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A Comprehensive Guide to Patents in India

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Introduction

An inventor may prevent others from creating, using, or selling his creation by using a patent, which is an exclusive right granted to him over it. According to the World Intellectual Property Organisation (WIPO), a patent is an exclusive right given for an invention (product/process).

The Patents Act, 1970 governs patents in India. Patents serve two goals to promote creativity. First and foremost, they support the inventors' financial security. Second, by making the invention's details public, it is made apparent to the populace of the nation that a patent application for a similar idea will not be considered, which promotes more innovation.

It either offers a technical solution to a problem or a new way of doing something. Overall, novelty, non-obviousness, and usefulness are the three main requirements that must be met before a patent can be granted.

Requirements of getting a Patent

To be granted a patent, an invention must meet the following criteria:

1. Novelty: As per Section 2(1)(j) of the Indian Patent Act, 1970, the invention must be new and not previously disclosed or used publicly before the filing date of the patent application. It should not be part of the existing knowledge or state of the art.
2. Inventive Step: According to Section 2(1) (ja) of the Patent Act, 1970, the invention must involve a technical advancement or economic significance compared to existing knowledge. It should not be obvious to a person skilled in the relevant field.
3. Industrial Application: As per Section 2 (1) (ac) of the Patents Act, 1970, the invention should be capable of being made or used in an industry. It must have practical utility and be useful in

a specific field or industry.

Types of Patents

In India, there are three main types of patents that can be granted:

1. Utility Patents: These patents are granted for new and useful inventions or processes that have industrial applications. Utility patents protect the functional aspects of an invention, such as machines, devices, methods, or compositions of matter.
2. Design Patents: Design patents are granted for new and original designs of articles. These patents protect the aesthetic or ornamental aspects of a product, rather than its functional features. Design patents are often sought for consumer products, furniture, packaging, or graphical user interfaces.
3. Pharmaceutical Patents: India also grants patents for pharmaceutical inventions, specifically known as Pharmaceutical Product Patents. These patents protect new and inventive pharmaceutical compounds, formulations, and processes related to the production of pharmaceutical products.

It is important to note that these types of patents are not mutually exclusive, and an invention may be eligible for multiple types of protection depending on its characteristics.

Types of Patent Applications

All regulations and legislation pertaining to patents, including patent types, are governed by the Patents Act of 1970. Any applicant should be certain of the type of application he or she wishes to submit to the Patent Office before submitting a patent application.

In India, there are primarily seven basic kinds of patent applications. Under the Patent Act, every sort of Patent Application has a specific function. As a result, the applicant must select the type of patent applications that best matches his or her needs.

1. Provisional Patent: Allows applicants to secure a priority date while their invention is still under development. It provides a one-year period to finalize the invention before filing a permanent patent application.
2. Ordinary/Non-provisional Patent: Filed when the invention is complete, and a full specification is provided at the time of application. There is no additional time given for modifications or

improvements.

3. Conventional Application: Filed when an applicant has already applied for a patent in one or more convention countries before filing with the Indian Patent Office. It allows claiming a priority date based on the earlier application.
4. PCT International Application: Filed under the Patent Cooperation Treaty (PCT), this application provides a streamlined process to seek protection in multiple signatory countries simultaneously, up to 142 countries.
5. PCT National Phase Application: Represents the national phase of a PCT application in a specific country. It allows claiming a priority date based on the international application, provided it is filed within 31 months from the priority date.
6. Application for Patent of Addition: Filed to protect improvements or additions to a previously granted utility patent. This application can only be granted if the parent patent application is granted.
7. Divisional Application: Filed to divide multiple inventions from a parent patent application, allowing each invention to be protected separately.

Significance of Patent Registration

You can stop anyone from copying or selling your idea without your permission by obtaining a patent, which offers total protection against infringement. Additionally, it allows you to license the patent and collect royalties, giving you a reliable source of income.

By submitting a provisional patent application, you are granted 12-month exclusivity and are shielded from competing claims. Patents allow the creator to use and control the invention for a predetermined amount of time, reducing competition and giving them a competitive edge. Through licensing and marketing, they produce significant revenue and return on investment.

Patents boost brand recognition, foster repute, and enable public disclosure, luring financiers and business associates. In addition, the patent system promotes creativity and the creation of fresh ideas for problems and technological fixes. Overall, getting a patent has several advantages that help the inventor and their firm develop and succeed.

Conclusion

Patents are considered to be one of the most important forms of intellectual property. Patents have played a decisive role in scientific and technological advancements. There are countless examples of exciting inventions existing as simple, clever ideas, and offering advanced, technical solutions.

There are various ways to safeguard your brand-new, original idea in India from any type of infringement by a third party. This patent protection is accessible not just in India but also in other nations throughout the world.

Therefore, it is necessary for anyone submitting a patent application in India to be aware of the fundamental prerequisites for submitting various forms of patent applications in India. By navigating the various types of patents in India and meeting the detailed requirements, inventors can secure legal protection for their inventions, encourage further research and development, and ultimately contribute to the advancement of technology and society as a whole.