of a copper spring. 9. A specific disclosure in the prior art takes away the novelty of a generic disclosure. For instance, a copper spring takes away the novelty of a metal spring. 10. In a case where a prior art is cited as an anticipation in the Examination Report, the onus of proving that the same is not to be an anticipation by reason of Section 29-34, lies on the applicant. In the matter of Novartis AG v. Union of India & Ors [AIR 2013 SUPREME COURT 1311]⁸ Hon'ble Supreme Court of India on 01/04/2013 at para 157 emphasized that <i>"...In light of the discussions made above, we firmly reject the</i>	
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⁸ [Novartis AG v. Union of India & Ors \[AIR 2013 SUPREME COURT 1311\] Hon'ble Supreme Court of India on 01/04/2013](#)

	<i>appellant's case that Imatinib Mesylate is a new product and the outcome of an invention beyond the Zimmermann patent. We hold and find that Imatinib Mesylate is a known substance from the Zimmermann patent itself. Not only is Imatinib Mesylate known as a substance in the Zimmermann patent, but its pharmacological properties are also known in the Zimmermann patent and in the article published in the Cancer Research journal referred to above. The consequential finding, therefore, is that Imatinib Mesylate does not qualify the test of "invention" as laid down in section 2(1)(j) and section 2(1)(ja) of the Patents Act, 1970."</i> In the matter of Telefonktiebolaget Lm Ericsson (Publ) vs Lava International Ltd [CS(COMM) 65/2016]⁹ on 28/03/2024, Hon'ble Delhi High Court while proposing a 7-step approach for novelty determination have stated at para 87-88 that <i>"87....Taking into consideration the judgments given by various Courts, and the guidance given in the Draft Manual, I have deemed it appropriate to develop a step-wise approach for determination of novelty.</i> <i>88. When assessing the novelty of an invention, a Judge or even a patent examiner ought to follow a systematic approach to ensure a thorough and unbiased analysis of the invention claimed and the prior art cited. Another important aspect of the test for assessment of novelty in an invention is to maintain a distinction between the test of novelty and test for inventive step or lack of obviousness. I am of the view that the following steps, which may be referred to as the 'Seven Stambhas Approach' serve as guiding Stambhas are referred to as columns or pillars in Indian Architecture principles and provide a clear framework for assessing novelty, reflecting the distinction between novelty and non-obviousness:</i> <i>(i) Understanding of the Claims of the Invention • The determination of lack of novelty should begin with the understanding of the Claims of the invention as it is the Claims that define the boundaries of the invention and what the applicant considers as their novel contribution</i> <i>(ii) Identify Relevant Prior Art • Collecting the prior art, including any public disclosure, publication, patent, or patent application that predates the filing date of the patent application which is relevant to the Claims of the patent. (iii) Analyse the Prior Art • Conducting a detailed analysis of the identified prior art to ascertain its relevance to the Claims of the invention. This step</i>	
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⁹ [Telefonktiebolaget Lm Ericsson \(Publ\) vs Lava International Ltd \[CS\(COMM\) 65/2016\] on 28/03/2024](#)

	<i>involves searching and documenting both the similarities and the differences, if any, between the Claims of the invention and the text of the prior art. This step requires comparing the technical details and features of the prior art against those claimed in the invention.</i> <i>(iv) Determine Explicit and Implicit Disclosures • Examining whether the prior art explicitly or implicitly discloses the same invention. Explicit disclosure means the prior art directly describes the invention claimed. Implicit disclosure refers to whether the prior art describes elements or aspects so similar to the claimed invention that a direct link can be drawn.</i> <i>(v) Assessment material differences while considering the entire scope of the Claims • Identifying the material differences between the claimed invention and the prior art, if any, such that a material difference would indicate that the claimed invention has not been disclosed in the prior art and, therefore, the invention, is novel.</i> <i>(vi) Verifying Novelty in light of Comprehensive Scope and Specific Combination of Claimed Elements • Evaluation of novelty of the invention is carried out in light of the comprehensive scope of its claims, not just individual elements. • The invention is novel only if the combination of claimed elements as a whole has not been previously disclosed.</i> <i>(vii) Documentation of the Analysis and Novelty Determination • Specify the finding of the examination of novelty, while providing a clear rationale for the said determination. The specific documentation must include references to specific sections of the prior art examined and a reasoning as to how the section affects the novelty of the claims and the inventive concept of the invention.</i> Based on the analysis, issue a formal decision, if the invention or any of its claimed elements is found in the prior art, the invention is not novel. Conversely, if the invention is not disclosed by the prior art, it is considered novel.”	
09.03.03	Inventive step	
09.03.03.01	General principle Inventive step is a feature of an invention that involves technical advancement compared to the existing knowledge or having	Section 2(1)(j), 2(1)(ja)

	economic significance or both and that makes the invention not obvious to a person skilled in the art. While determining patentability of the invention, an Examiner first conducts investigation as to whether the novelty of the claimed invention is established and then proceeds to conduct examination on whether the claimed invention involves the inventive step.	
9.03.03.02	Determination of Inventive Step 1. An invention must make a technical advancement in the relevant field of science or technology, or make some significant economic advantages/benefits or both. Along with that, the said technical advancement or economic significance should not be obvious to a person skilled in the art in view of what was known before in the relevant state of the art on the priority date of the claimed invention. 2. The determination of an inventive step relies on the assessment of prior art as a whole, revealed during the search process. 3. It is essential that the claimed invention is also considered as a whole. In other words, it is not sufficient to draw the conclusion that a claimed invention is obvious merely because individual features of the claims taken separately are known from the prior art or might be found to be obvious. 4. For the purpose of establishing obviousness of the invention to a person skilled in the art, mosaicing multiple documents of prior arts is permissible, if the cited prior arts are from analogous fields of art. It is to be seen from the angle that if the cited prior art is placed in the hands of the person skilled in the art whether s/he will be able to work upon the same and achieve the desired result leading to the claimed subject matter without any application of his inventive ingenuity. If the answer comes in affirmative, then the claimed subject matter would have been obvious to the person skilled in art as a mere workshop result and otherwise it is not. 5. If an invention is predictable and requires only routine experimentation or improvements by a person skilled in the art, it lacks inventive step. 6. From the definition of the inventive step under section 2(1)(ja) of The Patents Act, it is essential to understand the concept of technical advancement and/or economic significance. Further, it is also essential to understand who is considered as a ‘person skilled	

	in the art’. The term ‘person skilled in the art’ is not defined under the Patents Act. However, various case-laws by different courts have provided relevant jurisprudence in the matter. In the F.Hoffman la Roche v Cipla¹⁰ case at para 45 and 46, Hon’ble Delhi High Court had observed that the obviousness test is what is laid down in Biswanath Prasad Radhey Shyam vs Hindustan Metal Industries Ltd (AIR 1982 SC 1444)¹¹ and stated <i>“... One has to travel not very far in order to understand the test relating to obviousness which has been minutely discussed by the Supreme Court of India in the case of Biswanath Prasad Radhey Shyam vs Hindustan Metal Industries cited as AIR 1982 SC 1444, which is a Three Judges Bench decision. In the said judgment, tests of patentability are discussed in extenso and the expressions used under the Patents Act which has been defined and discussed thoroughly including the expression —inventive step. The said judgment is a landmark judgment followed by the Courts across the country and is still holding the field till date and all the matters relating to Patent infringement are decided on the basis of the tests carved out in said case of Biswanath Prasad(supra) till date without any departure....”</i> Hon’ble High Court further added at para 47 that <i>“...From the bare reading of the afore quoted observations of Supreme Court, it is manifest that the Hon'ble Supreme Court has laid down the test for the purposes of ascertaining as to what constitutes an inventive step which is to be seen from the standpoint of technological advancement as well as obviousness to a person who is skilled in the art. It is to be emphasized that what is required to be seen is that the invention should not be obvious to the person skilled in art. These are exactly the wordings of New Patents Act, 2005 u/s Section 2(ja) as seen above. Therefore, the same cannot be read to mean that there has to exist other qualities in the said person like the unimaginable nature of the person or any other kind of person having distinct qualities...”</i> <i>At para 50 and 51, the Hon’ble High Court added “...Normal and grammatical meaning of the said person who is skilled in art would presuppose that the said person would have the knowledge and the skill in the said field of art and will not be unknown to a particular field of art and it is from that angle one has to see that</i>	
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¹⁰ [F. Hoffmann-La Roche Ltd vs Cipla Ltd., Mumbai Central, on 7 September, 2012](#)

¹¹ [Biswanath Prasad Radhey Shyam vs Hindustan Metal Industries Ltd \(AIR 1982 SC 1444\)](#)

	<i>if the said document which is prior patent if placed in the hands of the said person skilled in art whether he will be able to work upon the same in the workshop and achieve the desired result leading to patent which is under challenge. If the answer comes in affirmative, then certainly the said invention under challenge is anticipated by the prior art or in other words, obvious to the person skilled in art as a mere workshop result and otherwise it is not. The said view propounded by Hon'ble Supreme Court in Biswanath Prasad (supra) holds the field till date and has been followed from time to time by this Court till recently without any variance.....Therefore, it is proper and legally warranted to apply the same very test for testing the patent; be it any kind of patent. It would be improper to import any further doctrinal approach by making the test modified or qualified what has been laid down by the Hon'ble Supreme Court in of Biswanath Prasad (supra)... ”</i> In the matter of Biswanath Prasad Radhey Shyam vs Hindustan Metal Industries Ltd¹² (AIR 1982 SC 1444) Hon'ble Supreme Court at para 4 stated <i>“...In order to be patentable, an improvement on something known before or a combination of different matters already known, should be something more than a mere workshop improvement, and must independently satisfy the test of invention or an inventive step. It must produce a new result, or a new article or a better or cheaper article than before. The new subject matter must involve "invention" over what is old. Mere collocation of more than one, integers or things, not involving the exercise of any inventive faculty does not qualify for the grant of a patent. ...”</i> Accordingly, the following points need to be objectively judged to ascertain whether, looking at the invention as a whole, the invention does have inventive step or not: <i>I. Identify the "person skilled in the art", i.e., competent craftsman or engineer as distinguished from a mere artisan;</i> <i>II. Identify the relevant common general knowledge of that person at the priority date;</i> <i>III. Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;</i> <i>IV. Identify what, if any, differences exist between the matter cited as forming part of the "state of the art" and the inventive concept of the claim or the claim as construed;</i>	
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¹² [Biswanath Prasad Radhey Shyam vs Hindustan Metal Industries Ltd¹²\(AIR 1982 SC 1444\)](#)

	<i>V. Viewed without any knowledge of the alleged invention as claimed, do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of inventive ingenuity?</i> Recently, in Telefonktiebolaget Lm Ericsson (Publ) vs Lava International Ltd¹³ on 28 March, 2024, Hon'ble Delhi High Court has further emphasised on the above mentioned 5-step analysis approach for Inventive Step determination. In yet another judgement by the Hon'ble High Court of Delhi in the matter of Avery Dennison Corporation vs Controller of Patents and Designs¹⁴ [2022/DHC/004697], the court has laid down the following fundamental principles while analyzing inventive step: <i>In para 32 it was held that "... Some of the fundamental principles while analysing inventive step and whether an invention is obvious or not are: i. That simplicity does not defeat an invention - even simple inventions are patentable. ii. The inventive step has to be assessed on the basis of the date of priority of the subject patent and not after the publication of the same i.e., it is not permissible to do a hindsight analysis or an ex-post facto analysis..."</i> Another important aspect, that the Hon'ble High Court of Delhi held was that the time gap between the prior art and the subject patent application need to be considered while deciding on obviousness. In para 36, it was stated that <i>"...One of the sure tests in analysing the existence of inventive step would also be the time gap between the prior art document and the invention under consideration. If a long time has passed since the prior art was published and a simple change resulted in unpredictable advantages which no one had thought of for a long time, the Court would tilt in favour of holding that the invention is not obvious..."</i>	
09.03.04	Industrial Applicability 1. Section 2(1)(ac), which defines the phrase 'capable of industrial application' was introduced in the Patents Amendment	Section 2(1)(j), 2(1)(ac)

¹³ [Telefonktiebolaget Lm Ericsson \(Publ\) vs Lava International Ltd on 28 March, 2024](#)

¹⁴ [Avery Dennison Corporation vs Controller of Patents and Designs \[2022/DHC/004697\]](#)

	Act. 2002. In order for an invention to be patentable, an invention must be capable of industrial application. Industrial Application in relation to patentability means that the invention is capable of being made or used in an industry. 2. The Examiner shall assess if the claimed invention is capable of use in any industry or made using an industrial process. Typically, the specification explains the industrial applicability of the disclosed invention in a self-evident manner. If it is not, a mere suggestion that the matter would be industrially applicable is not sufficient. A specific utility should be indicated in the specification supported by the disclosure. For example, indicating that a compound may be useful in treating unspecified disorders, or that the compound has useful biological properties, would not be sufficient to define a specific utility for the compound. The specific usefulness has to be indicated. 3. Industrial applicability is also a requirement under Patent Cooperation Treaty (PCT). The industry is interpreted in the broadest possible sense, like in the Paris Convention.	
09.03.05	Inventions not patentable Under the Patents Act, 1970, the following are not inventions and hence are not considered to be patentable. However, examples given are mere illustrations and may not be conclusive on the subject. Objective decisions may be taken on a case to case basis. In addition to the illustrations in the instant Draft Manual, subject- specific Guidelines have also been issued and the same are accessible at https://ipindia.gov.in/guidelines-patents.htm	Section 3
09.03.05.01	An invention which is frivolous or which claims anything obviously contrary to well established laws is not an invention. Some examples of a frivolous nature and contrary to natural laws are: ☐ A machine purporting to produce perpetual motion. ☐ A machine alleged to be giving output without any input. ☐ A machine allegedly giving 100% efficiency.	Section 3(a)
09.03.05.02	An invention, the primary or intended use or commercial exploitation of which would be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment is not an invention.	Section 3(b)

	Some examples are: 1. Any device, apparatus or machine or method for committing theft/burglary. 2. Any machine or method for counterfeiting of currency notes. 3. Any device or method for gambling. 4. An invention the use of which can cause serious prejudice to human beings, plants and animals. 5. Inventions, the intended use or commercial exploitation of which is found to be injurious to public, animal or plant life or health, such as, a method of adulteration of food. 6. An invention, the primary or intended use of which is likely to violate the well accepted and settled social, cultural, legal norms of morality, e.g. a method for cloning of humans. 7. An invention, the primary or proposed use of which would disturb the public orders e.g. a device for house-breaking. 8. However, if the primary or intended purpose or commercial exploitation of a claimed invention is not causing serious prejudice to human, animal or plant life or health or to the environment, such subject matter may be considered to be an invention and may be patentable, for instance, a pesticide. Illustrative Example: Claim: A process for blending tartrazine colour with fresh tea powder comprises the following steps: Step 1: (a) mixing 10 kg to 40 kg of Tartrazine powder with 40 liters to 160 liters of water; (b) boiling the mixture at 20°C to 60°C for 30 minutes (c) mixing 250 kg to 1000 kg of fresh tea powder with the colour mixture of 10 step (b); (d) drying the resultant mixture; Step 2: mixing the dried mixture with 2000 kg to 12000 kg of fresh tea powder. Analysis: The subject matter of claims involving a process for blending tartrazine color with fresh tea powder falls under the purview of section 3(b) of the Patents Act, 1970, because it involves a practice that is detrimental to public health. The described process constitutes a method of adulteration, as the addition of non-approved colorants like tartrazine to tea is not permissible. Under clause 2.10.1 of the Food Safety and Standards (Food Products Standards and Food Additives)	
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	Regulations, 2011, tea products must be free from added coloring matter, harmful substances, or extraneous materials. Processes involving the introduction of non-approved coloring agents are explicitly treated as adulteration under these standards.	
09.03.05.03	The mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature is not an invention. A claim for discovery of scientific principle is not considered to be an invention, but a process of manufacture, based on the use of such principle, resulting in a substance or an article may be considered to be an invention. A scientific theory is a statement about the natural world. These theories themselves are not considered to be inventions, no matter how radical or revolutionary an insight they may provide, since they do not result in a product or process. However, any practical application of such theory in the process of manufacture of an article or substance, may well be patentable. The fact that a known material or article is found to have a hitherto unknown property is a discovery and not an invention. But if such discovery leads to the conclusion that the material can be used for making a particular article or in a particular process, then the article or process could be considered to be an invention. For example, the property of a particular known material to be able to withstand mechanical shock is a discovery and therefore not patentable, but a claim to a railway sleeper made of such material would be allowable if it passed the tests for novelty and inventive step. Similarly, finding a new substance or micro-organism occurring freely in nature is a discovery and not an invention.	Section 3(c)
09.03.05.04	The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant is not an invention. Explanation:- For the purposes of this clause, salts, esters, ethers,	Section 3(d)

	polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy. According to this provision, the following are not inventions and, hence, not patentable: - mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance; - the mere discovery of any new property of a known substance; - the mere discovery of new use for a known substance; - the mere discovery of use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant. Explanation to Section 3(d) further clarifies that salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance may be considered to be the same substance and can be patentable only if they differ significantly in properties with regard to efficacy. An Examiner investigates on a case to case basis as to what constitutes the difference in properties with regard to efficacy from the known substance. The Complete Specification shall bring out clearly and categorically in the description, as to how the claimed subject matter differs significantly in properties with regard to efficacy from the known substance at the time of filing of the application or subsequently by way of an amendment of specification under section 59. After analysing the legislative history of Section 3(d), In the matter of Novartis AG v. Union of India & Ors [AIR 2013 SUPREME COURT 1311]¹⁵ Hon'ble Supreme Court of India on 01/04/2013 at para 103 commented that, <i>"...We have, therefore, no doubt that the amendment/addition made in section 3(d) is meant especially to deal with chemical substances, and more particularly pharmaceutical products. The amended portion of section 3(d) clearly sets up a second tier of qualifying standards for chemical substances/</i>	
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¹⁵ [Novartis AG v. Union of India & Ors \[AIR 2013 SUPREME COURT 1311\] Hon'ble Supreme Court of India on 01/04/2013](#)

pharmaceutical products in order to leave the door open for true and genuine inventions but, at the same time, to check any attempt at repetitive patenting or extension of the patent term on spurious grounds...”

It was further held by the Apex Court that:

“...What is “efficacy”? Efficacy means “the ability to produce a desired or intended result”. Hence, the test of efficacy in the context of Section 3(d) would be different, depending upon the result the product under consideration is desired or intended to produce. In other words, the test of efficacy would depend upon the function, utility or the purpose of the product under consideration. Therefore, in the case of a medicine that claims to cure a disease, the test of efficacy can only be “therapeutic efficacy” It may be noted that the text added to Section 3(d) by the 2005 amendment lays down the condition of “enhancement of the known efficacy”. Further, the explanation requires the derivative of “differ significantly in properties with regard to efficacy”. What is evident, therefore, is that not all advantageous or beneficial properties are relevant, but only such properties that directly relate to efficacy, which in case of medicine, as seen above, is its therapeutic efficacy. While dealing with the explanation as provided in Section 3(d) it must also be kept in mind that each of the different forms mentioned in the explanation have some properties inherent to that form, e.g., solubility to a salt and hygroscopicity to a polymorph. These forms, unless they differ significantly in property with regard to “therapeutic efficacy”, are expressly excluded from patentability. Hence, the mere change of form with properties inherent to that form would not qualify as "enhancement of efficacy" of a known substance. In other words, the explanation is meant to indicate what is not to be considered as therapeutic efficacy...”

At Para 187, the Apex Court held that,

“...the physico-chemical properties of beta crystalline form of Imatinib Mesylate, namely (i) more beneficial flow properties, (ii) better thermodynamic stability, and (iii) lower hygroscopicity, may be otherwise beneficial but these properties cannot even be taken into account for the purpose of the test of section 3(d) of the Act, since these properties have nothing to do with therapeutic efficacy.”

Further, at Para 189 of the Apex Court judgment, it is held that, “...the position that emerges is that just increased bioavailability alone may not necessarily lead to an enhancement of therapeutic efficacy. Whether or not an increase in bioavailability leads to an

	<i>enhancement of therapeutic efficacy in any given case must be specifically claimed and established by research data...”</i> In the matter of Ovid Therapeutics, Inc. vs Assistant Controller Of Patents And Designs C.A. (COMM.IPD PAT) 28/2023¹⁶... judgement dated 9 February, 2024, the Delhi High Court stated that <i>“38. Unfortunately, though a press release of phase 2 trial data has been produced on record, phase 3 data which was available with the Appellant and was also publicly available, has not been produced. Under these circumstances, the appeal is bereft of merit and the patent is not liable to be granted, both due to expansion of the scope of the Claims as also under non- patentability under Section 3(d) of the Act, as there is not enough data to demonstrate significant enhancement of therapeutic efficacy.”</i>	
09.03.05.05	A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance is not an invention. Section 3(e) of The Patents Act prohibits patenting of substances that are obtained just by mixing two or more ingredients or components, such substances comprising properties that are the result of aggregation of such components. All the substances which are produced by mixing components or a process of producing such substances should satisfy the requirement of synergistic effect in order to be patentable. If the functional interaction between the features achieves a combined technical effect which is greater than the sum of the technical effects of the individual features, it indicates that such a composition is more than a mere aggregation of the features and does not fall within the ambit of mere aggregation of features. A mere aggregation of features must be distinguished from a combination invention. The existence of a combination invention requires that the relationship between the features or groups of features be one of functional reciprocity or that they show a combinative effect beyond the sum of their individual effects. The features should be functionally linked together which is the actual characteristic of a combination invention.	Section 3(e)
09.03.05.0	The mere arrangement or re-arrangement or duplication of	Section 3(f)

¹⁶ [Ovid Therapeutics, Inc. vs Assistant Controller Of Patents And Designs C.A. \(COMM.IPD-PAT\) 28/2023... judgement dated 9 February, 2024](#)

6	known devices each functioning independently of one another in a known way is not an invention. In the matter of Biswanath Prasad Radhey Shyam Vs. Hindustan Metal Industries [AIR 1982 SUPREME COURT 1444]¹⁷ on 13/12/1978 at para 5, Hon'ble Supreme Court held that <i>"...To be patentable, the improvement or the combination must produce a new result, or a new article or a better or cheaper article than before. A combination of old known integers may be so combined that by their working inter-relation, they produce a new process or an improved result. Mere collocation of more than one integers or things, not involving the exercise of any inventive faculty, does not qualify for the grant of a patent..."</i> In the matter of Lallubhai Chakubhai Jariwala vs Chimanlal Chunilal And Co. [AIR 1936 BOMBAY 99]¹⁸ on 03/04/1935 at para 7, Hon'ble Bombay High Court held that <i>"...A new and useful application of an old principle may be a good subject-matter. An improvement on something known may also afford subject-matter; so also a different combination of matters already known. A patentable combination is one in which the component elements are so combined as to produce a new result or arrive at an old result in a better or more expeditious or more economical manner. If the result produced by the combination is either a new article or a better or cheaper article than before, the combination may afford the subject matter of a patent..."</i> An invention claiming a mere juxtaposition of known devices in which each device functions independently is not considered patentable. Merely placing side-by-side old integers so that each performs its own function independently of the others is not a patentable combination. [As for example, a flour mill provided with sieving means]. However, where the old integers when placed together have some working interrelation, producing a new or improved result, then there could be a patentable subject matter in the working interrelation brought about by the collection of the integers. When two or more features of an apparatus or device are known, and they are juxtaposed without any inter-dependence on their functioning, they should be held to have	
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¹⁷ [Biswanath Prasad Radhey Shyam Vs. Hindustan Metal Industries \[AIR 1982 SUPREME COURT 1444\]¹⁷ on 13/12/1978](#)

¹⁸ [Lallubhai Chakubhai Jariwala vs Chimanlal Chunilal And Co. \[AIR 1936 BOMBAY 99\] on 03/04/1935](#)

	been already known. (Rampratap v. Bhabha Atomic Research Center, 1976 IPLR 28 P. 35)¹⁹, e.g., an umbrella with fan (388/Bom/73), bucket fitted with torch, clock and transistor in a single cabinet. These are not patentable, since they are nothing but mere arrangement and rearrangement of items without having any working interrelationship between them and are devices capable of functioning independently of each other. As for instance, in the case of an application for a patent in respect of an apparatus for producing metallic bellows, the hydraulic machine and the roll forming machine disclosed therein were functioning as separate machines independently of each other and as such had no novel feature. Hence, there is no invention when a claim is made on known types of hydraulic forming and roll forming machines functioning independently of each other. A new combination may be the subject matter of a patent although every part of the combination, per se, is old, for here the new article is not the parts themselves but the assembling and working of the parts, together. The merit of a new combination very much depends upon the result produced. Where a slight alteration turns that which was practically useless into what is useful and important, it is fit subject matter for a patent. (Lallubhai Chakkubhai v. Shamaldas Sankalchand Shah, [AIR 1934 Bom 407])²⁰).	
09.03.05.07	A method of agriculture or horticulture is not an invention. Examples of subject matters excluded from patentability under this provision are: 1. A method of producing a plant, even if it involved modification of the conditions under which natural phenomena would pursue their inevitable course (for instance a green-house). 2. A method of producing improved soil from the soil with nematodes by treating the soil with a preparation containing specified phosphorathioates. 3. A method of producing mushrooms. 4. A method for cultivation of algae. 5. A method for removal of weeds. However Agricultural/horticulture, equipment or machine or apparatus are patentable subject to other requirements of	Section 3(h)

¹⁹ Rampratap v. Bhabha Atomic Research Center, 1976 IPLR 28 P. 35

²⁰ [Lallubhai Chakkubhai v. Shamaldas Sankalchand Shah, \[AIR 1934 Bom 407\]](#)

	Patentability.	
09.03.05.08	Any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products is not an invention. This provision excludes the following from patentability: 1. Medicinal methods: for example a process of administering medicines orally, or through injectables, or topically or through a dermal patch. 2. Surgical methods: for example a stitch-free incision for cataract removal. 3. Curative methods: for example a method of cleaning plaque from teeth. 4. Prophylactic methods: for example a method of vaccination. 5. Diagnostic methods: Diagnosis is the identification of the nature of a medical illness, usually by investigating its history and symptoms and by applying tests. 6. Therapeutic methods: The term “therapy” includes prevention as well as treatment or cure of disease. Therefore, the process relating to therapy may be considered as a method of treatment and as such not patentable. 7. Any method of treatment of animals to render them free of disease or to increase their economic value or that of their products. As for example, a method of treating sheep for increasing wool yield or a method of artificially inducing the body mass of poultry. 8. Further examples of subject matter excluded under this provision are: any operation on the body, which requires the skill and knowledge of a surgeon and includes treatments such as cosmetic treatment, the termination of pregnancy, castration, sterilization, artificial insemination, embryo transplants, treatments for experimental and research purposes and the removal of organs, skin or bone marrow from a living donor, any therapy or diagnosis practiced on the human or animal body and further includes methods of abortion, induction of labour, control of estrus or menstrual regulation. 9. Application of substances to the body for purely cosmetic purposes is not therapy. 10. Patent may however be obtained for surgical, therapeutic or diagnostic instruments or apparatus. 11. Also the manufacture of prostheses or artificial limbs	Section 3(i)

	and taking measurements thereof on the human body are patentable. The Hon'ble Madras High Court, in the matter of The Chinese University of Hong Kong v. Assistant Controller of Patents, CMA (PT) No.1 of 2023, C.M.P. No.13206 of 2023 & W.P. No.7666 of 2023 & W.M.P. Nos.7828 & 7832 of 2023²¹, dated 12/10/2023, examined the scope of Section 3(i) of the Patents Act, 1970. The Hon'ble Court analyzed various provisions of Section 3(i) and stated that: <i>“23...A human being may be treated for a disease or disorder or condition by administering medicines, performing surgery or by administering therapy involving medicines or other forms of treatment such as radiation or a combination thereof. If such treatment is administered in order to cure the human being of a disease, it is curative. On the other hand, if medicine or vaccination is administered to prevent a human being from developing a disease or to prevent a more severe manifestation of such disease, it is prophylactic. The common thread running through the following categories - medicinal, surgical, curative, prophylactic and therapeutic - is that they are clearly methods of treatment of human beings.”</i> Regarding the interpretation of the Term ‘Diagnostic’, the Hon'ble Court has observed that: <i>“25...When viewed in context, i.e. in association with “forms of treatment”, I conclude that the word “diagnostic” should be limited to diagnostic processes that disclose pathology for the treatment of human beings...”</i>	
09.03.05.09	Plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals are not inventions. The subject matters excluded under this provision are: 1. plants in whole or in part 2. animals in whole or in part 3. seeds	Section 3(j)

²¹ [The Chinese University of Hong Kong v. Assistant Controller of Patents, CMA \(PT\) No.1 of 2023, C.M.P. No.13206 of 2023 & W.P. No.7666 of 2023 & W.M.P. Nos.7828 & 7832 of 2023, dated 12/10/2023](#)

	4. varieties and species of plants and animals 5. essentially biological process(es) for production or propagation of plants and animals. Genetically modified microorganisms may be patentable subject to patentability criteria. Plant varieties are provided protection in India under the provisions of – ‘The Protection of Plant Varieties and Farmers’ Rights Act, 2001’	
09.03.05.10	A mathematical or business method or a computer programme per se or algorithms are not inventions and hence not patentable. Under this provision, mathematical methods, business methods, computer programmes per se or algorithms are not considered as patentable subject matter. For the purpose of this clause, refer to the Guidelines for Examination of Computer-related Inventions (CRIs), 2025. However, a brief of the Guidelines is given as under: 1. Claims directed as “Mathematical Method”: Mathematical methods are a particular example of the principle that purely abstract or intellectual methods are not patentable. Mathematical methods like method of calculation, formulation of equations, finding square roots, cube roots and all other similar acts of mental skill are therefore, not patentable. Similarly mere manipulations of abstract idea or solving purely mathematical problem/equations without specifying a practical application also attract exclusion under this category. However, mere presence of a mathematical formula in a claim, to clearly specify the scope of protection being sought in an invention, may not necessarily render it to be a —mathematical method claim. Also, such exclusions may not apply to inventions that include mathematical formulae and resulting in systems for encoding, reducing noise in communications/ electrical/electronic systems or encrypting/ decrypting electronic communications. Hon’ble Madras High Court in the matter of Microsoft Technology Licensing LLC vs Assistant Controller of Patents	Section 3(k)

	and Designs²² on 3 July, 2024 at Para 23 stated: <i>“...A mathematical method is a specific approach to resolve a mathematical problem or question and would typically involve a series of steps. Consequently, at the idea or concept level, it would be ineligible for any kind of intellectual property protection. The CRI Guidelines 2017 suggest - and, in my view, correctly - that the mathematical method exclusion is intended to exclude the mere expression of an intellectual exercise, such as a method of calculation, the formulation of equations and the like. By way of illustration, Brent's method in numerical analysis to find the root or the Adams' method of solving differential equations would be excluded. Said Guidelines also clarify - again, correctly - that the mere presence of a mathematical formula in a claim would not necessarily render it 'a mathematical method' claim...”</i> 2. Claims directed as “Business Method”: The term “Business Methods” involves a whole gamut of activities in a commercial or industrial enterprise relating to transaction of goods or services. The claims drafted not directly as “business methods” but apparently with some unspecified means are held non-patentable. However, if the claimed subject matter specifies an apparatus and/or a technical process for carrying out the invention even partly, the claims shall be examined as a whole. When a claim is “business methods” in substance, it is not to be considered a patentable subject matter. However, mere presence of the words such as “enterprise”, “business”, “business rules”, “supply-chain”, “order”, “sales”, “transactions”, “commerce”, “payment” etc. in the claims may not lead to conclusion of an invention being just a “Business Method”, but if the subject matter is essentially about carrying out business/ trade/ financial activity/ transaction and/or a method of buying/selling goods through web (e.g. providing web service functionality), the same should be treated as business method and shall not be patentable. In the matter of Opentv Inc vs The Controller of Patents And Designs²³ on 11 May, 2023 at paras 72, 74, 79 and 81 stated: <i>“72. ...The bar in India to grant of business method patents has to be read as an absolute bar without analysing issues relating to technical effect, implementation, technical advancement or technical contribution...”</i>	
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²² [Microsoft Technology Licensing LLC vs Assistant Controller of Patents \(3 July, 2024\) \(\(T\) CMA \(PT\) No.49 of 2023 \[OA/36/2020/PT/CHN\]\)](#)

²³ [Opentv Inc vs The Controller of Patents And Designs](#)²³ on 11 May, 2023

	“74. ...In order to judge as to whether a particular patent application seeks to patent business methods or not, at the outset, the following aspects, ought to be considered - (i) whether the invention is primarily for enabling conduct or administration of a particular business i.e., sale or purchase of goods or services; (ii) whether the purpose of the invention is for claiming exclusivity or monopoly over a manner of doing business; (iii) whether the invention relates to a method of sale or purchase of goods or services or is in fact a computer program producing a technical effect or exhibiting technical advancement. If it is the latter, it would be patentable but not if it is the former...” “79. ...In the present case, a perusal of the entire specification shows that various known components and technologies are being adapted in a manner so as to enable giving of a gift without human intervention except at the beginning where the gift and recipient is chosen by the sender. The same is described in the form of a network in different embodiment formats and for the purpose of transmitting different media formats as well. The media could be a subscription for a service, a DVD, a VC or any other tangible or intangible media. Though, there is no doubt that there is a two-way communication, the purpose of the invention is primarily to enable giving of a media in tangible or intangible format to the recipient. Such a giving of a media irrespective of whether it is worded as a method or as a system would be nothing but a method for doing a particular business i.e., for giving of a media as a gift...” “81. ...The subject invention is therefore directed purely towards a method of giving a media as a gift which is nothing but a method of selling a media for gift purposes and is hence a business method. The subject invention is attracted by the exclusion from patentability under Section 3(k) of the Act...” 3. Claims directed as “Algorithm”: The term “algorithm” is not defined in Indian statutes. However, Hon’ble Madras High Court in the matter of Microsoft Technology Licensing LLC vs Assistant Controller of Patents And Designs²⁴ on 3 July, 2024 at Para 25 stated: “...An algorithm may be defined as a set of rules or instructions for solving a problem, typically through a sequence of steps or operations. Devising an algorithm would also, therefore, be an intellectual exercise and intellectual property protection would be limited to copyright protection, subject to originality, for the form	
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²⁴ [Microsoft Technology Licensing LLC vs Assistant Controller of Patents And Designs on 3 July, 2024](#)

	of expression. While the expression is commonly used in the context of software-based routines in computers, as is evident from the above, it can be used in other contexts...”. Further, Hon’ble Delhi High Court in the matter of <i>Blackberry Limited vs Assistant Controller Of Patents And Designs</i>²⁵ on 30 August, 2024 at paras 51 and 52 stated: “51. ...The only technical effect of such instructions would be that the data would be regulated in a manner so as to determine the transmission either in favour of secondary servers or primary servers. Such an algorithm, in the opinion of this Court, is a pure algorithm which is not patentable under Indian Law, i.e. The Patents Act, 1970...” “52...if the invention relates purely to a set of instructions or policies which determine the flow without any substantial change in the hardware, such instructions even if they have a bearing on the manner in which the flow of data occurs would not be entitled to patent protection in India. But if the algorithm instructions are thereafter implemented through computer software coded for this purpose and result in a technical effect or technical contribution then the test applicable to computer software can also be applied and patentability can be adjudged. In such a case the inventive feature would have to be the implementation and not the algorithm itself...” 4. Claims directed as “Computer Programme per se”: Claims which are directed towards computer programme per se are excluded from patentability, like: a. Claims directed at computer programmes/ set of instructions/ Routines and/or Sub-routines. b. Claims directed at “computer programme products” / “Storage Medium having instructions”/ “Database” / “Computer Memory with instruction” stored in a computer readable medium. With regard to exclusion of computer programme per se from patentability, Hon’ble Delhi High Court in the matter of Ferid Allani vs. Union Of India & Ors²⁶ on 12 December, 2019 at para 11 stated: “11. ...Across the world, patent offices have tested patent applications in this field of innovation, on the fulcrum of “technical effect” and “technical contribution”. If the invention demonstrates a “technical effect” or a “technical contribution” it is patentable even though it may be based on a computer program...”	
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²⁵ [Blackberry Limited vs Assistant Controller Of Patents And Designs](#)²⁵ on 30 August, 2024

²⁶ [Ferid Allani vs. Union Of India & Ors](#)²⁶ on 12 December, 2019

	Further, Hon'ble Delhi High court in the matter of Microsoft Technology Licensing, Llc vs The Assistant Controller Of Patents And Designs²⁷ on 15 May, 2023 at para 39 stated: <i>“39. ...The fact that the claimed invention involves a set of algorithms executed in a pre-defined sequential manner on a conventional computing device does not necessarily imply that it lacks a technical effect or contribution. It is possible that the invention provides a technical solution to a technical problem, and the computer program use is merely a means to achieve the technical solution. If the subject matter is implemented on a general-purpose computer, but results in a technical effect that improves the computer system's functionality and effectiveness, the claimed invention cannot be rejected on non-patentability as "computer program per se...".</i> Technical effect/ Technical contribution: The term “technical effect” is not defined in Indian statutes. Hon'ble Courts have referred to and interpreted this term in context of patent examination at various instances, wherein courts have affirmed that inventions delivering technical solutions can qualify for patent protection even if they rely on algorithms or software. A non-exhaustive list of what could possibly be technical effect(s) are as follows: 1. Higher speed: If the claimed invention: enhances the computational ability of the processor for more efficient processing, reduces the time period in scheduling job execution in HPC, enables hardware to process the output faster 2. Reduced hard-disk/memory access time: If the claimed invention: reduces the use of memory space in the system and augments efficiency, creates a more efficient storage system, creates more effective data compression technique 3. Better control of robotic arm: If the claimed invention results into more efficient arm maneuvering for multiple and distinct operations/tasks, more accurate arm positioning at target spot, more efficient intricate movements such as in surgical procedures etc. 4. If the claimed invention leads to improved reception/ transmission of a radio/ electromagnetic/communication signal	
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²⁷ [Microsoft Technology Licensing, Llc vs The Assistant Controller Of Patents And Designs\[C.A.\(COMM.IPD-PAT\) 29/2022\]](#)

	5. If the claimed invention results in to real-time monitoring and control of devices leading to technical solution to a technical problem 6. Security enhancement in computer networks/ system: If the claimed invention leads to improved security of the authentication process, enhanced encryption/decryption technique etc. 7.If the claimed invention leads to Efficient Image Processing/Signal Processing to solve a technical problem Other than the above non-exhaustive list of technical effects, more may be determined on a case-to-case basis.	
09.03.05.1 1	A literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions is not an invention. Writings, music, works of fine arts, paintings, sculptures, computer programmes, electronic databases, pamphlets, lectures, drawings, architecture, engravings, lithography, photographic works, applied art, illustrations, maps, plans, sketches, topography, translations, adaptations, etc. are not patentable. Such works fall within the domain of the Copyright Act, 1957.	Section 3(l)
09.03.05.1 2	A mere scheme or rule or method of performing a mental act or method of playing a game is not an invention. A mere scheme or rule or method of performing a mental act or method of playing game, are excluded from patentability, because they are considered as outcome of mere mental process. For example, 1. Method of playing chess 2. Method of teaching 3. Method of learning	Section 3(m)
09.03.05.1 3	A presentation of information is not an invention. Any manner, means or method of expressing information whether visual, audible or tangible by words, codes, signals, symbols, diagrams or any other mode of representation is not patentable. For example, a speech instruction means in the form of printed text where horizontal underlining indicated stress and vertical separating lines divided the works into rhythmic groups is not patentable. For instance, railway time table, 100 year	Section 3(n)

	calendar etc.	
09.03.05.1 4	Topography of integrated circuits is not an invention. Since protection of Layout Designs of Integrated Circuits is governed separately under the Semiconductor Integrated Circuit Lay-out Designs Act, 2000, three- dimensional configuration of the electronic circuits used in microchips and semiconductor chips is not patentable.	Section 3(o)
09.03.05.1 5	An invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components is not an invention. Traditional Knowledge, being knowledge already existing, is not patentable. An example is the antiseptic properties of turmeric for wound healing. Another example is the pesticidal and insecticidal properties of neem. The Examiner conducts investigation by using Traditional Knowledge Digital Library (TKDL) and other resources to decide as to whether the claimed subject matter falls within the purview of this provision	Section 3(p)
09.03.06	Information and undertaking regarding foreign applications 1. One of the requirements for the grant of a patent application and continuation of a patent is to provide information and undertaking regarding foreign applications in Form 3, in accordance with Section 8 of the Patents Act, 1970 and Rule 12 of the Patents (Amendment) Rule, 2003. 2. No fee has been prescribed in the Act or Rules if submission is in accordance to the timelines as prescribed in rule 12. 3. A similar provision, which is in accordance with the TRIPS Agreement, is available in the laws of other countries like USA, China, EPO, Mexico, Phillipines etc. Provisions in Section 8: Filing of Information regarding foreign applications: 1. The applicant shall file along with his application or within six months from the date of filing the application) a statement setting out the name of the country where the application is being prosecuted, the serial number and date of filing of the application and such other particulars as may be prescribed; and b) an undertaking that, up to the date of grant in India, he would	Section 8, Rule 12

	keep the Controller informed in writing, from time to time, of details of the nature referred to in clause (a) in respect of every other application relating to the same or substantially the same invention, if any, filed in any country outside India subsequently to the filing of the statement referred to in the aforesaid clause, within three months from the date of issuance of first statement of objections under 24B(3) or 24C(8).. 2. For the purpose of this rule, the period of six months in case of an application corresponding to an international application in which India is designated shall be reckoned from the actual date on which the corresponding application is filed in India. The Controller may also require the applicant to furnish details relating to the processing of the application in foreign countries. The applicant shall furnish the information available to him. 4. However, regarding the above requirement about the processing of the application outside India, the Controller may use accessible and available databases, for considering the information relating to applications filed in a country outside India. 5. The Controller may, under sub-section (2) of section 8, for reasons to be recorded in writing, direct the applicant to furnish a fresh statement and undertaking in Form 3 within two months from the date of such communication by the Controller. 6. The Controller may condone the delay or extend the time for filing form 3 for a period up to three months upon a request made in Form 4. 7. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. Regarding WIPO access to Patent Information 1. WIPO DIGITAL ACCESS SERVICE The WIPO Digital Access Service (DAS) is an electronic system allowing priority documents and similar documents to be securely exchanged between participating intellectual property (IP) offices. This initiative makes the procedure simpler for the applicant, in that, instead of the tedious task of requesting documents from one country and then supplying them to his/her own country office, the DAS system allows for electronic exchange of documents directly between the offices. The documents are uploaded on a secure platform, by a participating office upon request by the applicant, and can then be accessed by a different participating office as required. This step further	
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	strengthens the data accessibility of priority documents in the Indian Patent Office. On 12th March 2018, a public notice has been issued to the stakeholders informing the availability of the WIPO Digital Access Service under WIPO-India Cooperation Agreement. And subsequently in another public notice dated 22nd November, 2018, the IPO issued additional instructions for the applicants to avail the facility of DAS. [https://www.wipo.int/en/web/das] 2. WIPO CENTRALISED ACCESS TO SEARCH AND EXAMINATION (WIPO CASE) The WIPO CASE system enables patent offices to securely share search and examination documentation related to patent applications in order to facilitate work sharing programs. Offices can share their dossier information either directly through the WIPO CASE system or through the IP5 One Portal Dossier linkage system. The rationale of joining WIPO CASE is based on the fact that the same patent applications are filed in multiple offices, patent examiners can increase the efficiency and quality of their work by sharing their examination results. The Indian Patent Office started its operations as an Accessing Office under WIPO CASE from June 1, 2015 and commenced its operations as a Providing Office in February 2018. Thus, it now has access to search and examination reports of the corresponding applications filed in major patent offices. Legal jurisprudence: Indian Courts while deciding the petitions on non-compliance of section 8 requirement by the patentee/applicant have analyzed the matter. The gist of rulings by the Courts is as under: the provision for revocation of patent under section 64(1) (m) on the ground of non-compliance of Section 8 should not be exercised solely and automatically just because it exists in the Act, as there lies a discretion in the Court not to revoke the patent on the peculiar facts and circumstances of the present case. The said discretion exists by use of the word, “may” under Section 64 of the Act. It is also necessary to consider the question whether there was deliberate or willful suppression and whether the undisclosed information was — “material” to the grant of the patent. The Court can decide the fate of a revocation petition only after considering such issues at trial on the basis of evidence submitted. [REFERENCES: (1) HOFFMAN-LA ROCHE LTD. VS. CIPLA	
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	(CS (OS) No.89/2008 and C.C. 52/2008²⁸, 07.09.2012, (II) Koninklijke Philips Electronics vs. Maj. (retd.) Suresh Behl & anr (CS (OS) No. 2206 of 2012²⁹, 6-11-2013, (iii) Maj. (retd.) Suresh behl & anr. Vs. Koninklijke philips electronics (FAO (OS) No.16 of 2014 (Division bench order)- Appeal to the CS (OS) No. 2206 of 2012 (Single judge order)³⁰, 07.11.2014 and (iv) FRESENIUS KABI ONCOLOGY LIMITED V. GLAXO GROUP LIMITED &ANR (IPAB-ORA 17 of 2012/PT/KOL & M.P. Nos. 4 of 2013, 9 of 2013, 10 of 2013 & 49 of 2013³¹; 27.07.2013)] Guiding Principles to Patent Examiners and Controllers regarding requirement Under Section 8: With the successful implementation of the WIPO CASE and WIPO Digital Access Service (DAS), and the legal jurisprudence evolved with respect to Section 8; the requirement of section 8 mandates shall be fulfilled by the Patent Office as under: 1. The Examiner/Controller shall check whether the applicant has filed a statement to the effect that the stipulated documents are available in WIPO CASE and DAS, from where the Office can access the documents. If such a statement has not been filed, then the applicant is required to provide all relevant documents and/or information, without fail. 2. The Examiner/Controller shall check and ascertain whether the priority documents and similar documents pertaining to the application being processed in the Indian Patent Office are available in the WIPO Digital Access Service (DAS). If such documents are available, further information with regards to priority may not be sought for, from the applicant. 3. The Examiner/Controller shall utilise all the facilities available in WIPO CASE regarding processing of corresponding patent applications in other countries, including access to Search and Examination reports, and other information available with Patent Offices that are part of WIPO CASE [currently Australia, Brunei Darussalam, Canada, Chile, China, Eurasian Patent organization (EAPO), European Patent Office (EPO), German Patent and Trademark Office (DPMA) India, Israel, Japan, New Zealand, Republic of Korea, Singapore, Spain, International Bureau of WIPO, United Kingdom, United States of America].	
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²⁸ [HOFFMAN-LA ROCHE LTD. VS. CIPLA \(CS \(OS\) No.89/2008 and C.C. 52/2008, 07.09.2012](#)

²⁹ [Koninklijke Philips Electronics vs. Maj. \(retd.\) Suresh Behl & anr \(CS \(OS\) No. 2206 of 2012, 6-11-2013](#)

³⁰ [Maj. \(retd.\) Suresh behl & anr. Vs. Koninklijkephilips electronics \(FAO \(OS\) No.16 of 2014 \(Division bench order\)- Appeal to the CS \(OS\) No. 2206 of 2012 \(Single judge order\) ,07.11.2014](#)

³¹ [FRESENIUS KABI ONCOLOGY LIMITED V. GLAXO GROUP LIMITED &ANR \(IPAB-ORA 17 of 2012/PT/KOL & M.P. Nos. 4 of 2013, 9 of 2013, 10 of 2013 & 49 of 2013; 27.07.2013\)\]](#)

	4. Notwithstanding any of the steps mentioned above, the Controller may seek details as stipulated under Section 8(2) of the Patents Act, 1970 relating to the processing of the application in a country outside India, including but not limited to, Search and/or examination reports, claims of application allowed/ disallowed, amendments made, if any, etc. in other Patent offices. 5. Wherever, the Controller accepts fulfillment of section 8 and 138 requirements through the documents available in WIPO Case and WIPO DAS, all such documents therefrom shall be uploaded in a file wrapper by the office.	
09.03.07	Sufficiency of Disclosure Sufficiency of disclosure is yet another aspect, which is checked by the Examiner while examining a patent application. The Examiner will look for whether: 1. the specification is properly titled. 2. the subject matter is fully and particularly described in the specification. 3. the claims define the scope of the invention properly. 4. the specification describes the best method of performing the invention or not. 5. the source and geographical origin of the biological material has been disclosed in the specification if the invention is related to biological material and/or the biological material is used in the invention. 6. approval / certificate of registration obtained from National Biodiversity Authority, (NBA) wherever applicable. 7. if the applicant mentions a biological material in the specification which may not be described and if such material is not available to the public, the application shall be completed by depositing the material to international depository authority under the Budapest Treaty. 8. Accession Number and date of deposition of the material in the depository institution along with name and address of the depository authority shall be given, if applicable. 9. In case of PCT National Phase application designating India, the title, description, drawings, abstract and claims filed with the application shall be taken as the Complete Specification for the	

	purpose of the Act. In the matter of VERSALIS SPA V/S ACPD [MHC [(T) CMA (PT) NO.2 OF 2024]]³², the Madras High Court in the judgement dated 23.08.2024 stated that <i>Para [17]. “The contention of the learned counsel for the Appellant, in reply, that the statute does not require examples to be provided over the entire range claimed, is acceptable. The complete specification has to only indicate the best method”.</i> <i>Para [18]. ... “In FDC Ltd. V. Sanjeev Khandelwal and others, (referred herein supra), it has been held that Section 10(4) requires the complete specification to fully as well as particularly describe the invention and disclose the best method to perform the invention and that it is not mandatory that the claims should be representative of the best method”.</i> <i>Para [19]. ... “In Tata Global Beverages Limited, West Bengal, (referred herein supra), the IPAB in and by its order dated 18.10.2012 held that it was not necessary to provide examples over the entire range claimed and reiterated the law that it is mandatory only for the specification to disclose the best working example. In fact, in the instant case, the Appellant has provided working examples for the range claimed, even in the complete specification”.</i> <i>Para [20]. ... “The Bombay High Court, in Farbwerke Hoeschst Aktiengesellschaft Vormals Meister Lucius & Bruning, A. Corporation, (referred herein supra) held that since the specification and claims are addressed to only those who possess a high degree of knowledge in the field of science to which they relate, it is not necessary to describe the processes when they are part of common general knowledge available to persons skilled in the art, who can refer to technical literature on the subject for the purposes of carrying them into effect.”</i>	
09.03.08	Unity of Invention 1. The Claims of a Specification shall relate to a single inventive concept. In case, an application comprises a plurality of inventive concepts the Examiner refers to the same in his report. The application may be divided in order to meet the objection of plurality of distinct inventions. 2. The determination whether a group of inventions is so linked as to form a single inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as	Section 10(5)

³² [VERSALIS SPA V/S ACPD \[MHC \[\(T\) CMA \(PT\) NO.2 OF 2024\]\]](#) , the Madras High Court in the judgement dated 23.08.2024

	alternatives within a single claim. 3. Unity of invention between process and apparatus or means requires that the apparatus or means have been specifically designed for carrying out the process. 4. Independent claims of different categories may relate to a single inventive concept and may be allowed in one application, when they are linked to form a single inventive concept and are supported by the description. For example: a) Claims for a product and process specially adapted for manufacture of the product. b) Claims for a process and apparatus or means specifically designed for carrying out the process. c) A mould for casting an article, a method of making that mould, a process of casting the article by using the said mould will constitute a single invention. d) A locking system containing plug and socket wherein separate independent claims for a plug and socket may constitute a single inventive concept. e) A broadcasting system comprising transmitter and receiver. f) If an invention relates to a new type of spray bottle, claims may be directed to the spray bottle itself (a product) and a method of making the spray bottle (a process). g) In A case of a genetically modified Gene Sequence/ Amino Acid Sequence claims may be directed to a Gene sequence/ Amino Acid sequence, a method of expressing the sequence, an antibody against that protein/ sequence, a kit containing such antibody/ sequence. h) In case of a drug or pharmaceutical product, claims may be directed to a drug or pharmaceutical product, a process of making the product, a composition containing the drug.	
09.03.09	Report of Examiner 1. The Examiner makes a report after carrying out detailed examination with respect to the following matters: a) whether the application and the specification and other documents relating thereto are in accordance with the requirements of the Act and rules made thereunder; b) whether there is any lawful ground of objection to the grant of patent under the Act; c) the result of investigations under Section 13; d) any other matter which may be prescribed.	Section 3, 4, 12, 13

	2. The Examiner prepares the report after conducting a prior art search to ascertain the novelty, and examining as to whether the invention disclosed in the specification is inventive and industrially applicable. 3. The Examiner also examines whether the invention belongs to one of the categories of non-patentable inventions coming under Section 3 and 4, and whether the application is in conformity with all the provisions of the Act.	
09.04	Consideration of Report by Controller and issuance of First statement of objection/ First Examination Report (FER) 1. The Controller considers the report of the Examiner ordinarily within one month from the date of the receipt of such report and a gist of objections, if any, is sent to the applicant in the form of a report-First Examination Report (FER). If there is no objection to the grant of patent and no pre-grant opposition under Section 25 (1) is pending, the patent is being granted. 2. The FER is sent to the applicant, even when the request for examination has been filed by a person interested. An intimation regarding the issuance of FER is given to such person interested. 3. First Examination Report (FER) may contain office objections relating to: 4. Lack of novelty, inventive step and industrial applicability. 5. Non-fulfillment of any other requirement under the Act & Rules. 6. The applicant is required to comply with all the requirements imposed upon him by the Act as communicated through FER. However, if applicant fails to respond to the FER within six months from the date of issuance of FER or within an extended period of 3 months and within further extension of timeline as prescribed in Rule 138 along with Form 4, the application is deemed to have been abandoned under Section 21(1) of the Act. A communication to that effect is sent to the applicant for information. 7. The Controller may condone the delay or extend the time for filing Form 3 for a period up to three months upon a request made in Form 4 and within an extended time period as prescribed in Rule 138. 8. When the applicant submits the documents as a response to the FER within stipulated time, the application is examined in a	Section 14, 15, 18, 21, Rule 24B, 28, 28 A

	fresh manner by the examiner, whereupon the Examiner sends the report to the Controller with his observations. If it is found that the requirements of the Act and Rules have been met, the Controller grants the patent. 9. Second Examination Report (SER) is issued after a patent application's claims are amended. The SER is issued in accordance with the provisions of Section 12 of the Act. The Patent Office may provide the applicant with an oral hearing if there are any outstanding objections after the applicant files a response to the SER. The applicant should attend the oral hearing and file written submissions. The Controller of Patents may grant or refuse the patent after the hearing. 10. If the response/amendment(s) filed by the applicant do not satisfy the requirements laid down by the Act or if the applicant contests any of the objections communicated by the Controller to him, the Controller shall offer an opportunity of hearing and decide the case on merits. 11. Hearing may also be held through video-conferencing. Such hearing shall be deemed to have taken place at the appropriate office. 12. Explanation. –For the purposes of this rule, the expression communication device shall have the same meaning as assigned to it in clause (ha) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000). 13. In all cases of hearing, written submissions and the relevant documents, if any, shall be filed by the applicant within fifteen days from the date of hearing and within further extension of timeline as prescribed in Rule 138 along with Form 4 14. After hearing the applicant, the Controller may specify or permit such an amendment as he thinks fit and grant the patent.12) If the requirements of the Act and Rules are not complied with, the application is refused by the Controller under Section 15 of the Act. 15. Any decision of the Controller shall be a speaking order. 16. No patent is refused without giving an opportunity of being heard under Section 14 of the Act. 17. A review petition for a patent is a request to the Indian Patent Office (IPO) to review a refusal order on a patent application. The petition can be filed within one month of the refusal order date. The petition should be filed when there is an apparent error in the refusal order or the Controller is willing to consider the review petition on merits. Some examples of errors that may constitute a mistake or error apparent on the face of the record include: a) The applicant did not receive a hearing notice. b) The controller did not consider amended claims filed along with the	
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	hearing submissions. c) The controller based the decision on a prior art or ground without giving the applicant an opportunity to address the same. d) Violation of principles of Natural Justice. [For details, please refer to Chapter 18.03] 18. A decision of Controller for refusal of patent under Section 15 is appealable before the High Court. 19. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. In the matter of FMC Corporation vs The Controller Of Patents C.A.(COMM.IPD-PAT) 482/2022 and I.A. 17130/2022, 17131/2022³³ judgement dated 19 October, 2022, the Delhi High Court stated that- <i>“17. The purpose of Rule 28(7) of the Rules is thus to capture the submissions made during the course of the hearing and to take any steps which the Controller may have directed in terms of filing of forms or amendments, if any. The written submissions and filing of relevant documents under Rule 28(7) of the Rules cannot be used as a tool to reopen the entire debate. It is meant as a sort of primer of the submissions made and discussions agreed upon during the course of hearing. The purpose of Rule 28(7) is to bring the matter to a closure rather than to reopen the consideration of the patent application.”</i>	
09.05	Post-dating of Application for Patent 1. The application for patent may be post-dated to a date not later than six months from the date of filing of application for patent on a request made by the applicant at any time before the grant of patent along with the prescribed fee[Section 17 (1)]. 2. If the application or specification (or drawings, if any) or any document is required to be amended under Section 15 to comply with the requirements of the Act or the Rules, the Controller may direct that the application or specification or other documents related thereto be deemed to have been made on the date on which the requirements are complied with or the date on which it is re-filed after complying with the requirements [Section 17(2)].	Section 9(3), 9(4), 15, 17

³³ [FMC Corporation vs The Controller Of Patents C.A.\(COMM.IPD-PAT\) 482/2022 and I.A. 17130/2022, 17131/2022 judgement dated 19 October, 2022](#)

	While invoking the above provision, the controller shall direct to republish the application and examine it afresh with reference to the date of filing of such specification and documents. 3. Regarding date of filing in case of Post-dating of application, the following should be kept in mind: a) Applicant can file an application with Provisional Specification and then file Complete Specification within the prescribed period of 12 months. In this case, the date of filing of application with Provisional Specification will be the date of application. b) Applicant can file an application with Complete Specification and, thereafter, request to convert it into Provisional Specification within 12 months from the original filing date and file Complete Specification within 12 months from the original filing date. In this case, the date of filing of application will still be the original filing date. c) After filing the Complete Specification, the applicant may cancel the provisional specification [i.e. the one filed directly under Section 9(1) or the one converted from a Complete Specification under Section 9(3)], and may request the Controller to post-date the application to the date of filing of the Complete Specification. In this case, the date of application will be the date on which such Complete Specification is filed. d) Section 17 (1): Subject to the provisions of section 9, at any time after the filing of application and before the grant of patent, the Controller may, at the request of applicant made in the prescribed manner, direct that the application shall be post-dated to the maximum period of six months from the date of filing the application. Therefore, the said period of six months as provided in section 17(1), shall be counted from the Date of application as stated above in (a) , (b) or (c) , as the case may be. If postdating is allowed after publication of the application, the fact of postdating should be published in the Official Journal to specify a new date of filing.	
09.06	Grant of Patent	
09.06.01	Compliance of conditions under the Act A Patent is granted as expeditiously as possible when,	Section 43, Rule 74

	1. the application has not been refused by the Controller by virtue of any power vested in him by this Act or Rules, or 2. the application has not been found to be in contravention of any of the provisions of the Act or Rules; The date of grant of patent is the date on which the patent is granted by the Controller. The date on which the patent is granted shall be entered in the Register. The fact that the patent has been granted is published in the Official Journal of the Patent Office. As the Patent Office has moved to electronic processing, the fact of grant of a patent by the Controller, Patent Number is reflected on the official website on a real time basis. The patent certificate is also made available on the website.	
09.06.02	Consequences of grant 1. On the grant of a patent, every patent is allotted a serial number by the electronic system. A Certificate of Patent is generated in the prescribed format and an entry in the e- register is made simultaneously. In the present electronic system, the date of recordal of Patent in the Register of Patents is the same as the date of grant of Patent by the Controller. 2. The Complete Specification as granted is made available to the public through the official website. 3. The application, specification and other related documents are open for public inspection on payment of prescribed fee. 4. On grant of patent, the patentee is required to pay the accumulated fee within 3 months from the date of recordal of patent in the Register of Patents, which is now the same as the date of grant of patent. The said period is extendable by six months, provided the request is made before the expiry of extendable period. 5. Post-grant opposition can be filed under section 25(2) by any person interested, within one year from the date of publication of grant. 6. Every patentee and licensee must furnish a statement regarding the working of the patented invention on a commercial scale in India once in respect of every period of three financial years,	Section 43, 45, 142(4), 146 (2), 153 Rule 74-A, 131(Form- 27)

	beginning from the financial year right after the patent is granted and within six months following the end of each three-year period. 7. The deadline to file Form-27 may be extended up to three months upon a request made in Form 4 in the prescribed manner under Rule 131(2) of the Patents Rules and further for a period of up to six months upon a request made in Form-4 in the prescribed manner under Rule 138 of the Patents Rules.	
09.06.03	Date of Patent 1. The date of Patent is the date of filing of the Application. However, in case of a PCT National Phase application, the date of patent is the date of filing of the PCT International Application. 2. Notwithstanding anything contained in this section, no suit or other proceeding shall be commenced or prosecuted in respect of an infringement committed before the date of publication of the application. However, on and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application.	Section 7(1B), 11A(7),45
09.06.04	Conditions subject to which Patent is granted 1. any machine, apparatus or other article in respect of which the patent is granted or any article made by using a process in respect of which the patent is granted, may be imported or made by or on behalf of the Government for the purpose merely of its own use; 2. any process in respect of which the patent is granted may be used by or on behalf of the Government for the purpose merely of its own use; 3. any machine, apparatus or other article in respect of which the patent is granted or any article made by the use of the process in respect of which the patent is granted, may be made or used, and any process in respect of which the patent is granted may be used, by any person, for the purpose merely of experiment or research including the imparting of instructions to pupils; and	Section 47

	4. in the case of a patent in respect of any medicine or drug, the medicine or drug may be imported by the Government for the purpose merely of its own use or for distribution in any dispensary, hospital or other medical institution maintained by or on behalf of the Government or any other dispensary, hospital or medical institution which the Central Government may, having regard to the public service that such dispensary, hospital or medical institution renders, specify in this behalf by notification in the Official Gazette.	
09.06.05	Rights of Patentees 1. In case of a patented product, the patentee shall have the exclusive right to prevent third parties from the act of making, using, offering for sale, selling or importing for those purposes that product in India without his consent. 2. In case of a patented process, the patentee shall have the exclusive right to prevent third parties from the act of using that process, and from the act of using, offering for sale, selling or importing for those purposes the product obtained directly by that process in India without his consent.	Section 48
09.06.06	Rights of co-owners 1. Where a patent is granted to two or more persons, each of those persons shall, unless an agreement to the contrary is in force, be entitled to an equal undivided share in the patent. 2. Subject to the provisions contained in this section and in Section 51, where two or more persons are registered as grantee or proprietor of a patent, then, unless an agreement to the contrary is in force, each of those persons shall be entitled, by himself or his agents, to the rights conferred by Section 48 for his own benefit without accounting to the other person or persons. 3. Subject to the provisions contained in this section and in section 51 and to any agreement for the time being in force, where two or more persons are registered as grantee or proprietor of a patent, then, a licence under the patent shall not be granted and a share in the patent shall not be assigned by one of such persons except with the consent of the other person or persons. 4. Where a patented article is sold by one of two or more persons	Section 50

	registered as grantee or proprietor of a patent, the purchaser and any person claiming through him shall be entitled to deal with the article in the same manner as if the article had been sold by a sole patentee. 5. Subject to the provisions contained in this section, the rules of law applicable to ownership and devolution of movable property generally, shall apply in relation to patents, and nothing contained in sub-section (1) or sub-section (2) of section 50 shall affect the mutual rights or obligations of trustees or of the legal representatives of a deceased person or their rights or obligations as such. 6. Nothing under section 50 shall affect the rights of the assignees of partial interest in a patent created before commencement of this Act.	
09.06.07	Term of Patent The term of Patent is 20 years from the date of filing of application in respect of all the patents, including those for which the term had not expired on 20th May, 2003, when the Patent (Amendment) Act, 2002 came into force, provided that the renewal fee is paid every year before the due date or within the extended period (maximum six months). The annual renewal fees payable in respect of two or more years may be paid in advance: Provided that where the renewal fees is paid in advance through electronic mode for a period of at least 4 years, a ten per cent reduction in fee shall be applicable for such renewal.	Section 53, Rule 80

Clause		Sections and Rules
9A.01	Pre-Grant Opposition 1. Any person may file an opposition by way of representation (Pre- Grant Opposition) to the Controller in Form 7A against the grant of Patent, at the appropriate office, at any time after publication of patent application u/s 11A but before the grant of Patent on any of the grounds mentioned in Section 25(1) with a copy to the applicant. 2. The date of grant of Patent is the date on which the Controller orders the grant of patent in the file. For the purposes of Section 43(1) of the Patent Act, a patent is 'granted' on the date on which the Controller passes a decision to that effect on the file. 3. If any pre-grant opposition is received after the grant of the patent, the Controller shall return the pre- grant opposition to the opponent and shall intimate such opponent about the fact of grant of the patent. If the opponent is a person interested, he may file a formal post grant opposition. 4. A patent is not granted before the expiry of six months from the date of publication under Section 11A. Therefore, a person may file a pre-grant opposition within the period of six months from the date of Publication, to make sure that the pre-grant opposition is filed before the grant of patent. 5. The representation shall include a statement and evidence, if any, in support of such representation and a request for hearing, if so desired. 6. The Controller shall consider the representation only after a Request for Examination for that Application has been filed. 7. Any pre-grant opposition, if available on record, is considered by the Controller along with the report of the Examiner. 8. On consideration of the pre-grant opposition, if the Controller is of the opinion that no prima facie case is made out in the representation, he shall notify the opponent.	Section 11A, 25(1). Rule 55, 62

	a) The opponent may request for a hearing on the matter. If the opponent does not request to be heard, the Controller shall pass an order recording the grounds for refusal of the representation within one month from the date of the notification. b) If the opponent requests for hearing, the Controller shall extend an opportunity of being heard to the opponent. c) After the hearing, the Controller shall either refuse or accept the representation. An order shall be passed recording the reasons of the Controller's decision of acceptance or rejection within one month from the date of hearing. d) The applicant shall be notified accordingly. 9. On consideration of the pre-grant opposition, when the Controller is of the opinion that a prima facie case is made out in the representation, a) the Controller shall pass an order recording the reasons within one month of receiving the representation. The applicant shall be notified accordingly 10. On receiving the notice under Rule 55(3), the applicant shall, if he so desires, file his statement and evidence, if any, in support of his application within two months from the date of the notice. A copy of the statement and evidence shall be served to the opponent. 11. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form- 4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. 12. On consideration of the statement and evidence filed by the applicant, the representation including the statement and evidence filed by the opponent, submissions made by the parties, and after hearing the parties, if so requested, the Controller may either reject the representation or require the Complete Specification and other documents to be amended to his satisfaction before the patent is granted or refuse to grant a patent on the application, by passing a speaking order under Section 15, to simultaneously decide on the application and the representation, ordinarily within one month from the completion of above proceedings. 13. In reference to the hearings under this rule, if either party to the proceedings desires to be heard, he shall inform the Controller by a notice along with the prescribed fee under Rule 62(2)	
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	14. The Controller may refuse to hear any party who has not given notice under Rule 62(2). 15. When any party intends to rely on any publication at the hearing not already mentioned in the notice, statement and evidence, he shall give to the other party and to the Controller not less than five days' notice of his intention, together with details of such publication. 16. An application for a patent, in which a representation for opposition has been filed and notice has been issued by the Controller under Rule 55(3), shall be examined in accordance with Rule 24C. In the matter of NOVARTIS AG v/s NATCO PHARMA LIMITED & ANR [LPA 50/2023]³⁴, the Hon'ble High Court of Delhi addressed an important issue related to the boundaries between the process of opposition and the process of examination and the involvement of the opponent in a pre-grant procedure vis-à-vis examination procedure. In para 114, the Court observed that <i>"...Notwithstanding the use of the expression "made after the grant of patent" in Section 57(3) and which qualifies the issue of publication, in our considered opinion, any application for amendment voluntarily made would have to be made known to all persons who may have submitted representations for opposition since they would constitute parties already in the fray and thus constituting the field of opposition. This would also be necessitated by the fact that amendments introduced during the PGO process may perhaps be prompted by objections raised or reservations expressed. Thus, in order to examine whether the proposed amendments effectively remedy the opposition urged in terms of Section 25(1) read along with Rule 55(1), the Controller would be obliged to place the objectors on notice and afford them an opportunity of being heard</i> <i>... ... The point of contention between the parties thus stood restricted to the right of an opponent to be heard where the amendment was prompted by a directive of the Controller issued in the course of the examination process..."</i> Further, in para 116, it was held that <i>"... an amendment proposed by the applicant in order to comply with a directive of the Controller is placed on a pedestal distinct from any voluntary amendment that the applicant may choose to</i>	
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³⁴ [NOVARTIS AG v/s NATCO PHARMA LIMITED & ANR \[LPA 50/2023\]](#)

introduce. Section 57(6) thus not only liberates the applicant from the rigours of contestation which follows amendments proposed at its discretion, it additionally highlights the intent of the statute to draw a clear line of distinction between amendments traceable to Section 57(1) and those covered by sub-section (6). The hearing and the adjudicatory process envisaged in Section 57 (4) of the Act would thus be limited to amendments proposed by the applicant of its own volition as opposed to amendments stimulated by a directive of the Controller...”

Subsequently, in para 122, it was stated that

“...We have independently found that such a right (right to question and oppose voluntary amendments) could be claimed since the opponent is already party in the opposition proceedings and would thus have to be apprised of any amendments that the applicant may seek to introduce. However, the fundamental question that we were called upon to examine was whether that right would also extend to participation in the examination process. That contention, for reasons recorded hereinabove, has already been answered in the negative...”

From the above judgement, it is clear that the right of the opposition is restricted to the proceedings related to the opposition itself. The opposition’s right to hearing under Rule 55 applies only on the matter related to the amendments arising out of the opposition and done voluntarily by the applicant. However, no such right is envisaged when the amendments are carried out on the direction of the controller in lieu of the examination process, which is statutorily structured to run in parallel to the opposition proceedings.

Clause		Sections and Rules
10.01	Post Grant Opposition - Any person interested can give a notice of opposition against the grant of Patent in Form 7 at the appropriate Office, physically in duplicate or electronically any time after the grant but within one year from the date of publication of grant of patent. - The opponent shall, along with the notice of opposition, send a written statement setting out the nature of the opponent's interest, the facts upon which he bases his case and relief which he seeks and evidence, if any. - The post-grant opposition can be filed on any of the grounds as mentioned in Section 25(2), but on no other grounds. - After receipt of the notice of opposition, the Controller shall notify the patentee about the fact of receipt of such notice, without any delay. - If the patentee desires to contest the opposition, he shall file physically at the appropriate office/electronically - a reply statement setting out fully the grounds upon which the opposition is contested and - evidence, if any, in support of his case - within a period of two months from the date of receipt of the copy of the opponent's written statement and evidence, if any, and also deliver a copy to the opponent. - If the patentee does not desire to contest or does not file his reply and evidence within two months, the patent shall be deemed to have been revoked. - After receipt of reply from the patentee, the opponent may file his evidence in reply within one month from the date of delivery to him of a copy of the patentee's reply statement and evidence. - The evidence in reply by the opponent shall be strictly confined to the matters in the patentee's evidence. The opponent shall also deliver a copy of his reply evidence to the patentee.	Section 2(1)(t), 25(2). Rule 55A, 60, 61, 62, 126, 127, 128, 138 Form 7.

	9. No further evidence shall be delivered by either party, except with the leave or direction of the Controller. 10. Further evidence can be filed by either party if the same is prayed before the hearing is fixed by the Controller under rule 62, whereupon the Controller shall dispose of the petition by either allowing or rejecting it. 11. All the documents of notice of opposition or any statement or evidence filed in connection with the opposition and authenticated to the satisfaction of the Controller, shall be filed in duplicate unless the Controller directs otherwise. 12. Where a specification or other document in a language other than English is referred to in the notice of opposition or any statement or evidence, an attested translation thereof in English should be furnished along with such notice, statement or evidence, as the case may be. 13. Evidence shall be filed on affidavits as required under Rule 126. 14. Exhibits shall be filed as required under Rule 127. 15. The Controller may, by notice in writing, require a party to the proceeding to perform any act, file a document or produce evidence for proper prosecution and completion of any proceedings under Rule 128.	
10.02	Constitution of Opposition Board 1. After receipt of a notice of opposition, an Opposition Board is constituted by the Controller, by order, to examine such notice including all documents filed under rule 57-60 in connection with the opposition by the opponent as well as patentee. 2. The Opposition Board consists of three members with one of them nominated as Chairman of the Board. 3. An Examiner may be a member of the Board. However, the Examiner who has dealt with the application for patent during the prosecution proceedings for grant of patent thereon shall not be included as a member of the Board.	Section 25(3), Rule 56, 57, 58, 59, 60, 61, 138

	4. The Board shall submit the report with reasons on each ground taken in the notice of opposition, after examining the notice along with all statements, documents and evidence submitted by the parties as a joint recommendation within two months from the date on which all such documents were forwarded to them. 5. A copy of the recommendation of the opposition board should be provided to the parties to the proceedings by the Controller along with the hearing notice. 6. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form- 4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules.	
10.03	Hearing 1. On completion of the presentation of evidence, if any, and after receiving the recommendation of the Opposition Board or at such other time as the Controller may think fit, the Controller shall fix a date and time for the hearing of opposition and inform the parties at least ten days in advance. 2. On receipt of the notice of hearing, if either party desires to be heard, he shall inform the Controller by a notice along with the prescribed fee. 3. The Controller may require the members of the Opposition Board to be present in the hearing. 4. The Controller may refuse to hear any party, which has not given such notice and not paid the prescribed fee. 5. If either party intends to rely on any Publication at the hearing not already mentioned in the notice of opposition, statement or evidence, he shall give to the other party and to the Controller a notice of his intention to do so, together with details of such publication. Such notice shall be given at least five days before the date of hearing. 6. After hearing the party or parties desirous of being heard, or if neither party desires to be heard, then without a hearing and after taking into consideration the recommendation of Opposition Board, the Controller shall decide the opposition, i.e. revoke the	Rule 62

	patent or order amendments in the Patent or refuse the opposition by issuing a reasoned decision accordingly and notify to the parties. 7. If amendment of specification or any other document is ordered by the Controller, the patentee shall submit such amended documents to the office within fifteen days, as directed by the Controller. 8. If the Controller decides to maintain the patent subject to amendment of the specification or any other document, the patent shall stand amended accordingly. On “person interested”, Hon’ble Supreme Court of India in the matter of Dr. Aloys Wobben And Another vs Yogesh Mehra And Others³⁵ (AIR 2014 SUPREME COURT 2210, 2014 (15) SCC 360) on 2 June, 2014 at para 20 observed that <i>“...it is necessary to first appreciate the true purport of the words “any person interested”. The term “person interested” has been defined in Section 2(1)(t) of the Patents Act. Unless the context otherwise requires, in terms of Section 2(1)(t) aforementioned, a “person interested” would be one who is...“engaged in, or in promoting, research in the same field as that to which the invention relates”. Simply stated, a “person interested” would include a person who has a direct, present and tangible interest with a patent, and the grant of the patent, adversely affects his above rights. A “person interested” would include any individual who desires to make independent use of either the invention itself (which has been patented), or desires to exploit the process (which has been patented) in his individual production activity. Therefore, the term “any person interested” is not static. The same person, may not be a “person interested” when the grant of the concerned patent was published, and yet on account of his activities at a later point in time, he may assume such a character or disposition. It is, therefore, that Section 64 of the Patents Act additionally vests in “any person interested”, the liberty to assail the grant of a patent, by seeking its revocation...”.</i> On the issue of nature of recommendations of the Opposition Board, Hon’ble Delhi High Court in the matter of Pharmacyclics Llc vs Union Of India And Ors [W.P.(C) 12105/2019 & CM	
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³⁵ [Dr. Aloys Wobben And Another vs Yogesh Mehra And Others³⁴ \(AIR 2014 SUPREME COURT 2210, 2014 \(15\) SCC 360\)on 2 June, 2014](#)

	APPLs. 49593/2019, 49594/2019, 49595/2019]³⁶ on 20 November, 2019 para 23 stated that <i>“...In a post-grant opposition, upon the filing of the post-grant opposition and the pleadings/evidence being completed, an Opposition Board is constituted which submits recommendations to the Controller. The said recommendations are not binding in nature. However, upon receipt of the recommendations of the Board and after giving hearing to the parties, the Controller may - 1) maintain the grant; or 2) amend the claims; or 3) revoke the patent...”. In the same matter, while discussing the post-grant opposition procedure, Hon’ble Delhi High Court observed at para 24 that “...the scheme of the Rules envisages that the Opposition Board ought to consider all the pleadings and documents prior to giving its recommendations. Further, the timelines which have been stipulated in the Rules also show that the same ought to be followed strictly. From the time when the patent is granted, therefore, the expectation would be that if a post- grant opposition is filed, the same would be decided in an expeditious manner...”.</i> Further, at para 29-33, the Hon’ble Court observed that “...29. On an overall reading of the scheme of Rules 55A to 63, it is clear that the Rules contemplate a two-stage decision making. Stage one is reference to the Opposition Board of all the pleadings and the evidence. Stage two is a decision by the Controller which is to be rendered after receiving the recommendations of the Opposition Board and after affording a hearing, if sought. Thus, at the stage of the Controller taking a decision, the Controller is expected to have all the pleadings, documents and evidence relied upon by the parties and the recommendations made by the Board on the basis of the said material and oral submissions by the parties. 30. Thus, it is clear that under usual circumstances, there should not be any variation between the material being considered by the Opposition Board and the Controller. All the material to be relied upon by the parties ought to be presented to the Opposition Board and thereafter to the Controller. 31. Rule 60 provides some leeway to a party to file further evidence with the leave of the Controller. However, once the notice of hearing is given, no further evidence ought to be entertained. This is clear from a reading of Rule 60 which requires	
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³⁶ [Pharmacyclics Llc vs Union Of India And Ors \[W.P.\(C\) 12105/2019 & CM APPLs. 49593/2019, 49594/2019, 49595/2019\] on 20 November, 2019](#)

	that leave for further evidence can be sought "before the Controller has fixed the hearing under Rule 62". As per Rule 60 therefore, even after the recommendations are given by the Opposition Board, it is only prior to the date of hearing being fixed that any party can seek permission to file further evidence. Thus, in the scheme of the Act, it would be always advisable for the Controller to, after receiving the recommendations of the Opposition Board, to fix a hearing expeditiously in order to ensure that there is no long time gap between the recommendations of the Opposition Board and the decision making by the Controller. Further, the filing of further evidence under Rule 60 ought to be permitted only in exceptional cases wherein a party is able to justify the nonfiling of the said evidence at the prior stage of Rule 57 to 59. The party seeking to file further evidence would have to give adequate reasons for the non-filing of the same which reasons would be considered by the Controller for granting or rejecting the request. 32. Rule 62(4) gives a final opportunity for any party to rely upon any publication five days prior to the hearing. The use of the word 'publication' in Rule 62(4) is extremely significant. It relates only to a publicly available document and not to any private document such as a lab report, an expert affidavit or any other internal document. A publication would be a document which would have otherwise been publicly available for either of the parties to verify the same. The logic behind use of the word publication in Rule 62(4) is obvious. Whenever patents are filed, there is a clear expectation that patentees would be aware of any publications relating to the said field of technology. Thus, all publications are deemed to be in the knowledge of the patentee. If either the Opponent or Patentee wishes to rely on any publications five days before the hearing, the same is permitted inasmuch as parties are expected to have had knowledge of such publications and hence there would be no surprise to a party. The reason why reliance on such a publication is permitted is to ensure that no patent is wrongly granted or wrongly opposed. Considering that the scheme of the Rules has specific timelines for all the steps that are to be undertaken in a post-grant opposition, it is understood that such reliance on publication would be permissible not in usual but in exceptional cases where a publication was not placed inadvertently or was not within the party's knowledge. In any event, when such a publication is cited, since it has been cited just five days prior to the hearing, the exact portion which is relied upon ought to be highlighted to the other party. The word „details' in Rule 62(4) would thus mean that the date and name of publication, exact	
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	portion of the publication relied upon ought to be pointed out to the opposite party who can, at short notice be able to controvert the same at the hearing. 33. The further evidence under Rule 60, thus, has to be prior to the hearing notice being given. The permission to cite any further documents is restricted to publication five days before the hearing. These two provisions, in the overall scheme of the Act and Rules, ought to be treated as exceptions and not the rule. In respect of any further evidence given by either party under Rule 62 and publication cited at the hearing, the Opposition Board would not have had an opportunity to look at the same. Thus, the presence of the Members of the Opposition Board at the hearing is permitted in order to ensure that these documents are also discussed in the presence of the Opposition Board....” On the issue of making the recommendation of Opposition Board available to the parties, Hon’ble Supreme Court in the matter of Cipla Ltd vs Union Of India & Ors on 27 November, 2012 [AIRONLINE 2012 SC 363]³⁷ at para 5 observed that <i>“...Section 25(3)(b) read with Rule 56(4) cast no obligation on the Opposition Board to give a copy of the Report to either of the parties. So also no obligation is cast under Section 25(4) or under Rule 62 on the Controller to make available the report of the recommendation of the Opposition Board. But considering the fact that the Report of the Opposition Board can be crucial in the decision making process, while passing order by the Controller under Section 25(4), principles of natural justice must be read into those provisions. Copy of the Report/recommendation of Opposition Board, therefore, should be made available to the parties before the Controller passes orders under Section 25(4) of the Act. ...”</i>	
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³⁷ [Cipla Ltd vs Union Of India & Ors on 27 November, 2012 \[AIRONLINE 2012 SC 363\]](#)

Clause		Sections and Rules
11.01	Maintenance of Patent – Renewal: 1. To keep a patent in force, the renewal fees shall be payable at the expiration of the second year from the date of the patent or of any succeeding year and the same shall be remitted to the Patent Office before the expiration of the second or the succeeding year. 2. Further, renewal of a patent can be done beyond the due date in the extended period of maximum six months from the due date by filing a request for extension in Form-4 as prescribed in Rule 138 along with the prescribed fee. 3. Patent renewal fees become due starting from the third year after the patent filing. Where a patent is granted later than two years from the date of filing of the application, the fees which have become due in the meantime shall be paid within a period of three months from the date of recording of the patent in the Register of Patents or within an extended period not later than nine months from the date of recording as prescribed in Rule 138. If a patent is granted before the expiry of two years from the date of filing of application, the first renewal fee becomes due in respect of the third year. However, the same shall be paid before the expiry of second year. First Renewal fee for a patent becomes due in respect of the third year counted from the date of filing of application for patent. However, the renewal fee for the third year has to be paid before the expiry of the second year. For clarification, the renewal fee may be paid before the expiration of the fourth year from the date of Patent for the fifth year and so on. 4. While paying the renewal fee, the patentee shall quote the correct patent number and the year in respect of which the renewal fee is being paid. Any mistake in the above said particulars may lead to a lapse of patent. 5. A renewal fee is not required to be paid in respect of a patent of addition. However, if any such patent of addition becomes an independent patent when the main invention is revoked under the Act, the renewal fees shall thereafter be payable upon the same dates as an independent patent. 6. The annual renewal fees payable in respect of two or more years may be paid in advance. 7. Where the renewal fee is paid in advance through electronic mode for a period of at least 4 years, a 10% reduction in fees is applicable.	Section 53, 55(2), 142 (4). Rule 80, 138. Form-4.

	8. The Controller shall credit any renewal fee and issue a certificate that the fee has been paid, after making an enquiry as deemed necessary. 9. The Controller shall enter in the Register of patents the fact that fee has been paid. For fee please refer THE FIRST SCHEDULE	
11.02	Restoration of Lapsed Patents 1. When a Patent has ceased to have effect due to non- payment of renewal fees within the prescribed time, or permissible extended period the Patent may be restored by filing an application for restoration in Form-15 within eighteen months from the date on which the patent ceased to have effect. Such application for restoration can be made by the patentee/assignee, or his legal representative and in case of joint applicants, then, with the leave of the Controller, any one or more of them without joining the others. 2. The application must include a valid statement fully setting out such circumstances that led to the failure to pay the renewal fee. This statement is to be supported by evidence along with copies of relevant documents. 3. The evidence must support the patentee's claim that the failure to pay the renewal fees was unintentional and there has been no undue delay in applying for the restoration. 4. The Controller may call for further evidence to justify that the failure to pay was unintentional and that there has been no undue delay for making the application. 5. If a patentee has failed to register a change of name or new address of service before cessation, he shall first apply under Rule 94 for such alteration(s) in the register. If he changed his name after cessation, he must prove his identity. In both cases he shall draw and sign the application in his new name but in the latter case shall add 'formerly known as' to his identification	Section 60. Rule 84, 94. Form- 15.
11.02.01	Procedure for disposal of application for Restoration 1. When the Controller is prima facie satisfied after verification of evidence submitted in support of Form 15 (or after a hearing in this regard, if required or applied by the applicant) that the failure to pay the renewal fee was unintentional and there had been no undue delay in restoration application, the application for restoration will be published in the official journal under rule 84(3).	Section 61, 62. Rule 57 to 63, 84, 85, 86. Form-14, 15.

	2. If the Controller is satisfied that prima facie case for restoration has not been made, the Controller shall intimate the applicant to that effect. Within one month from the date of intimation, if the applicant makes a request to be heard on the matter, a hearing opportunity shall be given and the restoration application may be decided accordingly. If no request for hearing is received within one month from the date of notice by the Controller, the application for restoration shall be refused. In case of rejection of the application for restoration, a speaking order shall be issued. If the Controller is prima facie satisfied after hearing that the failure to pay renewal fee was unintentional, the application for restoration shall be published. 3. Any person interested may give notice of opposition in Form 14, in the prescribed manner, to the application for restoration within two months of the date of publication in the official journal on the grounds that the failure to pay the renewal fee was not unintentional or that there has been undue delay in the making of the application. 4. A copy of notice of opposition shall be sent to the applicant by the Controller. 5. The notice of opposition shall include a statement setting out the nature of the opponent's interest, the grounds of opposition and the facts relied upon. 6. The procedure specified in rules 57 to 63 for post grant opposition relating to filing of written statement, reply statement, reply evidence, hearing and cost shall apply in this case, except the procedural part related to Opposition Board provided under rule 62 (1) and 62 (5). 7. When no opposition is received within a period of two months from the date of publication of application for restoration, or opposition, if any, is disposed of in favour of the applicant for restoration, the Controller shall issue an order allowing the application for restoration. The unpaid renewal fee and the additional fee, as mentioned in the first schedule, shall be paid within one month from the date of order of the Controller. 8. The fact that a patent has been restored shall be published in the official journal. 9. To protect the persons who have begun to use the applicant's	
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	invention between the date when the patent ceased to have effect and the date of publication of the application for restoration, every order for restoration shall include the provisions and other conditions, as the Controller may impose for protection and compensation of above-mentioned persons. No suit or other proceeding shall be commenced or prosecuted in respect of an infringement of a patent committed between the date on which the Patent ceased to have effect and the date of the Publication of the Application for restoration of the patent.	
11.03	Registration of Assignments/Transfer of Right 1. An assignment of a patent or of a share in a patent, a mortgage, licence or the creation of any other interest in a patent shall be valid only if the same were in writing and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations and has been duly executed. 2. Any person who becomes entitled by assignment, transmission or operation of law to a patent or to a share in patent or becomes entitled as a mortgagee, licensee or otherwise to any other interest in a patent, may apply in writing in Form-16 to the Controller for the registration of his title or notice of his interest in the register, as the case may be. Such an application can also be made by the assignor, mortgagor, licensor or other party as the case may be. Provided that in the case of a licence granted under a patent, the Controller shall, if so requested by the patentee or licensee, take steps for securing that the terms of the license are not disclosed to any person except under the order of a court. 3. Where such application is made for the registration of title or notice of interest of any person, the Controller, upon proof of title or interest to his satisfaction, shall enter in the register such particulars as are appropriate. 4. If there is any dispute between the parties, the Controller may refuse to take any action to make an entry in the register until the rights of the parties have been determined by a competent court. 5. Except for the purpose of making an application for registration of right, title or interest in the Register of patents, or for an application for rectification of the Register of patents, a document in respect of which no entry has been made in the register, shall not be admitted by the Controller or by any court as evidence of the title of any	Section 68, 69. Rule 90, 91, 92. Form-16.

	person to a patent or to a share or interest therein unless the Controller or the court, for reasons to be recorded in writing, otherwise directs. 6. If requested by the patentee / licensee, the terms of the license shall be kept confidential and not disclosed to any person, except under the order of Court. 7. Every assignment and every other document giving effect to or being evidence of the transfer of a patent or affecting the proprietorship thereof or creating an interest therein as claimed in such application, shall, unless the Controller otherwise directs, be presented to him together with the application which shall be accompanied by two copies of the assignment or other document certified to be true copies by the applicant or his agent and the Controller may call for such other proof of title or written consent as he may require.	
11.04	Surrender Of Patents 1. A patentee may at any time offer to surrender his patent by giving a notice in the prescribed manner.. On receipt of such an offer, the Controller shall publish the offer in the Official Journal and also notifies every person (other than the patentee) whose name appears in the register as having an interest in the patent. 2. A notice of opposition against the offer to surrender the patent may be filed by any person interested in Form 14 in duplicate /electronically within 3 months from the date of publication of such offer in the Official Journal. The Controller shall inform the Patentee on receipt of such notice. 3. The procedure relating to filing of written statement, reply statement, leaving evidence, hearing and cost of the opposition is similar to that of post-grant opposition as per Rules 57-63, except the procedural part related to the Opposition Board included under rule 62 (1) and 62 (5). 4. In case, the Controller accepts the patentee's offer to surrender the patent after due procedure, he may direct the patentee to return the patent and on receipt of such patent, the Controller shall revoke the patent by order and publish such revocation in the official journal.	Section 63. Rules 57-63 and 87. Form-14.

11.05	Working of Patents 1. Patents are granted to encourage inventions and to ensure that the inventions are worked in India on a commercial scale and to the fullest extent that is reasonably practicable without undue delay. They are not granted merely to enable patentees to enjoy a monopoly for the importation of the patented article. The general principles applicable to working of patented inventions are given in section 83. 2. The Controller has the power to call for the information such as periodical statements as to the extent to which the patented invention has been commercially worked in India, as may be specified in the notice issued to that effect at any time during the continuance of the Patent. 3. A patentee or a licensee shall furnish such information within two months from the date of such notice or within such further time as the Controller may allow. 4. Without prejudice to the above provision, every patentee and every licensee shall furnish a statement as to the extent to which the patented invention has been worked on a commercial scale in India, in Form 27, which shall be duly verified by the patentee or licensee or his authorized agent 5. The statement shall be furnished once in respect of every period of three financial years, starting from the financial commencing immediately after the financial year in which the patent was granted. This statement shall be furnished within six months from the expiry of each such period. 6. The Controller may condone the delay or extend the timeline in filing such a statement for a period up to three months upon a request made in Form 4. The timeline can be extended further for a period of up to six months upon a request made in Form 4 in the prescribed manner under Rule 138. 7. The Controller may publish the information obtained through above mentioned provisions. 8. If any person refuses or fails to furnish to the Controller any information under section 146, he shall be liable to penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues.	Section 83,146. Rule 131(2) Form-27
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	9. If any person furnishes false information he shall be liable to penalty for, a sum equal to one half per cent of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five crore rupees, whichever is less. 10. A single Form-27 can be filed for submitting details regarding the multiple patents, provided that all are related patents and are granted to the same patentee(s). 11. For different possible scenarios of requirement of filing form 27, the FAQ document published by O/o CGPDTM may be referred [https://ipindia.gov.in/newsdetail.htm?1001/]	
11.06	Amendments after the grant of patents 1. After the grant of patent, the patentee may apply for an amendment of the application for patent, Complete Specification or any document relating thereto subject to such conditions, if any, and as the Controller thinks fit. Such a request may be filed in Form-13 with the prescribed fee. 2. An amendment of a Complete Specification may be, or include, an amendment of the priority date of a claim, as per Section 57(5). 3. The request shall state the nature of the proposed amendment, highlighted in an annexed copy along with the reasons. The amendments are allowable only by way of disclaimer, correction or explanation. Such amendments shall be for the purpose of incorporation of actual fact only. Further, no amendment of a Complete Specification shall be allowed the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed or shown in the specification before the amendment, or the amended claim(s) do not fall wholly within the scope of claim(s) of the specification before the amendment. 4. If the nature of proposed amendment is substantive, the application for amendment shall be published. For instance, any application for amending the Complete Specification or the claims or the application for patent shall be published. 5. The amended pages have to be filed by the applicant. 6. Any person interested may give a notice of opposition in Form14 within three months from the date of publication of the application for amendment. Where such a notice of opposition is filed, the Controller shall notify the applicant for amendment. 7. After giving an opportunity to the applicant and opponent, if any,	Section 57, 59. Rules 57-63 and 81-83. Form- 13, 14.

	the Controller shall dispose of the case. The procedure specified in rules 57 to 63 for post grant opposition for filing of written statement, reply statement, reply evidence, hearing and costs shall apply in this case, except the procedural part related to the Opposition Board included under rule 62 (1) and 62 (5). 8. Amendments allowed after the grant of patent shall be published. 9. A leave to amend the Complete Specification obtained by fraud is a ground for revocation of patent under Section 64(1)(o). 10. If any suit for infringement is pending before a Court or any proceeding for revocation of the Patent is pending before the High Court, the Controller shall not pass any order allowing or refusing the application for amendment.	
11.07	Amendment of patent granted to deceased applicant/ceased body corporate. 1. Where, at any time after a patent has been granted in pursuance of an application under this Act, the Controller is satisfied that the person to whom the patent was granted had died before the patent was granted, the Controller may amend the patent by substituting for the name of that person the name of the person to whom the patent ought to have been granted, and the patent shall have effect, and shall be deemed always to have had effect, accordingly. 2. Similar procedure is to be followed in case of a body corporate ceases to exist. An application for the above said amendment of a patent is to be made in Form 10 along with substantiating evidence. Upon such application, the Controller may amend the patent with the name of such claimant by substituting the name of the deceased applicant/the ceased body corporate.	Section 44 Rule 75. Form-10
11.08	Register of Patents 1. The Patent Office maintains the Register of Patents in electronic form, which is under the control and management of the Controller of Patents and the same is also available on the office website as e-Register of Patents. 2. E-Register of patents contains details about the grantee/patentee, notifications in respect of assignments, transmissions of patents, licences under patents, and amendments, extension and revocations of patents and particulars of such matters affecting proprietorship of patents. No notice of any trust, whether express, implied or constructive shall be entered in the register.	Section 67. Rule 88, 93, 94.

	3. A copy of, or extracts from, the register of patents, certified to be a true copy under the hand of the Controller or any officer duly authorized by the Controller is admissible in evidence in all legal proceedings. 4. Upon the grant of a patent, the Controller shall enter in the register of patents, the name, address and nationality of the grantee as the patentee thereof, the title of the invention (including the categories to which the invention relates), the date of the patent and the date of grant thereof together with the address for service of the patentee. The fact of payment of renewal fee shall also be entered in the e-Register. The Register of patents also contains particulars regarding proceedings under the Act, before the Controller or in the Courts in respect of every patent. 5. An application for alteration of name, nationality, address or address for service as entered in the register of patents may be made to the Controller in respect of any Patent. The Controller may require such proof of the alteration as he may think fit before acting on the request. If the Controller allows such a request, entries in the e-Register are altered accordingly. 6. If a patentee makes a request in writing along with the prescribed fees for entering an additional address for service in India and the Controller is satisfied that the request shall be allowed, the additional address shall be entered in the e-Register. 7. Entries in the register for each patent are available to the public on the official website through e-Register of Patents. 8. The e-Register shall be maintained and accessed only by the person duly authorized by the Controller.	
11.09	Rectification of Register by High Court 1. An application for rectification of Register of patents may be made to the High Court by any person aggrieved: a) by the absence or omission from the register of any entry; or b) by any entry made in the register without sufficient cause; or c) by any entry wrongly remaining on the register; or d) by any error or defect in any entry in the register. 2. Notice of such application made before the High Court is given to the Controller, who is entitled to be heard on the application. Besides, if so ordered, the Controller shall appear before the High Court. 3. If the High Court passes any order rectifying the register, a	Section 71

	notice of rectification is served upon the Controller, who, upon such receipt, shall rectify the register.	
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Clause		Sections and Rules
12.01	Appeals	
12.01.01	Appeals to High Court An appeal shall lie to the High Court from any decision, order or direction of the Controller or Central Government under section passed under the provisions mentioned in Section 117A(2) only, and not against any other decision or direction.	Section 117A
12.01.02	Appeals a. No appeal to High Court shall lie from any order or direction of the Central Government, or of the Controller, except in case of orders/decisions, issued by the Controller or Central Government under Sections 15, 16,17, 18, 19, 20, 25(4), 28, 51, 54, 57, 60, 61,63, 66, 69(3), 78,84(1) to (5), 85, 88, 91, 92 and 94 of the Act. In the matter of Rich Products Corporation vs The Controller Of Patents & Anr. [LPA 257/2024 & CM No.19528/2024] ³⁸ on 01/05/2024 at para 10 and 17 the Divisional Bench of Hon’ble Delhi High Court held that <i>“10.....It is well settled that a pre-grant opposition under Section 25(1) of the Act is a part of the examination process and is to aid the Controller in considering an application for the grant of a patent. Undisputedly, if an authority passes an order which suffers from jurisdictional errors, the person aggrieved would have a recourse to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. However, it is necessary to note that the 2010 SCC OnLine Del 523 Regents of the University of California v. Union of India & Ors.:2019 SCC OnLine Del 8590 and Novartis AG v. Natco Pharma Ltd. & Anr.: 2024 SCC OnLine Del 152.</i> <i>remedy under Article 226 of the Constitution of India is a discretionary remedy and the Court can decline to exercise the same if there is an efficacious, alternate and statutory remedy...”</i> <i>“...17. The learned Single Judge has not dismissed RPC's petition on the</i>	

³⁸ [Rich Products Corporation vs The Controller Of Patents & Anr. \[LPA 257/2024 & CM No.19528/2024\] on 01/05/2024](#)

	<i>ground that the Court does not have jurisdiction to entertain a petition against an order of the Controller rejecting the pre-grant opposition preferred under Section 25(1) of the Act. The learned Single Judge had decided not to entertain the petition as the Court found that RPC's challenge laid did not qualify the threshold of a manifest jurisdictional error, to warrant entertaining the same under Article 226/227 of the Constitution of India. In UCB Farchim SA & Ors. v. Cipla Ltd.², this Court considered the scheme of pre-grant opposition and post grant opposition under Section 25 of the Act and observed that any person could file a representation under Section 25(1) of the Act for opposing the grant of patent on the grounds as set out in the various clauses of Section 25(1) of the Act. The person interested would have the remedy of filing a post-grant opposition under Section 25(2) of the Act. Thus, a person interested has two remedies - remedy to file a pre-grant opposition as well as post-grant opposition. In addition, the interested person also has a right to appeal against an order rejecting its post-grant opposition. ...”</i> b. No appeal lies from an Order of the Controller granting extension of time when such extension is provided in any provision of the Act or of the Rules made thereunder.	
12.02	Appeal procedure 1. Every appeal from the decision of the Controller under relevant sections as mentioned in Section 117A (2) shall be in the prescribed manner and shall be verified in such manner as may be prescribed and shall be accompanied by a copy of the decision, order or direction appealed against and the prescribed fees. 2. Every appeal shall be made within three months from the date of the decision, order or direction of the Controller or of the Central Government, as the case may be, or within such further time as the High Court may allow in accordance with the Rules made by it. 3. The Controller shall have the right to appear and be heard- i. in any legal proceedings before the High Court in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the patent office is raised; ii. in any appeal to the High Court from an order of the Controller on an application for grant to a patent- A. which is not opposed and the application is either refused by the Controller or accepted for grant by him subject to any amendments, modifications, conditions or limitations, or B. which has been opposed and the Controller considers that his appearance is necessary in the public interest.	Section 117A, 117E

	4. The Controller shall appear in any case, if so directed by the High Court. 5. The Controller may, in lieu of appearing, unless the High Court otherwise directs, submit a statement in writing signed by him, giving such particulars as he thinks proper, of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him or of the practice of the patent office in like cases, or of other matters relevant to the issues and, within his knowledge as the Controller, may deem it necessary, and such statement shall be evidence in the proceedings.	
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Clause		Sections and Rule
13.01	Revocation of Patent	
13.01.01	Revocation before the High Court - Any person interested or the Central Government may make a petition or on a counter-claim in a suit for infringement of the patent by the High Court on any of the grounds, specified for revocation of Patent under Section 64 of the Patents Act, before the High Court. - Grounds for revocation of the patent before the High Court are elaborated in Section 64. - Without prejudice to the provisions contained in section 64(1), a patent may be revoked by the High Court on the petition of the Central Government, if the High Court is satisfied that the patentee has without reasonable cause failed to comply with the request of the Central Government to make, use or exercise the patented invention for the purposes of Government within the meaning of Section 99 upon reasonable terms. In Dr. Alloys Wobben and Anr. v. Yogesh Mehra and Ors.³⁹ Dated 02.06.2014, a Question of law came up before the Supreme Court on the issue of Multiplicity of proceedings for Revocation of Patent. The question was framed as follows, In case, there is already a revocation petition filed by an entity against the grant of patent, then in that case if the patentee files a suit for infringement of patent against the very same entity and that entity files a counter claim towards revocation of patent, which of the two proceedings will prevail? The Supreme Court mainly relied on the doctrine and principle of res judicata and held that: - <i>If “any person interested” has filed proceedings towards post-grant opposition, the same person would not be entitled to file a “revocation petition” in the capacity of “any person interested” and would also be barred to seek the revocation of a patent in the</i>	Section 64, 99

³⁹ [Dr. Alloys Wobben and Anr. v. Yogesh Mehra and Ors. Dated 02.06.2014](#)

	<i>capacity of a defendant through a “counter-claim” in a suit for infringement of Patent; and</i> <i>- If a “revocation petition” has been filed by “any person interested” in prior to the institution of suit for infringement of patent against him, he would be disentitled from revoking the patent through a “counter-claim”;</i> <i>In Para 30 of the judgment, Hon’ble Supreme Court stated that,</i> <i>- “It is necessary to keep in mind that the instant submission was advanced at the hands of the learned counsel for the reason that the appellants did not desire two proceedings, on the subject of revocation of the same patent, to be continued simultaneously before different fora. In our discussion recorded while dealing with the submission advanced by the learned counsel for the appellants, we have accepted the contention advanced at the hands of the learned counsel for the appellants, that only one out of two remedies available under Section 64 of the Patents Act, can be availed of, so as to assail the grant of a patent. Accordingly the said remedy may be availed of in the capacity of either “any person interested”, or in the capacity of a defendant in a “counter-claim”. We have already concluded hereinabove, that having availed of any one of the above remedies, it is not open to the same person to assail the grant of a patent by choosing the second alternative available to him. In view of our above conclusion, the instant submission advanced by the learned counsel for the appellants does not survive for consideration.”</i>	
13.01.02	Revocation by the Controller on direction of the Central Government 1. Where at any time after grant of a patent, the Central Government is satisfied that a patent is for an invention relating to atomic energy for which no patent can be granted under sub-section (1) of section 20 of the Atomic Energy Act, 1962 (33 of 1962), it may direct the Controller to revoke the patent, and thereupon the Controller, after giving notice, to the patentee and every other person whose name has been entered in the register of patents as having an interest in the patent, and after giving them an opportunity of being heard, may revoke the patent. 2. In such proceedings, the Controller may allow the patentee to amend the Complete Specification in such a manner as he considers necessary instead of revoking the patent.	Section 65
13.01.03	Revocation by the Central Government in public interest	Section 66

	Where the Central Government is of opinion that a patent or the mode in which it is exercised is mischievous to the State or generally prejudicial to the public, it may, after giving the patentee an opportunity to be heard, make a declaration to that effect in the Official Gazette and thereupon the patent shall be deemed to be revoked.	
13.01.04	Revocation by Controller for non-working 1. Where, in respect of a patent, a compulsory licence has been granted, the Central Government or any person interested may, after the expiration of two years from the date of the order granting the first compulsory licence, apply to the Controller for an order revoking the patent on the ground: i. that the patented invention has not been worked in the territory of India, or ii. that reasonable requirements of the public with respect to the patented invention have not been satisfied, or iii. that the patented invention is not available to the public at a reasonably affordable price. 2. Such an application shall contain such particulars, as may be prescribed, the facts upon which the application is based and, in the case of an application other than the one made by the Central Government, it shall also set out the nature of the applicant's interest. 3. Such applications shall ordinarily be decided within one year from the date of presentation to the Controller.	Section 85(1), Form-19

14.01	Working of patents - General principles 1. Patents are granted to encourage inventions and to ensure that the inventions are worked in India on a commercial scale and to the fullest extent that is reasonably practicable without undue delay. 2. Patents are not granted merely to enable patentees to enjoy a monopoly for the importation of the patented article. 3. The protection and enforcement of Patent rights contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. 4. Patents granted do not impede protection of public health and nutrition and should act as instruments to promote public interest especially in sectors of vital importance for socio-economic and technological development of India. 5. Patents granted do not in any way prohibit the Central Government in taking measures to protect public health. 6. The Patent right shall not be abused by the patentee or person deriving title or interest in patent from the patentee, and the patentee or a person deriving title or interest in patent from the patentee does not resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology. 7. Patents are granted to make the benefit of the patented invention available at reasonably affordable prices to the public.	Section 83

14.02	Compulsory Licence An application for grant of a compulsory licence may be made under the following provisions: - Section 84. - Section 92. - Section 92A.	
14.02.01	Compulsory Licences under Section 84 - Any person interested may make an application to the Controller for grant of Compulsory Licence for a patent after the expiry of three years from the date of grant of the patent on the following grounds: - that the reasonable requirements of public with respect to the patented invention have not been satisfied, or - that the patented invention is not available to the public at reasonably affordable price, or - that the patented invention is not worked in the territory of India. Such an application may also be made by the licensee. - No person shall be stopped from alleging the grounds i-iii above by reason of any admission made by him in the licence or otherwise or by reason of his having accepted such a licence. - In considering such an application, the Controller shall take into account- - the nature of the invention, the time which has elapsed since the grant of the patent and the measures already taken by the patentee or any licensee to make full use of the invention; - the ability of the applicant to work the invention to the public advantage; - the capacity of the applicant to undertake the risk in providing capital and working the invention, if the application were granted; - as to whether the applicant has made efforts to obtain a licence from the patentee on reasonable terms and conditions and such efforts have not been successful within a reasonable period as the Controller may deem fit. Reasonable period shall be construed as a period not ordinarily exceeding a period of six months. However, these clauses shall not be applicable in case of national emergency or other circumstances of extreme urgency or in case of public non-commercial use or on establishment of a ground of anti-competitive practices adopted by the patentee, but shall not be required to take into account matters subsequent to the making of the application.	Section 84 Form-17

14.02.01.01	Reasonable requirements of the public The reasonable requirements of the public shall be deemed not to have been satisfied— 1. if, by reason of the refusal of the patentee to grant a licence or licences on reasonable terms, i. an existing trade or industry or the development thereof or the establishment of any new trade or industry in India or the trade or industry in India or the trade or industry of any person or class of persons trading or manufacturing in India is prejudiced; or ii. the demand for the patented article has not been met to an adequate extent or on reasonable terms; or iii. a market for export of the patented article manufactured in India is not being supplied or developed; or iv. the establishment or development of commercial activities in India is prejudiced; or 2. if, by reason of conditions imposed by the patentee upon the grant of licences under the patent or upon the purchase, hire or use of the patented article or process, the manufacture, use or sale of materials not protected by the patent, or the establishment or development of any trade or industry in India, is prejudiced; or 3. if the patentee imposes a condition upon the grant of licences under the patent to provide exclusive grant back, prevention to challenges to the validity of patent or coercive package licensing; or 4. if the patented invention is not being worked in the territory of India on a commercial scale to an adequate extent or is not being so worked to the fullest extent that is reasonably practicable; or 5. if the working of the patented invention in the territory of India on a commercial scale is being prevented or hindered by the importation from abroad of the patented article by- i. the patentee or persons claiming under him; or ii. persons directly or indirectly purchasing from him; or iii. other persons against whom the patentee is not taking or has not taken proceedings for infringement.	Section 84(7)
14.02.01.02	Contents of application Such an application shall contain a statement setting out the nature of the applicant's interest, facts upon which the application is based and terms	Section 84(1), Rule 96

	and conditions of the licence the applicant is willing to accept.	Form-17
14.02.01.03	Adjournment of application for compulsory licence in certain cases: 1. Where an application under section 84 or section 85, as the case may be, is made on the grounds that the patented invention has not been worked in the territory of India or on the ground mentioned in clause (d) of sub-section (7) of section 84 and the Controller is satisfied that the time which has elapsed since the grant of the patent has for any reason been insufficient to enable the invention to be worked on a commercial scale to an adequate extent or to enable the invention to be so worked to the fullest extent that is reasonably practicable, he may, by order, adjourn the further hearing of the application for such period not exceeding twelve months in the aggregate as appears to him to be sufficient for the invention to be so worked: Provided that in any case where the patentee establishes that the reason why a patented invention could not be worked as aforesaid before the date of the application was due to any State or Central Act or any rule or regulation made thereunder or any order of the Government imposed otherwise than by way of a condition for the working of the invention in the territory of India or for the disposal of the patented articles or of the articles made, by the process or by the use of the patented plant, machinery, or apparatus, then, the period of adjournment ordered under this sub-section shall be reckoned from the date on which the period during which the working of the invention was prevented by such Act, rule or regulation or order of Government as computed from the date of the application, expires. 2. No adjournment under sub-section (1) shall be ordered unless the Controller is satisfied that the patentee has taken with promptitude adequate or reasonable steps to start the working of the invention in the territory of India on a commercial scale and to an adequate extent.	Section 86
14.02.01.04	Procedure for dealing with application for Compulsory Licence: 1. Where the Controller is satisfied upon consideration of an application for compulsory licence that prima facie case has been made out, he shall direct the applicant to serve copies of the application upon the patentee and any other person appearing from the register of patents to be interested in the patent in respect of which the application is made, and shall publish the application in the official journal. 2. The patentee or any other person desiring to oppose the application may, within two months from the date of publication of the application or within such further time as the Controller may on application (made either	Section 87,88 Rules 62,

	before or after the expiration of the prescribed time) allow, give to the Controller notice of opposition. 3. The notice of opposition shall include grounds on which the application is opposed and the terms and conditions of the licence, if any, the opponent is prepared to grant to the applicant and shall be accompanied by evidence in support of the opposition. 4. The opponent shall serve a copy of his notice of opposition and evidence on the applicant and notify the Controller when such service has been affected. 5. No further statement or evidence shall be delivered by either party except with the leave of or on requisition by the Controller. 6. The Controller shall forthwith fix a date and time for the hearing of the case and shall give the parties not less than ten days notice of such hearing. 7. The procedure specified in sub-rules (2) to (5) of rule 62, shall, so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing in opposition proceedings. 8. If, upon consideration of the evidence, the Controller is satisfied that a prima facie case has not been made out, he shall notify the applicant accordingly, and unless the applicant requests to be heard in the matter, the Controller shall refuse the application. The applicant shall make such a request within one month from the date of such notification. 9. If the applicant requests for a hearing within the time allowed, the Controller shall, after giving the applicant an opportunity of being heard, determine whether the application may be proceeded with or whether it shall be refused and issue a speaking order on the matter as expeditiously as possible. 10. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules.	
14.02.01.05	Terms and Conditions of Compulsory Licences In settling the terms and conditions of a licence, the Controller endeavors to secure- 1. that the royalty and other remuneration, if any, reserved to the patentee	Section 90

	or other person beneficially entitled to the patent, is reasonable, having regard to the nature of the invention, the expenditure incurred by the patentee in making the invention or in developing it and obtaining a patent and keeping it in force and other relevant factors; 2. that the patented invention is worked to the fullest extent by the person to whom the licence is granted and with reasonable profit to him; 3. that the patented articles are made available to the public at reasonably affordable prices; 4. that the licence granted is a non-exclusive licence; 5. that the right of the licensee is non-assignable; 6. that the licence is for the balance term of the patent unless a shorter term is consistent with public interest; 7. that the licence is granted with a predominant purpose of supply in the Indian market and that the licensee may also export the patented product, if need be in accordance with the provisions of sub-clause (iii) of clause (a) of sub-section (7) of section 84; 8. that in the case of semi-conductor technology, the licence granted is to work the invention for public non-commercial use; 9. that in case the licence is granted to remedy a practice determined after judicial or administrative process to be anti-competitive, the licensee shall be permitted to export the patented product, if need be. The terms and conditions of a licence settled by the Controller, may be revised upon Application by the licensee after he has worked the invention on a commercial scale for at least twelve months, on the ground that the terms and conditions settled have proved to be more onerous than originally expected and that in consequence thereof the licensee is unable to work the invention except at a loss. However, no such application shall be entertained a second time.	
14.02.01.06	Application by licensee 1. Where the Controller is satisfied on an application for compulsory licence that the manufacture, use or sale of materials not protected by the patent is prejudiced by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, he may, subject to the provisions of Section 84, order the grant of licences under the patent to such customers of the applicant as he thinks fit as well as to the applicant.	Section 88

	2. Where an application for compulsory licence is made by a person being the holder of a licence under the patent, the Controller may, if he makes an order for the grant of a licence to the applicant, order the existing licence to be cancelled, or may, if he thinks fit, instead of making an order for the grant of a licence to the applicant, order the existing licence to be amended.	
14.02.01.07	Compulsory licence in case of two or more patents held by the same patentee Where two or more patents are held by the same patentee and an applicant for a compulsory licence establishes that the reasonable requirements of the public have not been satisfied with respect to some only of the said patents, then, if the Controller is satisfied that the applicant cannot efficiently or satisfactorily work the licence granted to him under those patents without infringing the other patents held by the patentee and if those patents involve important technical advancement or considerable economic significance in relation to the other patents, he may, by order, direct the grant of a licence in respect of the other patents also to enable the licensee to work the patent or patents in regard to which a licence is granted under section 84.	Section 88(3)
14.02.02	Licensing of related patents 1. At any time after the grant of a patent, any person who has the right to work any other patented invention, either as patentee or as licensee thereof, exclusive or otherwise, may apply to the Controller for the grant of a licence of the first mentioned patent on the ground that he is prevented or hindered without such licence from working the other invention efficiently or to the best advantage possible. 2. No order under such an application shall be made unless the Controller is satisfied – a. that the applicant is able and willing to grant, or procure the grant to the patentee and his licensees if they so desire, of a licence in respect of the other invention on reasonable terms; and b. that the other invention has made a substantial contribution to the establishment or development of commercial or industrial activities in the territory of India. 3. Controller, if satisfied, that the grounds alleged have been established by the applicant, he may make an order on such terms as he thinks fit granting a licence under the first mentioned patent and a similar order under the other patent if so requested by the proprietor of the first mentioned patent or his licensee.	Section 91 Form-17

	However, such a licence granted by the Controller shall be non-assignable except with the assignment of the respective patents. 4. The provisions of sections 87-90 shall apply to licences granted under this section as they apply to licences granted under section 84.	
14.02.03	Compulsory licence on Notification by Central Government 1. If the Central Government is satisfied, in respect of any patent in force in circumstances of national emergency or in circumstances of extreme urgency or in case of public non-commercial use, that it is necessary that compulsory licences should be granted at any time after the grant thereof to work the invention, it may make a declaration to that effect, by notification in the Official Gazette, and thereupon the following provisions shall have effect, that is to say – i. the Controller shall, on application made at any time after the notification by any person interested, grant to the applicant a licence under the patent on such terms and conditions as he thinks fit; ii. in settling the terms and conditions of a licence granted under this section, the Controller shall endeavour to ensure that the articles manufactured under the patent shall be available to the public at the lowest prices consistent with the patentees deriving a reasonable advantage from their patent rights. iii. The procedure as mentioned in Sections 83, 87, 88, 89 and 90 shall apply in relation to the grant of such licences as they apply in relation to the grant of licences under Sec. 84. 2. Notwithstanding anything contained in iii above, if the Controller is satisfied on consideration of the application that, it is necessary in- i. a circumstance of national emergency; or ii. a circumstance of extreme urgency; or iii. a case of public non-commercial use, Which may arise or is required, as the case may be, including public health crisis relating to Acquired Immuno-Deficiency Syndrome, Human Immune Deficiency Virus, Tuberculosis, Malaria or other epidemics, the procedure as mentioned in Section 87 shall not apply; provided the Controller shall, as soon as may be practicable, inform the patentee of the patent relating to the application for such non-application of Section 87.	Section 92(1) Form-17
14.02.04	Compulsory license for export of patented pharmaceutical products in certain exceptional circumstances 1. Compulsory licence shall be available for manufacture and export of	Section 92A

	patented pharmaceutical product to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems, provided compulsory licence has been granted by such country or such country has, by notification or otherwise, allowed importation of the patented pharmaceutical products from India. 2. The Controller shall, on receipt of an application in the prescribed manner, grant a compulsory licence solely for manufacture and export of the concerned pharmaceutical product to such country under such terms and conditions as may be specified and published by him. 3. The provisions of (a) and (b) shall be without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under any other provision of this Act. 4. 'Pharmaceutical products' means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address public health problems and shall be inclusive of ingredients necessary for their manufacture and diagnostic kits required for their use.	Form-17
14.02.05	Termination of Compulsory Licence 1. Patentee or any other person deriving title or interest in the patent, may make an application in Form 21 along with the evidence in support of the application for termination of compulsory licence granted under Section 84 on the ground that the circumstances that gave rise to the grant thereof no longer exist and such circumstances are unlikely to recur. 2. The holder of the compulsory licence shall have the right to object to such termination. 3. The procedure as elaborated under rule 102 for dealing with such application for termination of compulsory licence, including conducting hearing involving the both the parties, shall apply 4. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules. 5. While considering such an application, the Controller shall take into account that the interest of the person, who had previously been granted the licence, is not unduly prejudiced.	Section 94, Rule 102(1), 138 and Form 21

	6. If the Controller decides to terminate the compulsory licence he shall forthwith issue an order giving terms and conditions, if any, of such termination and serve copies of the order to both the parties.	
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**Chapter 15: Use of inventions for purposes of Government and
Acquisition of inventions by Central Government**

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Clause		Sections and Rules
15.01	Use of inventions for the purposes of Government An invention is said to be used for the purpose of Government if it is made, used, exercised or vended for the purposes of Central Government, a State Government or a Government undertaking.	Section 99, 100, 64(4)
15.02	Power of Central Government to use inventions for purpose of Government The Central Government or any person authorized (in writing) by it may use an invention (for which an application is made or patent is granted) for the purposes of the government. 1. Where an invention has, before the priority date of the relevant claim of the Complete Specification, been duly recorded in a document or tested or tried, by or on behalf of the Government or a Government undertaking, otherwise than in consequence of the communication of the invention directly or indirectly by the patentee or by a person from whom he derives title, any use of the invention by the Central Government or any person authorized in writing by it for the purposes of Government may be made free of any royalty or other remuneration to the patentee. 2. If and so far as the invention has not been so recorded or tried or tested as aforesaid, any use of the invention made by the Central Government or any person authorized by it as above said at any time after grant of the patent or in consequence of any such communication as aforesaid, shall be made upon the terms as may be agreed upon either before or after the use, between the Central Government or any person authorised by Central Government and the patentee or as may in default of agreement be determined by the High Court on a reference under Section 103. In case of any such use of any patent, the patentee shall be paid not more than adequate remuneration in the circumstances of each case, taking into account the economic value of the use of the patent. 3. The authorisation by the Central Government in respect of an invention may be given either before or after the patent is granted and either before	

	or after the acts in respect of which such authorisation is given or done, and may be given to any person, whether or not he is authorised directly or indirectly by the applicant or the patentee to make, use, exercise or vend the invention or import the machine, apparatus or other article or medicine or drug covered by such patent. 4. Where an invention has been used by or with the authority of the Central Government for the purposes of Government then except in case of national emergency or other circumstances of extreme urgency or for non-commercial use, the Government shall notify the patentee as soon as practicable of the fact and furnish him with such information as to the extent of the use of the invention as he may, from time to time, reasonably require. Where the invention has been used for the purposes of a Government undertaking, the Central Government may call for such information as may be necessary for this purpose from such undertaking. 5. The right to make, use, exercise and vend an invention for the purposes of Government shall include the right to sell on non- commercial basis the goods which have been made in exercise of that right and a purchaser of goods so sold, and a person claiming through him, shall have the power to deal with the goods as if the Central Government or the person authorised by the Central Government were the patentee of the invention. 6. Where in respect of a patent, which has been the subject of an authorisation, there is an exclusive licensee or where such patent has been assigned to the patentee in consideration of royalties or other benefits determined by reference to the use of the invention (including payments by way of minimum royalty), the notice shall also be given to such exclusive licensee or assignor, as the case may be, and the reference to the patentee shall be deemed to include a reference to such assignor or exclusive licensee. 7. However, the provisions for use of invention by the Government specified in this chapter shall not apply in respect of any such importation, making or using of any machine, apparatus or other article or of any such using of any process or of any such importation, using or distribution of any medicine or drug, as may be made by virtue of one or more of the conditions specified in section 47. 8. A patent may be revoked by the High Court on the petition of the Central Government, if the High Court is satisfied that the patentee has without reasonable cause failed to comply with the request of the Central Government to make, use or exercise the patented invention for the purposes of Government within the meaning of section 99 upon reasonable terms.	
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15.03	Rights of third parties 1. In relation to any use 1. In relation to any use of a patented invention, or an invention in respect of which an application for a patent is pending, made for the purposes of Government i. by the Central Government or any person authorised by the Central Government under section 100; or ii. by the patentee or applicant for the patent to the order made by the Central Government, the provisions of any licence, assignment or agreement granted or made between the patentee or applicant for the patent (or any person who derives title from him or from whom he derives title) and any person other than the Central Government, shall be of no effect so far as those provisions - i. restrict or regulate the use for the purposes of the Government of the invention, or of any model, document or information relating thereto, or ii. provide for the making of payments in respect of any use of the invention or of the model, document or information relating thereto for the purposes of Government, and the reproduction or publication of any model or document in connection with the said use for the purposes of Government shall not be deemed to be an infringement of any copyright subsisting in the model or document. 2. Where the patent, or the right to apply for or obtain the patent, has been assigned to the patentee in consideration of royalties or other benefits determined by reference to the use of the invention then, in relation to any use of the invention made for the purposes of Government by the patentee to the order of the Central Government, sub-section (3) of section 100 shall have effect as if that use were made by virtue of an authority given under that section, and any use of the invention for the purposes of Government by virtue of sub-section (3) of that section shall have effect as if the reference to the patentee included a reference to the assignor of the patent, and any sum payable by virtue of that subsection shall be divided between the patentee and the assignor in such proportion as may be agreed upon between them or as may in default of agreement be determined by the High Court on a reference under Section103. 3. Where by virtue of sub-section (3) of section 100, payments are required to be made by the Central Government or persons authorised under sub-section (1) of that section in respect of the use of an invention for the purposes of Government, and where in respect of such patent there is an exclusive licensee authorised under his licence to use the invention for the purposes of Government, such sum shall be shared by the	
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	patentee and such licensee in such proportions, if any, as may be agreed upon between them or as may in default of agreement be determined by the High Court on a reference under section 103 to be just, having regard to any expenditure incurred by the licensee- I. in developing the said invention; or ii. in making payments to the patentees other than royalties or other benefits determined by reference to the use of the invention in consideration of the licence.	
15.04	Acquisition of inventions and patents by the Central Government 1. The Central Government may, if satisfied that it is necessary that an invention which is the subject of an application for a patent or a patent should be acquired from the applicant or the patentee for a public purpose, publish a notification to that effect in the Official Gazette, and thereupon the invention or patent and all rights in respect of the invention or patent shall, by force of this section, stand transferred to and be vested in the Central Government. 2. Notice of the acquisition shall be given to the applicant, and, where a patent has been granted, to the patentee and other persons, if any, appearing in the register as having an interest in the patent. 3. The Central Government shall pay to the applicant, or as the case may be, the patentee and other persons appearing on the register as having an interest in the patent such other compensation as may be agreed upon between the Central Government and the applicant or the patentee and other persons; or, as may, in default of agreement, be determined by the High Court on a reference under section 103 to be just having regard to the expenditure incurred in connection with the invention and, in the case of a patent, the term thereof, the period during which and the manner in which it has already been worked (including the profits made during such period by the patentee or by his licensee whether exclusive or otherwise) and other relevant factors.	Section 102
15.05	Reference of disputes to High Court regarding use/acquisition 1. Any dispute as to the exercise by the Central Government or a person authorised by it of the powers conferred by section 100, or as to terms for the use of an invention for the purposes of Government thereunder or as to the right of any person to receive any part of a payment made in pursuance of sub-section (3) of that section or as to the amount of compensation payable for the acquisition of an invention or a patent under section 102, may be referred to the High Court by either party to the dispute in such manner as may be prescribed by the rules of the High	Section 103

	Court. 2. In any proceedings under this section to which the Central Government is a party, the Central Government mayi. If the patentee is a party to the proceedings, petition by way of counter-claim for revocation of the patent on any ground upon which a patent may be revoked under section 64; and ii. Whether a patentee is or is not a party to the proceedings, put in issue the validity of the patent without petitioning for its revocation. 3. If in such proceedings as aforesaid any question arises whether an invention has been recorded, tested or tried as is mentioned in section 100, and the disclosure of any document regarding the invention, or of any evidence of the test or trial thereof, would, in the opinion of the Central Government, be prejudicial to the public interest, the disclosure may be made confidentially to the advocate of the other party or to an independent expert mutually agreed upon. 4. In determining under this section any dispute between the Central Government and any person as to terms for the use of an invention for the purposes of Government, the High Court shall have regard to any benefit or compensation which that person or any person from whom he derives title, may have received, or may be entitled to receive, directly or indirectly in respect of the use of the invention in question for the purposes of Government. 5. In any proceedings under this section, the High Court may at any time order the whole proceedings or any question or issue of fact arising therein to be referred to an official referee, commissioner or an arbitrator on such terms as the High Court may direct, and references to the High Court in the foregoing provisions of this section shall be construed accordingly. 6. Where the invention claimed in a patent was made by a person who at time it was made was in the service of the Central Government or of a State Government or was an employee of a Government undertaking and the subject-matter of the invention is certified by the relevant Government or the principal officer of the Government undertaking to be connected with the work done in the course of the normal duties of the Government servant or employee of the Government undertaking, then, notwithstanding anything contained in this section, any dispute of the nature referred to in sub-section (1) relating to the invention shall be disposed off by the Central Government conformably to the provisions of this section so far as may be applicable, but before doing so the Central Government shall give an opportunity to the patentee and such other parties as it considers have an interest in the matter to be heard.	
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Clause		Sections and Rules
16.01	Patent Agents 1. A patent application can be filed and prosecuted by an Applicant himself or through a registered Indian patent agent. The Register of Patent Agents containing the names and addresses of all the registered patent agents is available at: https://iprsearch.ipindia.gov.in/AgentRegister/ 2. The Patents Act read with the Patents Rules prescribe the qualifications and the eligibility for becoming a patent agent. In order to get registered as a patent agent one has to pass an examination conducted by the Controller General of Patents. The notification concerning the examination is published in the official website www.ipindia.gov.in and also in at least one prominent Newspaper. 3. In order to be qualified for registration as a patent agent in the register of patent agents, one has to be a citizen of India, above the age of 21, and should have obtained a degree in science, engineering or technology from any University established under law in the territory of India or possesses such other equivalent qualifications as the Central Government may specify in this behalf. 4. A person who has functioned either as an examiner or discharged the functions of the Controller or both, under section 73 for a period of not less than ten years shall also be qualified to have his name entered in the register of patent agents. However, at the time of making the application for registration, he should have ceased to hold the capacity of Examiner or Controller. 5. All matters relating to registration and subsequent procedures regarding patent agents are dealt with by the Office of the Controller General of Patents, Designs and Trademarks, Mumbai. Particulars to be contained in the Register of Patent Agents: 1. The register of patent agents maintained under section 125 shall contain the name, nationality, address of the principal place of business, addresses of branch offices, if any, the qualifications, the date of registration of every registered patent agent and the details of their renewal of registration and any other particulars so specified by	

	the Controller. 2. Where the register of patent agents is in electronic form, it shall be maintained and accessed only by the person who is duly authorised by the Controller and no entry or alteration of any entry or rectification of any entry in the said register shall be made by any person who is not so authorised by the Controller. 3. Register of patent agents shall contain requisite details as available at https://iprsearch.ipindia.gov.in/AgentRegister/ Application for Registration of Patent Agents: 1. Every person who desires to be registered as a patent agent shall make an application in Form 22. 2. The applicant shall furnish such other information as may be required by the Controller. 3. A person desirous to appear in the qualifying examination under rule 110(1)-(3) shall make a request to the Controller along with the fees specified in the First Schedule after announcement of such examination and within the period as may be specified in the announcement. Particulars of the Qualifying examination for Patent Agents 1. The qualifying examination under section 126(1)(c)(ii) shall consist of a written test and a viva voce examination with the following papers and marks, namely: Paper I -The Patents Act, 1970 (39 of 1970), The Patents Rules, 2003, The Designs Act, 2000 (16 of 2000) and The Designs Rules, 2001100 marks Paper II - Drafting and interpretation of patent specifications, design specifications and other documents100 marks Viva Voce..... 50 marks A candidate shall be required to secure a minimum of fifty marks in Paper I and Paper II and shall be declared to have passed the examination only, if he obtains an aggregate of sixty percent of the total marks. 2. For the application to register as patent agent under Rule 109(1) and	
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	Rule 112, and subsequent continuance of the name in the register of patent agents, the required fee as per the First Schedule should be paid.	
16.02	Disqualifications for Registration as Patent Agent A person shall not be eligible to be registered as a patent agent, if he- 1. has been adjudged by a competent court to be of unsound mind; 2. is an undischarged insolvent; 3. being a discharged insolvent, has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part; 4. has been convicted by a competent court, whether within or outside India of an offence to undergo a term of imprisonment, unless the offence of which he has been convicted has been pardoned or unless on an application made by him, the Central Government has, by order in this behalf, removed the disability; 5. being a legal practitioner, has been guilty of professional misconduct; or 6. being a chartered accountant, has been guilty of negligence or misconduct.	Rule 114
16.03	Rights of patent agents A patent agent is entitled- 1. to practice before the Controller; and 2. to prepare all documents, transact all business and discharge such other functions as may be prescribed in connection with any proceedings before the Controller under this Act.	Section 127
16.04	Subscription and verification of certain documents by a Patent Agent All applications and communications to the Controller under this Act may be signed by a patent agent authorized in writing on this behalf by the person concerned.	Section 128
16.05	Restrictions on Practice as Patent Agents Only a person registered as a patent agent is authorized to practice. In the case of a partnership, all the partners should be registered as patent agents. No company or other body corporate shall practice, describe itself or hold itself out as Patent Agents or permit itself to be so described or held out.	Section 129

	For the purposes of this section, practise as a patent agent includes any of the following acts, namely:- - applying for or obtaining patents in India or elsewhere; - preparing specifications or other documents for the purposes of this Act or of the patent law of any other country; - giving advice other than of a scientific or technical nature as to the validity of patents or their infringement.	
16.06	Power of Controller to refuse to deal with certain agents The Controller may refuse to recognize as agent in respect of any business under this Act: - any individual whose name has been removed from, and not restored to, the register; - any person who has been convicted of an offence under section 123 of the Act; - any person, not being registered as a patent agent, who in the opinion of the Controller is engaged wholly or mainly in acting as agent in applying for patents in India or elsewhere in the name or for the benefit of the person by whom he is employed; - any company or firm, if any person whom the Controller could refuse to recognize as agent in respect of any business under this Act, is acting as a director or manager of the company or is a partner in the firm. - any person who neither resides nor has a place of business in India. If the Controller is of the opinion that any person should not be recognized as a patent agent in respect of any business under the Act as provided in sub-section (1) of section 131 thereof, he shall communicate his reasons to that person and direct him to show cause why he should not refuse to recognize him as such agent, within such time as he may allow, and after considering the reply, if any, of that person and giving him an opportunity of being heard, the Controller may pass such orders as he may deem fit.	Section 131, Rule 119
16.07	Power of Controller to remove the name of a Patent Agent: - The name of any person from the Register can be removed if the Controller is satisfied that: - - his/her name has been entered in the Register by error on account of misrepresentation or suppression of material fact; or - he/she has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which in the opinion of the Controller renders him unfit to	Section 130 Rule 116

	be kept in the register. 2. The Controller shall take such a decision after giving that person a reasonable opportunity of being heard and after any further inquiry, as he thinks fit to make. Removal of a name from the Register of patent agents- 1. The Controller may delete from the register of patent agents, the name of any patent agent- a) from whom a request has been received to that effect; or b) when he is dead; or c) when the Controller has removed the name of a person under sub-section(1) of section 130; or d) if he has defaulted in the payment of fees specified in rule 115, by more than three months after they are due; or e) if he ceases to be a citizen of India Provided that except under clause (a) and (b), before removing the name of any person from the register of patent agents under this rule, such person shall be given a reasonable opportunity of being heard. 2. The decision of the removal of the name of any person from the Register of Patent Agents shall be published and shall be communicated to the person concerned.	
16.08	Restoration of names of Patent Agents 1. Restoration of names of persons removed from the register of Patent Agents can be made by the Controller on Application made in Form 23 within two months from the date of such removal. 2. The restoration of name to the register shall be published on the official website and communicated to the person concerned. 3. If the name of a person is entered in the register of Patents Agents, his name shall be continued therein for a period of one year from the date on which his last annual fee became due.	Section 130(2), Rule 117 Form-23
16.09	Alteration of names of Patent Agents 1. A patent agent may apply for the alteration of his name, address of the principal place of business and branch offices, if any, or the qualifications entered in the register of patent agents, e-mail address, telephone number, or any other particulars under sub- section (1) of section 125. On receipt of such application and the fee specified therefor in the First Schedule for such request for alteration of particulars, the Controller shall cause the necessary alterations to be	Section 125 Rule 118

	made in the register of patent agents. 2. Every alteration made in the register of patent agents shall be published.	
16.10	Agency 1. The authorization of an agent for the purposes of the Act and the Rules shall be filed in Form 26 or in the form of Power of attorney (General Power of attorney/Specific power of attorney/ Substitute power of attorney) shall be filed with appropriate stamp duty as per the Indian Stamp Act within a period of three months from the date of filing of such application or documents for further processing till such deficiency is removed. 2. Where any authorization has been made under the sub rule (1), service upon the agent of any document relating to the proceedings or matter under the Act or the rules shall be deemed to service upon the person authorizing him and all communications directed to be made to a person so authorizing him and all directed to be made to a person in respect of any proceedings or matter may be addressed to such agent, and all appearances before the Controller relating thereto may be made by or through such agent. The controller may if it is considered necessary require the personal signature or presence of applicant, opponent or party to such proceeding or matter. 3. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules.	Rule 135, Rule 138,
16.11	Applicant's right to draft and appear 1. The applicant or applicants for a patent is allowed to draft the specification and further he is allowed to appear or act before the Controller for processing of his application. 2. An advocate duly authorized by the applicant, not being a patent agent is allowed to appear for hearing before the Controller on behalf of a party who is taking part in any proceedings under this Act.	Section 132

Clause		Sections and Rules
17.01	Contravention of Section 35 or 39 If any person fails to comply with any direction given under section 35 or makes or causes to be made an application for the grant of a patent in contravention of section 39, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.	Section 118
17.02	Falsification of entries in register, etc. If any person makes a false entry in any register kept under the Patents Act or provides any writing or evidence as a result of which the entry in the register results into a false entry, knowing the entry or writing to be false, then he is punishable with imprisonment for a term that may extend to two years or with fine or with both.	Section 119
17.03	Unauthorized Claim of Patent Rights If any person falsely represents that any article sold by him is patented in India or is the subject of an Application for a Patent in India, he shall be liable to penalty which may extend to ten lakh rupees, and in case of the continuing claim, a further penalty of one thousand rupees for every day after the first during which such claim continues.	Section 120 Patents Act, The Jan Viswas (Amendment of Provisions) Act, 2023
17.04	Refusal or failure to supply information If any person refuses or fails to furnish information as required under Sections 100(5) and 146, he shall be liable to a penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues. Section 100(5) provides that any person including a Government undertaking using a patented invention for the purpose of Government has to furnish any information on the use of invention as required by the Central Government and Section 146 provides that the patentee has to furnish a statement regarding the working of the patented invention in a commercial scale in India in Form 27. For details, please refer to Chapter 11.05 of the Draft Manual. If he furnishes false information knowingly, he shall be liable to	Section 122 Patents Act, The Jan Viswas (Amendment of Provisions) Act, 2023

	penalty for a sum equal to one half percent of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five crore rupees, whichever is less.	
17.05	Practice by non-registered persons Any person practicing as a Patent Agent without registering himself as such is liable for a penalty, which may extend to five lakh rupees, and in case of the continuing default, a further penalty of one thousand rupees for every day after the first during which such default continues.	Section 123, Patents Act, The Jan Viswas (Amendment of Provisions) Act, 2023
17.06	Offences by Companies 1. When an offence is committed by a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty and shall be liable to be proceeded against and punished accordingly. However, if such person proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence, he shall not be liable. 2. Notwithstanding anything contained above, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent, connivance or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. For the purpose of this section (a) “company” means anybody corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.	Section 124

17.07	Adjudication of penalties The Controller can issue an order allowing an officer mentioned in section 73 to act as the adjudicating officer. This officer will be responsible for conducting an inquiry and imposing a penalty in the prescribed manner under the provisions of this Act, after giving the person concerned a reasonable opportunity of being heard.	Section 124A, The Jan Viswas (Amendment of Provisions) Act, 2023
17.08	Appeal 1. Anyone who is aggrieved with an order made by the adjudicating officer under section 124A can appeal to the appellate authority. This authority must be an officer who is at least one rank higher than the adjudicating officer. The appeal must be made within sixty days from the date the person receives the order. The Central Government will issue a notification to authorize the appellate authority for this purpose. 2. The appeal shall be filed in prescribed manner and form. An appeal can be accepted even after the sixty-day period has expired if the appellant can convince the appellate authority that there was a sufficient reason for not filing the appeal on time. 3. No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. 4. The appellate authority shall dispose of the appeal within sixty days from the date of filing the appeal. 5. Even if there is something else in this law, if a person fails to comply with the order of the adjudicating officer under section 124A or the order of the appellate authority within ninety days, he shall, in addition to the penalty, be punishable with a fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both. NOTE: Central Government had notified (dated 26th July 2024) that the 1st August, 2024 as the date on which the provisions of the Jan Vishwas (Amendment of Provisions) Act, 2023 shall come into force.	Section 124B, The Jan Viswas (Amendment of Provisions) Act, 2023

Clause		Sections and Provision
18.01	Certain Powers of Civil Court to Controllers: Subject to any rules made in this behalf, the Controller in any proceedings before him under this Act, has the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Act No. 5 of 1908) in respect of the following matters, namely: 1. Summoning and enforcing the attendance of any person and examining him on oath; 2. Requiring the discovery and production of any document; 3. Receiving evidence on affidavits; 4. Issuing commissions for the examination of witnesses or documents; 5. Awarding costs; 6. Reviewing his own decision on application made within the prescribed time and in the prescribed manner; 7. Setting aside an order passed ex-parte on application made within the prescribed time and in the prescribed manner; 8. Any other matter which may be prescribed.	Section 77 Rule 136 Order XLVII of CPC, 1908.
18.02	Awarding Costs 1. Any order for costs awarded by the Controller in exercise of the powers conferred upon him is executable as a decree of a civil court. In all proceedings before the Controller, costs may be awarded by the Controller, as he considers reasonable, having regard to all the circumstances of the case. 2. However, the amount of costs awarded in respect of any matter set forth in the Fourth Schedule shall not exceed the amount specified therein. 3. Notwithstanding anything contained in (1) above, the Controller may, in his discretion, award a compensatory cost in any proceeding before him which in his opinion is false or vexatious.	Section 77(1)(e) Rule 63, 136

18.03	Review 1. Any person considering himself aggrieved by any order or decree of the Controller from which an appeal is allowed but no appeal has been preferred, or from which no appeal is allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order or decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of the order or decree to the Controller. 2. An application to the Controller for the review of his decision under clause (f) of sub-section (1) of section 77 shall be made in Form 24 within one month from the date of communication of such decision to the applicant or within such further period not exceeding one month thereafter as the Controller may on a request made in form 4 allow. 3. An application for review shall be accompanied by a statement setting forth the grounds on which the review is sought. 4. Where the decision in question concerns any other person in addition to the applicant, the Controller shall forthwith transmit a copy of each of the application and the statement to the other person concerned. 5. An application to the Controller for setting aside an order passed by him ex-parte under clause (g) of sub-section (1) of section 77 shall be made in Form 24 within one month from the date of communication of such order to the applicant or within such further period not exceeding one month as the Controller may, on a request made in Form 4, allow and shall be accompanied by a statement setting forth the grounds on which the application is based. Where the order concerns any other person in addition to the applicant, the Controller shall, forthwith transmit a copy each of the application and the statement to the other person concerned. In the context of review petition, the Hon'ble Supreme Court of India, in the matter of Kamlesh Verma vs Mayawati and Others [(2013) 8 SCC 320]⁴⁰ in para 15 held that <i>“...Review petition are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction...” Further in para 16, the Hon'ble court had listed out the grounds of review which are maintainable and non-maintainable as stipulated by the statute, which are as follows-</i>	Section 77(1)(f). Rule 130.
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⁴⁰ Kamlesh Verma vs Mayawati and Others [(2013) 8 SCC 320]

	<i>“... (A) When the review will be maintainable: - (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him; (ii) Mistake or error apparent on the face of the record; (iii) Any other sufficient reason. The word "any other sufficient reason" has been interpreted in Chhajju Ram vs. Neki, AIR 1922 PC 112⁴¹ and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors., (1955) 1 SCR 520⁴², to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India vs. Sandur Manganese & Iron Ores Ltd. & Ors., JT 2013 (8) SC 275⁴³.</i> <i>(B) When the review will not be maintainable: - (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications. (ii) Minor mistakes of inconsequential import. (iii) Review proceedings cannot be equated with the original hearing of the case. (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error. (vi) The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched. (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition. (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated....”</i>	
18.04	Petition for Obviating an Irregularity - Any document for the amendment of which no special provision is made in the Act may be amended and any irregularity in procedure, which in the opinion of the Controller may be obviated without detriment to the interests of any person, may be corrected if the Controller thinks fit and upon such terms as he may direct. - The provisions contained in sub-rule (1) shall not be applicable for matters related to- - extension of time or condonation of delay under sub-rule (5) of rule 12; - clause (i) of sub-rule (4) and sub-rule (6) of rule 20; - rule 21;	Rule 137, 137(2).

⁴¹ [Chhajju Ram vs. Neki, AIR 1922 PC 112](#)

⁴² [Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors., \(1955\) 1 SCR 520](#)

⁴³ [Union of India vs. Sandur Manganese & Iron Ores Ltd. & Ors., JT 2013 \(8\) SC 275](#)

	iv. sub-rules (1), (5) and (6) of rule 24B; v. sub-rules (10) and (11) of rule 24C; vi. sub-rule(4) of Rule 55; vii. sub-rule (1A) of rule 80; viii. sub-rules (1) and (2) of rule 130; (ix) sub-rule (2) of rule131.	
18.05	Mention of Inventor in Patent If the controller is satisfied, upon a request or claim made in accordance with the provisions of this section, 1. that the person in respect of or by whom the request or claim is made is the inventor of an invention in respect of which application for a patent has been made, or of a substantial part of that invention; and 2. that the application for the patent is a direct consequence of his being the inventor, the Controller shall, subject to the provisions of this section, cause him to be mentioned as inventor in any patent granted in pursuance of the application in the Complete Specification and in the Register of patents: a) Such a request or claim shall be accompanied by a statement setting out the circumstances under which the claim is made. b) However, the mention of any person as inventor under this section shall not confer or derogate from any rights under the patent. c) A request that any person shall be mentioned as aforesaid may be made in the prescribed manner by the applicant for the patent or (where the person alleged to be the inventor is not the applicant or one of the applicants) by the applicant and that person. d) If any person [other than a person in respect of whom a request in relation to the application in question has been made under sub-section (2)] desires to be mentioned as aforesaid, he may make a claim in the prescribed manner on that behalf. e) A request or claim under the foregoing provisions of this section shall be made before the grant of patent. f) Where such a claim is made, the Controller shall give notice of the claim to every applicant for the patent (not being the claimant) and to any other person whom the Controller may consider to be interested and before deciding upon any such request or claim, the Controller shall, if required, hear the person in respect of or by whom the request or claim is made, and also any person to whom notice of the claim has been given as aforesaid.	Section 28. Rules 57-63, 66-70. Form 8.

	g) Where any person has been mentioned as inventor in pursuance of such an application, any other person who alleges that he ought not to have been so mentioned may at any time apply to the Controller for a certificate to that effect, and the Controller may, after hearing, if required, any person whom he may consider to be interested, issue such a certificate, and if he does so, he shall rectify the specification and the register accordingly. h) The procedure specified in rules 55A and 57 to 63 relating to the filing of notice of opposition, written statement, reply statement, leaving evidence, hearing and cost (except the procedural part related to Opposition Board included under rule 62 (1) and 62 (5)) shall, so far as the case may be, apply to the hearing of such a claim or application as they apply to the opposition proceedings subject to the modification that reference to patentee shall be construed as the person making the claim, or an application, as the case may be. i) Any mention of the inventor under sub-section (1) of section 28 shall be made in the relevant documents in the following form namely: - The inventor of this invention/substantial part of this invention within the meaning of section 28 of the Patents Act, 1970, [Name of Inventor] of [Address/Nationality]	
18.06	Certificate of inventorship The Controller may issue a certificate of inventorship to an inventor in respect of a patent in force if the inventor requests it by submitting Form-8A and paying the fee mentioned in the First Schedule. The Controller can issue a duplicate certificate of inventorship to an inventor for an active patent if the inventor requests it by submitting Form-8A and paying the required fee. The request shall contain a statement setting out the circumstances in which the original certificate of inventorship was lost, destroyed, damaged or cannot be produced.	Rule 70A, Form 8A
18.07	Directions Not Otherwise Prescribed 1. Where for the proper prosecution or completion of any proceedings under the Act or these rules, the Controller is of the opinion that it is necessary for a party to such proceedings to perform an Act, file a document or produce evidence, for which provision has not been made in the Act or these rules, he may, by notice in writing, require such party to perform the Act, file the document or produce the evidence specified in such notice.	Rule 128

	2. Where an applicant or a party to a proceeding desires to be heard or not heard, the Controller may, at any time, require him to submit his statement in writing giving such information as the Controller may deem necessary within the time specified by him.	
18.8	Exercise of Discretionary Power by the Controller 1. Before acting adverse to any party, the Controller shall give an opportunity of being heard to the party. The discretionary powers shall be exercised with due care and caution and not in an arbitrary manner. Such reasons shall be taken judiciously and the reasons shall be recorded in the file. However, this will not apply to actions resulting from provisions in the Act and Rules. 2. A party desiring a hearing shall make the request for such hearing to the Controller at least ten days in advance of the expiry of the time-limit specified in respect of the proceeding. 3. Before exercising any discretionary power under the Act or these rules which is likely to affect an applicant for a patent or a party to a proceeding adversely, the Controller shall give such applicant or party a hearing, after giving him or them, ten days' notice of such hearing ordinarily. 4. An applicant for a patent or a party to a proceeding may make a request for adjournment of the hearing with reasonable cause along with the prescribed fee as per First Schedule, at least three days before the date of hearing. 5. The Controller, if he thinks fit to do so, and upon such terms as he may direct, may adjourn the hearing not more than twice and intimate the parties accordingly. Each adjournment shall not be for more than thirty days.	Section 80. Rule 129, 129A.

18.9	Power of Controller to Correct Clerical Errors, etc. 1. Without prejudice to the provisions contained in sections 57 and 59 as regards amendment of applications for patents or Complete Specifications or other documents relating thereto and subject to the provisions of section 44, the Controller may, in accordance with the provisions of this section, correct any clerical error in any patent or in any specification or other document filed in pursuance of such application or in any application for a patent or any clerical error in any matter which is entered in the register. 2. A correction may be made in pursuance of this section either upon a request in writing made by any person interested and accompanied by the prescribed fee, or without such a request. 3. Where the Controller proposes to make any such correction as aforesaid otherwise than in pursuance of a request, he shall give notice of the proposal to the patentee or the applicant for the patent, as the case may be, and to any other person who appears to him to be concerned, and shall give them an opportunity to be heard before making the correction. 4. Where a request is made under section 78 for the correction of any error in a patent or application for a patent or any document filed in pursuance of such an application, and it appears to the Controller that the correction would materially alter the meaning or scope of the document to which the request relates and ought not to be made without notice to persons affected thereby, he shall require notice of the nature of the proposed correction to be published in the official journal. 5. Such a request for the correction of a clerical error in any document shall be accompanied by a copy of the document highlighting the corrections clearly along with the prescribed fees. 6. Within the prescribed time after any such publication as aforesaid any person interested may give notice to the Controller of opposition to the request, and, where such notice of opposition is given, the Controller shall give notice thereof to the person by whom the request was made, and shall give to him and to the opponent an opportunity to be heard before he decides the case. 7. The procedure specified in rules 58 to 63 relating to the filing of reply statements, leaving evidence, hearing and costs shall, so far as may be, be applicable to the above proceedings, except the procedural provisions relating to the Opposition Board contained in Rules 62(1) and 62(5)..	Section 78. Rule 122, 124.
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Clause		Sections and Rules
19.01	General Services - Patent Office provides certain statutory and non- statutory services for the dissemination of information related to patent processing. - It may be noted that references to some of these services have already been made in the relevant Chapters. - These services are enumerated in the following paragraphs as per standards set by the Patent Office.	
19.02	Official Journal Every Friday the Controller publishes the Official Patent Journal electronically, which is made available on the official website of the Patent Office (www.ipindia.gov.in).	Section 145
19.03	Information relating to Patent Applications and Patents a. At the request of a person in prescribed format , the Controller provides the following information regarding a Patent or an Application for a Patent. Separate requests shall be made in respect of each item: i. as to when a Complete Specification following Provisional Specification has been filed or an Application for Patent is deemed to be abandoned; ii. as to when the information under Section 8 has been filed; iii. as to when Publication of Application has been made under Section 11 A; iv. as to when an Application has been withdrawn under Section 11B; v. as to when a request for examination has been made under Section 11B; vi. as to when the examination report has been issued under Section 12; vii. as to when an Application for Patent has been refused; viii. as to when a Patent has been granted;	Section 144, Section 153. Rule 134.

	ix. as to when a renewal fee has been paid; x. as to when the term of a Patent has expired or shall expire; as to when an entry has been made in the Register or Application has been made for the making of such entry; or xi. as to when any Application is made or action taken involving an entry in the Register, publication in the Official Journal or otherwise, if the nature of the Application or action is specified in the request. b. The report of the Examiner to the Controller under Section 12 is not open to the public unless directed by a Court of Law. c. Except (b) above, most of the information relating to patents is available on the official website. However, the information available on the official website of the Patent Office would not be sufficient for legal proceedings, for which a person may take recourse to (a) above. The fee payable on a request to be made under section 153 shall be as set out in the First Schedule.	
19.04	Inspection and supply of copies of documents 1. After the publication of application, the application along with the Complete Specification, Provisional Specification, drawing, if any, and the abstract may be inspected at the appropriate Patent Office. 2. After the grant of a patent, the application along with the Complete Specification, Provisional Specification, drawing, if any, and abstract and related thereto may be inspected at the concerned Patent Office. 3. Requests for inspection may be made in Form-30 along with the prescribed fee. 4. A person may obtain copies of any document open to the public upon payment of the prescribed fee. 5. Certified copy of any document open to the public may be obtained upon payment of prescribed fee. The certified copy of any document issued by the Patent Office with its seal is admitted in evidence in all Courts and in all proceedings in lieu of the original document. 6. Register of Patents may be inspected during the working hours of the Patent Office by making a written application along with the prescribed fee. However, the Register of patents is maintained	Section 72, 147. Rule 27, 74- A, 133 and Form 30

	electronically. 7. Certified copies of any entry in the e-Register is available upon the payment of prescribed fee. 8. Certified copies of any entry in the e-register, or certificates of, or extracts from patents, specifications and other public documents in the patent office, or from registers and other records including records in electronic form kept there, may be furnished by the Controller on a request therefor made to him and on payment of the fee specified therefor in the First Schedule 9. Notwithstanding anything contained above, certified copies can be furnished within a period of one week if such request is made along with the fee specified therefore in the First Schedule.	
19.05	Annual Report of the Patent Office The Patent Office publishes an annual report comprising statistical information pertaining to the activities of the Patent Office. Such a report is placed before both the Houses of Parliament, whereupon the report is made available on the official website.	Section 155
19.06	Information available at the Website The official website (www.ipindia.gov.in) provides the following information: ● Indian Patent Advanced Search System (inPASS) provides information on: - Granted Patents, - Details of Published Patent Applications with status and Status of granted patents. e-Register of Patents ● comprehensive e-filing - Dynamic Utilities - WIPO IP Diagnostics In addition, the following information is also available: ● News & Events/ Circulars by the Controller General ● Draft Manuals/ Guidelines ● Act & Rules. ● Controller's decisions. ● Ceased and Lapsed patents ● List of registered Patent Agents. ● FAQs ● A link of Open House Video conferencing sessions to address public grievances/ suggestions IP Care Centre-One Stop Solution for IP	

	Queries, IP Saarthi (AI-Powered Assistant) CG's Newsletter. ● International Cooperation ● IPR: ICeR (INDIAN CUSTOMS IPR RECORDATION PORTAL), ● Accessibility of Person with Disabilities	
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Clause		Sections and Rule
20.01	Scientific Advisers 1. In any suit for infringement or in any proceeding before a Court under this Act, the Court may at any time, suo-moto or on an application made by a party, appoint an independent Scientific Advisor to assist the Court or to inquire and report upon any such questions of fact or of opinion (not involving a question of interpretation of law) as it may formulate for the purpose. 2. The remuneration of the Scientific Advisor shall be fixed by the Court and shall include the cost of preparing/making a report and appropriate fee for Scientific Advisor for any day on which he/she may be required to attend the hearing of the Court, and such remuneration shall be defrayed out of funds provided by the Parliament under law for such purpose.	Section 115, Rule 103
20.02	Roll of Scientific Advisers 1. The Controller shall maintain a roll of scientific advisers for the purpose of section 115. The roll shall be updated annually. The roll shall contain the requisite details of scientific advisers, their designations, information regarding their educational qualifications, the disciplines of their specialisation and their technical, practical and research experience. 2. A person shall be qualified to have his name entered in the roll of scientific advisers, if he- (i) holds a degree in science, engineering or technology or equivalent; (ii) has at least fifteen years technical, practical or research experience; and (iii) holds or has held a responsible post in a scientific or technical department of the Central or State Government or in any organisation. The panel/list is also accessible / made available on the official website of the Patent Office list of scientific Advisers	Rule 103, 103A

	3. Disqualifications for inclusion in the roll of scientific advisers A person shall not be eligible to be included in the roll of scientific Advisers, if he - (i) has been adjudged by a competent court to be of unsound mind; or (ii) is an undischarged insolvent; or (iii) being a discharged insolvent, has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part; or (iv) has been convicted by a competent court, whether within or outside India of an offence to undergo a term of imprisonment, unless the offence of which he has been convicted has been pardoned or unless on an application made by him, the Central Government has, by order in this behalf, removed the disability; or (v) has been guilty of professional misconduct.	
20.03	Qualifications and Procedure for empanelment/enrollment 1. Any interested person who is qualified to have his/her name entered in the panel/list/roll of scientific Advisers. However, where the Controller is of the opinion that it is necessary or expedient to do so, he may, by order, for reasons to be recorded in writing, relax any of the qualifications specified above, with respect to any person, if such person is otherwise well qualified. 2. Any person interested may apply at any time to the Controller for inclusion of his/her name in the roll of scientific Advisers by furnishing his/her bio-data. 3. The list/roll is updated and published annually.	Rule 103, 104, 105, 106
20.04	Removal from the roll/panel of Scientific Advisor 1. The Controller may remove the name of any person from the roll of scientific Advisers, if (i) such person makes a request for such removal; or (ii) the Controller is satisfied that his/her name has been entered in the roll by error or on account of misrepresentation or suppression of any material fact; or (iii) such person has been convicted of an offence and sentenced to a term of imprisonment or has been guilty of misconduct in	Section 115 Rule 107

	his professional capacity and the Controller is of the opinion that his/her name should be removed from the roll; or (iv) such person is dead: Provided that except in the cases falling under clause (i) and (iv) above, before removing the name of any person from the roll of scientific advisers under this rule, such person shall be given a reasonable opportunity of being heard.	
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21.01	Affidavits a. Notwithstanding anything to the contrary as and when directed by the Controller, in all proceedings before the Controller under this Act, evidence shall be given by way of an affidavit. b. In cases where the Controller deems it appropriate to do so, he may take oral evidence in lieu of, or in addition to, evidence by way of an affidavit, or may allow any party to be cross-examined on the contents stated in his/her affidavit. c. The affidavits required to be filed before the Controller of Patents under the Act or rules shall be duly sworn in the manner as prescribed under Clause (e) below. d. Affidavits shall be confined to such facts as the deponent is able, of his own knowledge, to prove except in interlocutory matters, where statements of belief of the deponent may be admitted, provided the grounds thereof are given. e. Affidavits shall be sworn to as follows: i. In India - before any Court or person having by law authority to receive evidence, or before any officer empowered by such court as aforesaid to administer oaths or to take affidavits; ii. In any country or place outside India - before a diplomatic or consular officer, within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948); in such country or place or before a notary public of the country or place, recognised by the Central Government under section 14 of the Notaries Act, 1952 (53 of 1952); or before a Judge or Magistrate of the country or place. f. Alterations and interlineations shall, before an Affidavit is sworn to or affirmed to be authenticated by the initials of the person before whom the Affidavit is sworn to.	Section 79. Rule 126. Diplomatic and Consular Officers (Oaths and Fees) Act, 1948. Notification s u/s 14 of the Notaries Act, 1952.
21.02	Exhibits Where there are exhibits to be filed in an opposition matter or any other proceeding, a copy or impression of each exhibit shall be supplied to the other party at his request and expense; if copies or impressions of the exhibits cannot conveniently be furnished, the originals shall be left with the Controller for inspection by the person interested by prior appointment. The exhibits in original, if not already left with Controller, shall be	Rule 127

	produced at the hearing	
21.03	Hearing to be in public in certain cases Where the hearing is held before the Controller in respect of any dispute between two or more parties relating to an application for a patent or to any matter in connection with a patent after the date of the publication of the Complete Specification, the hearing of the dispute shall be in public unless the Controller, after consultation with the parties to the dispute who appear in person or are represented at the hearing, otherwise directs.	Rule 139
21.04	Agency – Power of Attorney For details, please refer to Chapter 16.10	Rule 135. Form-26.

22.01	Time limits Time limits for various actions while prosecuting a patent application and also for post grant procedures have been either specifically provided in the Patents Act or prescribed through the Patents Rules. These time limits are required to be followed strictly by every person concerned. Failure to adhere to the legally imposed time limits may turn out to be detrimental to the interests of the applicants, patentees or any other person interested.	
22.02	Petition for obviating any irregularity in procedure - Any document for the amendment of which no special provision is made in the Act may be amended and any irregularity in procedure which in the opinion of the Controller may be obviated without detriment to the interests of any person, may be corrected if the Controller thinks fit and upon such terms as he may direct. - The above provisions shall not be applicable for matters related to- - extension of time or condonation of delay under rule 12(5); - clause (i) of sub-rule (4) and sub-rule (6) of rule 20; - rule 21; - sub-rules (1), (5) and (6) of rule 24B; - sub-rules (10) and (11) of rule 24C; - sub-rule (4) of Rule 55; - sub-rule (1A) of rule 80; - sub-rules (1) and (2) of rule 130; - sub-rule (2) of rule 131.	Rule 137
22.03	Petition for extension of time The time specified for doing any act or taking any proceeding thereunder may be extended or any delay may be condoned by the Controller for a period up to six months, upon a request made in Form 4, where such request is made before the expiry of the said period of six months: Provided that such request may be made any number of times within the specified period of six months.	Rule 138

22.04	Time limits prescribed by the Patents Act, 1970 and Patents Rules, 2003
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S.N.	Description	Time	Provision
1.	Proof of right to make an application	Six months from the date of filing of application.	Section 7(2) Rule 10, Rule 138
2.	Statement and undertaking Regarding foreign applications	Six months from the date of Filing of application and may be extended for a period of three months upon a request made in Form 4.	Section 8(1)(a) Rule 12(1A), Rule 12(5) Rule 138
3.	Subsequent information Corresponding to foreign filing	Three months from the date of issuance of first statement of objections. under sub-rule (3) of rule 24B or Sub-rule (8) of rule 24C and may be extended for a period of three months upon a request made in Form 4	Section 8(1)(b) Rule 12(2), Rule 138
4.	Information relating to objections in respect of novelty, patentability etc. in foreign filing	Two months from the date of communication by Controller along with the reasons recorded in writing and may be extended for a period of three months upon a request made in Form 4	Section 8(2) Rule 12(3), Rule 12(4), Rule 12(5) Rule 138
5.	Filing a Complete Specification after filing Provisional Specification	Twelve months from the date of filing of the Provisional Specification	Section 9(1)
6.	Declaration of Inventorship (Form 5)	With the Complete Specification or within one month from the date of filing of the Complete Specification as the Controller may allow on an application made in Form-4	Rule 13(6), Rule 138
7.	Reference to deposit of biological material	Three months from the date of filing of application	Section 10(4)(A), Rule 13(8), Rule 138
8.	Convention application	Twelve months from the date of filing of the basic application	Section 135(1)
9.	Convention application (in case of multiple priorities)	Twelve months from the date of filing of first filed basic application	Section 135(1)
10.	Convention application (cognate)	Twelve months from the date of earliest filed application	Section 135(2)

11.	PCT national phase application	Thirty one months from the Priority date	Rule 20(4)(i)
12.	Priority document (for convention application)	Three months from the date of communication from the Controller	Section 138(1) Rule 121, Rule 138
13.	Publication of application	Ordinarily within one month from the expiry of eighteen months from the date of filing or priority date, whichever is earlier, or within one month from the date of request for early publication in Form 9	Rule 24, 24-A
14.	Withdrawal of application to prevent publication	Fifteen months from date of Filing or priority, whichever is earlier	Section 11-A(3)(c)
	Request for withdrawal of application	Any time before the grant of Patent (Form 29)	Section 11-B(4), Rule 26
	Request for withdrawal and refund of Fee	In case withdrawal is requested after filing Request for examination but before issuance of FER, then fee is refunded as prescribed in the First Schedule (Form 29).	Rule 7(4A) , Rule 26
15.	Request for examination	Thirty-one months from the date of filing or priority, whichever is earlier. For the applications filed before the commencement of the Patents (Amendment) Rules 2024 shall be Forty eight months from the date of filing or priority, whichever is earlier.	Section 11-B Rule 24-B, Rule 138
16.	Request for examination, where secrecy direction imposed	Thirty-one months from the date of filing or priority or within six months from the date of revocation of secrecy direction, whichever expires later. For the applications filed before the commencement of the Patents (Amendment) Rules 2024 shall be Forty eight months from the date of filing or priority or within six months from the date of revocation of secrecy direction, whichever expires later.	Rule 24-B(1)(iii), Rule 138
17.	Request for examination (Divisional Application)	Thirty-one months from date of filing or priority of first mentioned application, or within six months from date of filing of further application, which ever expires later. For the applications filed before the commencement of the Patents (Amendment) Rules 2024 shall be Forty	Section 11 B, Rule 24-B(1)(iv), Rule 138

		eight months from date of filing or priority of first mentioned application, or within six months from date of filing of further application, whichever expires later.	
18.	Time within which Examiner makes report to Controller	Ordinarily within one month but not exceeding three months from the date of such reference	Rule 24-B(2)(ii)
19.	Controller disposes off the report of Examiner	Ordinarily within one month from the date of receipt of report	Rule 24-B(2)(iii)
20.	First Examination Report (FER) to be sent by the Controller to applicant	Within one month from the date of disposal of the report of Examiner by the Controller	Rule 24-B(3)
21.	Time for complying with all requirements imposed by the Act	Six months from the date of issuance of the FER	Section 21(1) Rule 24-B(5)
22.	Extension Time for complying with all requirements	Further Extension up to three months shall be availed, on a request made in Form 4 as prescribed in the First Schedule, if requested before expiry of the period specified herein. As per amended Rule 138, the Controllers can extend the time limit prescribed for performing any act or condone any delay for a maximum period of six months by filling request in Form-4 in one go or multiple times before expiry of the time limit prescribed under the relevant Rules.	Section 21(1) Rule 24-B(6) Rule 138
23.	Time, after publication, before Expiry of which no patent is granted	Six months from the date of publication	Section 25(1) Rule 55(1A)
24.	Pre-grant opposition	Any time before the grant of patent	Section 25(1)
25.	Reply statement and evidence by applicant (pre-grant opposition)	Two months from the date of notice of the Controller.	Rule 55(4), Rule 138
26.	Decision by Controller upon pre-grant opposition	Ordinarily within one month from completion of the proceedings	Rule 55(5)
27.	Notice of opposition (post-grant opposition) along with the written statement of opposition and evidence	Before the expiry of one year from the date of publication of grant of patent	Section 25(2), Rule 57

28.	Reply statement and evidence by patentee	Two months from receipt of Opponent's written statement	Rule 58(1), Rule 138
29.	Reply evidence by opponent	One month from date of delivery of Patentee's reply statement	Rule 59, Rule 138
30.	Opposition Board submits report	Two months from the date on which documents were forwarded to the Board	Rule 56(4)
31.	Periodical review of secrecy directions	Every six months	Section 36(1)
32.	Controller disposes permission for filing abroad	Within a period of twenty-one days from the date of filing of such request made in Form 25	Section 39 Rule 71
33.	Time after which no permission is required for filing abroad	Six weeks after filing the application in India, where no direction for secrecy is imposed or application has not been referred to Department of Atomic Energy (DAE)	Section 39(1)
34.	Payment of due renewal fee, where patent has been granted after the expiry of two years from date of filing	Three months from the date of recordal in Register of Patents	Section 142(4)
35.	Extension in time for payment of renewal fee, where patent has been granted after expiry of two years from date of filing	Extendable by maximum six months	Section 142(4)
36.	Time for payment of the renewal fee from the expiration of second year from the date of patent or of any succeeding year	Before expiry of the nth year from date of patent in respect of the (n+1)th year. (For example, before expiration of the 2nd year from the date of patent in respect of 3rd year).	Rule 80(1)
37.	Extension in time for payment of renewal fee	Six months	Rule 80(1A), Rule 138
38.	Application for restoration of patent	Within Eighteen months from the date of cessation of the patent	Section 60, Rule 84(1), Form-15
39.	Notice of Opposition against restoration	Within Two months from date of publication of application for restoration	Section 61 Rule 85(1), Rule 138
40.	Payment of the unpaid renewal fee and additional fee when restoration allowed	Within One month from date of order	Rule 86(1), Rule 138

41.	Notice of Opposition against an offer to surrender a patent	Within Three months from the date of publication of the notice	Rule 87(2), Rule 138, Form-14
42.	Notice of Opposition against application for post-grant amendment	Within Three months from the date of publication of such application	Rule 81(3)(b), Rule 138
43.	Furnishing information relating to working of patent	It shall be furnished once in respect of every period of three financial years, starting from the financial year commencing immediately after the financial year in which the patent was granted, and shall be furnished within six months from the expiry of each such period. The controller may condone the delay or extend the time in filing of such statement for a period up to three months upon a request made in Form 4.	Section 146(2), Rule 131 (2), Rule 138
44.	Furnishing information relating to working of patent, upon notice of Controller	Two months from the date of notice	Section 146(1)

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