

## **PROCEDURE OF REGISTRATION OF A PATENT IN INDIA**

### **I. Filing of Application**

An application for patent can be made by completing and submitting a set of forms along with the prescribed fees with the Indian Patent Office (IPO). All documents and information required for filing a patent application are filed via the e-filing portal of the IPO. If the IPO asks for any document in original, it has to be filed within 15 days of such a request, failing which such a document is deemed not to have been filed.

### **II. Publication**

At the end of eighteen months from the date of priority, the application gets published. It is possible to expedite publication on request in the prescribed format along with the prescribed fees. The publication will have the following particulars:

- Application Number
- Date of Filing
- Title of Invention
- Publication Date
- International Patent Classification
- Name and address of the applicant
- Name of the inventor(s)
- Priority details like priority document number, date, country etc.
- Abstract
- Number of Claims
- Drawings (if any)

After publication, the details of the specification and drawings filed with the application are open to public on the Indian Patent Office's website. A patentee can claim damages from the date of publication of the application. However, the patentee can institute a suit for infringement only after a patent is granted.

### **III. Examination**

Request for Examination (RFE) can be filed within 31 months of the date of the earliest priority in the prescribed format, along with the prescribed fees. The Controller issues a First Examination Report (FER) that may contain rejections to the grant of a patent. The applicant has 6 months' time from the date of issuance of the FER to put the application in order for grant, failing which the application is deemed to be abandoned. This date can be extended once, either for 1 or 2 or 3 months, and maximum up to 3 months, by filing a request for extension in the prescribed form with the prescribed fee. No application can be granted before the expiry of 6 months from the date of publication.

The process of examination can be expedited for a PCT application before the expiry of 31 months by applying in the prescribed format along with the prescribed fees.

The process of examination can be expedited by the following applicants by paying the prescribed fee:

- An applicant who has chosen India as an International Searching Authority (ISA) or as an International Preliminary Examining Authority (IPEA) in a corresponding PCT application;
- If the applicant is: a start-up or a small entity or a female natural person; or a government undertaking in accordance with section, in case of an Indian applicant, or is a similar entity in case of a foreign applicant; or if an applicant is eligible under an arrangement for processing an international application pursuant to an agreement between the IPO with another participating patent office.

#### IV. Opposition

- **Pre-grant opposition:** There is a provision for opposing a published application by submitting a representation on form 7A to the Controller of Patents. The said representation can be made after the publication but before the grant of patent application. There is a prescribed fee for this procedure. However, it is necessary that a request for examination has already been filed for the application.
- **Post-grant opposition:** Any patent can be opposed by an interested person within one year of the publication of grant of patent in a prescribed format along with prescribed fees. A successful opposition results in revocation of patent.

#### V. Grant

Patent is granted after successfully complying with the examiner's objections and successfully contesting pre- grant opposition, if any. It normally takes 4-5 years for a patent to be granted.

#### VI. Renewal

To keep a patent in force renewal fees is payable at the expiration of second year from the date of the patent or of any succeeding year. In other words renewal fee has to be every year up to the completion of 20 years. Renewal fees can be paid beyond the due date within a period of 6 months from the due date by filing the prescribed form along with the prescribed fees. If 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 may be made within a period of 3 months from the date of recording the patent in the register. This time is also extendable by 6 months as described earlier. If a renewal fee is not paid within the due date, the patent lapses. The lapsed patent can be restored by filing a petition, along with the prescribed fee, within 18 months from the date of lapse.

## **VII. Term**

The term of the patent is 20 years from the date of filing of the application. In case of PCT applications it is 20 years from the date of filing of the International Application under PCT.