



Process of Patent in India

What is Patent? Know the Process of Patent in India and procedure to fill applications, Here we have 8 Steps to understand the whole procedure easily.

What is Patent?

A patent is an exclusive right grant for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application.

For understanding the procedure of patent in India, we must be familiar with three illustrations:

- **The inventor**: who innovates the idea.
- **Patent professional or attorney**: who carries out all the procedures required to file a patent.
- **Patent office**: where your patent gets approved.

We would be understanding all the procedures and involvement of these roles further.

The following steps to file a patent are:

Step 1 - Idea Incubation Phase

Everything begins with an idea. Make sure, when you get in touch with a patent professional you have all your ideas well-curated. Including all necessary drawings, diagrams, sketches explaining the working of your invention. The drawings and diagrams should be designed in a way that the person can understand easily and try to use visual illustrations. This step plays a very important role in the process of getting the patent. Once you have captured your idea and curate it with all the technical details, you can start with a preliminary search.

This search is for finding answers to questions that build a working disclosure of the invention.

Some of the questions in the invention disclosure form would be:

- What is my idea/invention? How does it work?
- What problem is my innovative idea solving?
- What is the field of my invention?
- Can I draw a block diagram or device or flowchart or sketch that explains my invention in a better way?
- What are the advantages of my invention over existing knowledge that is prior arts?
- Who are the competitors with what product or service?



- What are the advantages of my innovative idea?

This is the most important phase for the inventor where an idea is taken from the ideation phase to a working invention disclosure that can be discussed with a patent agent or attorney. The process is free.

Step 2- Patentability search

Your patent agent helps you with all the essential steps of patent filing. He/she works with you and helps you find out whether you meet the patentability criteria. Those criteria include:

Novelty

- Non-obviousness
- Industrial application

The patentability search is aimed towards finding out the novelty and nonobviousness of the invention, the search identifies the closest possible prior arts (known to the public) relating to your invention, and based on the results obtained an opinion about the patentability of your invention may be provided by a patent professional.

Based on the results found and reviewed in a patentability search report, the patentability opinion may be positive, negative, or neutral. A positive patentability opinion indicates you stand a good chance to get your patent granted for your invention.

The outcome of the patentability research:

- Gives you a wider angle for your invention.
- Compare your invention with a similar type of invention and if any loophole is found, gives you an opportunity to work and research more on your inventions.
- In case the patentability opinion is negative, then it saves a lot of cost and time which would have unnecessarily invested in proceeding with the patent filing process and eventually getting the application rejected.

Step 3- Patent drafting/writing

Patent drafting is a stage where your invention gets a disclosure.

It is a specialized job to draft a patent, it requires years of practice and experience to draft a patent application. To get an idea how the document looks, read some granted papers from your domain. A patent is a techno-legal document, technical as well as legal. Writing a patent as a project report or a technical thesis (on your own) and submitting it to the patent office would be a mistake that can cause loss of opportunity to patent your invention.

This is one of the most important steps in the life cycle of a patent and a good patent application written by an experienced patent agent/attorney should survive not only through the examination



phase till the grant of patent but also should survive the commercialization phase where actual money is made by licensing or selling patent rights, where competitors should not be able to work around your patent.

Cost: there is a fee for the patent professional which can cost from INR 25,000 to INR 40,000 depending upon the research work.

Duration: It takes 8-14 weeks for the application to get completed.

Outcomes from this step:

- A complete patent application can be filed at the patent office.
- If the patent is well-drafted, it can pass the examination.

Step 4- Patent filing application

Based on your application, it is to be decided whether to file a provisional patent application or complete a patent application. If you are not ready with your invention completely and want to conduct further research and development but do not want to miss out on the opportunity of dialing the patent, then go for the provisional patent.

The patents are territorial in nature, so if you file a patent in India, you are getting protection in India only. You cannot stop the use of inventions outside India then. Therefore, if you desire that your invention should be protected in multiple countries, depending on your preference of countries Different options, paths, and strategies for filing a patent application are to be adopted with the guidance of a patent agent/attorney.

International patent application:

- Different options and routes are available
- Strategies to go international
- Patent cooperation treaty (PCT) application

Cost: there is no cost for filing the patent in the patent office.

Duration: the time is required less than one day (if filed online)

The outcome of this step:

- You receive a receipt for filing a patent application in the government patent office with the invention title, your name along the time, and the date of filing.
- Now, your invention is safe and you have secured a priority date for your invention, which makes you less worried about the confidentiality and safety of your invention.
- The patent application will be taken to subsequent steps as performs, requests and fees are submitted as per standards.



Step 5- Publication of application

Generally, the application is automatically published 18 months from the filing date. No fee is required from the inventor. If you don't want to wait till the expiry of 18 months, An early publication request can be made along with prescribed fees.

Step 6- Request for examination

A patent application is examined only after receiving the request for examination (RFE). The inventor/applicant needs to file a request for examination (RFE) within 48 months of the filing date or priority date. Upon receiving the application the controller gives your application to the patent examiner who performs searches for checking the patent criteria. Then the examiner creates a first examination report.

Everything happening to the patent application before the grant of the patent is called patent prosecution.

The first examination report submitted to the controller by the examiner generally contains prior arts (existing documents before the date of filing) which are similar to the claimed invention, and any objections raised regarding patentability requirements for the invention. The same examination report (with objections) is communicated to you (inventor) / patent applicant.

Step 7- Response to objections

The majority of patent applicants (inventors) will receive some type of objection based on the examination report. The best thing to do is analyze the examination report with the patent agent/attorney and create a response to the objections raised in the examination report. This is a chance for an inventor to communicate his novelty and nonobviousness of the invention based on the kind of objections received.

You (as an inventor) / applicant are supposed to answer the objection raised within 12 months from the date on which the First examination report is forwarded to you.

The inventor and patent agent create and send a response to the objections that tries to prove to the controller that his invention is indeed patentable and satisfies all patentability criteria.

Or optionally accepts the objections and amends the patent application as pointed out in the First exam report.

If the controller is satisfied with the response to the objections or the amended patent application. Upon finding the patent application in order of grant, The patent is granted to you (inventor) / applicant as early as possible !!! with a seal of the patent office and the date of grant is registered in the register of patents.



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Step 8 - Grant Patent

The application would be placed in order for a grant once it is found to be meeting all patentability requirements.

Also Read,

- [Process of Getting a Passport | How to fill form?](#)
- [Process of Recruitment and 5 Steps | Steps to Fill one or more openings](#)

