



ORIGINAL RESEARCH PAPER

COMMERCE

INTECTUAL PROPERTY RIGHTS

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ABSTRACT

Patent is played important roll in the business. For long surviving in the market patent is must done. Individual, firm, company, HUF, AOP, BOI, Partner & other person can apply for patent. We can apply for patent in the national & international level also. In the India, it is filled a application in the front of controller. We have compulsory to file a document in front of controller for continuing for patented things in the forthcoming time. The fee of renewal is very less as comparison to fresh apply for patent. After 20 years, the patented things assumed to public assets. If the patentee person can't renewal of patent then it is not thought that patented thing of public. Prevailing of patent is increased after 1970 in India. Some terms was done change in the Indian Patent modification act 2005.

Introduction:

New Goods and Services invented by anyone, Then invented person want to nobody done the copy of invented Goods and Services then invented person do the registration of new invented Goods and Services for his name for the purpose of the safety of new invented Goods and Services.

If two and more different persons' mind come same idea but firstly, who person get registered in the government who get the patent for new Goods and Services. Second person can't do the claim for patent. New invented person get the patent right from government are want to sell & transfers his patent right to other person. If he sells his patent right to other person the he get the full amount as new invented person's demand. After that buying that patent for Goods then buying person get full right for using. If new invented person give the permission for using patent name right then new invented person get the royalty from second persons. In this sense new invented person and second users person also using same patent same time.

Objects:

- To know the how we apply for patent in India.
- To know what will be cost of patent apply.
- To know that who has not apply for patent.
- To know that which things we can apply for patent.
- To know why we have to need apply for patent.

What are not inventions?

- (a) An research that claims anything obviously to well established natural laws.
- (b) An invention the intended use or commercial exploitation of which could be contrary public order which causes serious to human, animal or plant life or health or to the surrounding.
- (c) The only discovery of a scientific principle of an abstract theory or discovery of any living or non-living substance occurring in environment.^[1]

How much the types of patent ?

Mainly 3 types of Patent of which we can do the patents of following things:

1) Utility Patent:

Machine, composition of product, fiber, computer, hardware, software, medicine.

2) Design Patent:

Product which design get the legal safety for new invented product i.e. mobile, vehicle, cartoon, cartoon characteristics.

3) Plant Patent :

Which are grows new plant by anybody that plant grows by anybody that plant get the patent.

Of which Goods and Services we can't do the Patent ?

1) Rule Nature: Gravity, air, sun, moon.

2) Nature Things: Soil, Water ect .

3) Abstract Ideas: Mathematics, Philosophy.

Of which Goods and Services we can't the Patent?

- 1) Unique Invention: Unique invention which are completely different which invention can't no do the copy of already invented Goods and Services. Useful for each person that invented things can't do the side-effect of that invented products.
- 2) Useful: That invented Goods and Services are completely apply their claims.

How much charges of Patent registration?

The charges of Patent registration are not fixed. But according to anticipation, Patent registration's charges has divided into 2 categories in India.

a) Individual Case:

Individual person want to registration the charges are rs. 60000-80000.

b) Company Case:

Any company want to registration the Patent things then charge are rs. 100000-200000.

What are the steps of the registration of Patent?

Registration of Patent are 4 steps:

(1) File Presentation:

At the time of file presentation, all the ideas of things, formulas, descriptions concepts, pros & cons of patent related to presented in the file. All other legal documents are also included in it.

(2) File Review:

At the time of file review focus only two things .which Goods and Services are patentable or not patentable. Patentable things are included unique, useful, no obvious. Unique means nobody can copy & come such type of ideas. That Goods first time made in India. Useful means that goods is not harmful for anybody. If any product is harmful for anybody then that thing are not patentable. No obvious means invention hasn't done the copy of other person invention eg. Some time we can copy of that product.

(3) Draft Application:

When the above both steps has been taken then file presented to Intellectual Property Right office, sector 14, Dawarika, New Delhi in India. At this time 2 types of applications filling the office. First one, when invention are completed. After filling such types of application ,the patent will be publish within 18 months . If any body wants to get such patent then application holder filling a new application IPRO for getting immediately patents publish. Application holder person get the patent publish after 1 month of new application filling. Secondly , when invention are incomplete but application holder wants to get safety of processing invention then he filling and Provisional Application for safety his inventions. In this result, no other person can get patent same goods for which already incomplete patents has done.

(4) Examination Request:

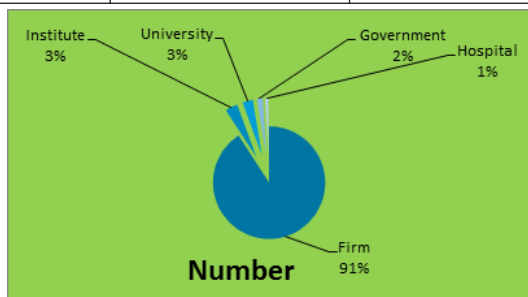
After published such patent then application holder filling

application to examiner of patents. Maximum time a lot of query raised by examiner for patented product. When patent holder gave all answer of good then granted the patent otherwise not granted the patents.

Patent Trend 2015-16. Top application file for patents during 2015-16.

Table no. 1.1

S. No.	Nature	Number
1	Firm	46715
2	Institute	1845
3	University	1550
4	Government	884
5	Hospital	454



Hence above fig shows that firm has applied for patent 91%. University applies for 3%. Institute has applied for 3%. Government has applied only 2%. Hospital has apply only 1%. We can conclude that maximum time apply for patent by firm sector. Services sector has apply for patent is very neutral. I.e very low.^[1]

Top countries in world have done invention in 2015-16.

Table 2.1

S. No.	Country	Number
1	US	17012
2	IN	12134
3	JP	6489
4	EP	4259
5	DN	2912
6	CN	1690

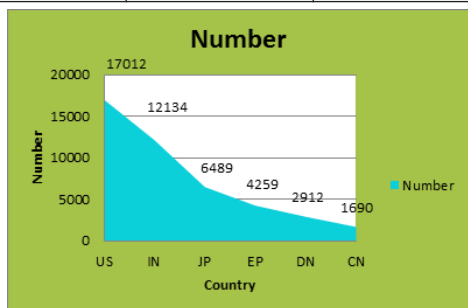


Fig 2.1

In the world analysis, we comes to know US country has most of patent things. US country has invented more no. of things as comparison to other country. Secondly, India has invented no. of things in the world. India is first Asian country that stand in the second rank. But Asian country it stand on the first position. Some of persons says that the Japan has second rank in the world for mostly invention. Thirdly, Japan country registered for more inventions in the world. Second Asian country that stand in the world third rank. But in the Asian it stand on the second rank. But we want to clear to here that it has maximum invention in the technology things in the universe. Eg. India all new car model come from Japan. Fourthly, it is stand Spain country. Spain country has most invention related to weapon and arms things. Fifthly, Denmark country stand. Finally, China country is stand. Top

institute/ organization research has been done.^[1]

Power of Controller to refuse amended applications, etc in certain case:

Controller satisfied that the application or any specification or any other document filed in pursuance thereof does not comply with the requirements of this Act or of any rules made there under, the Controller may to possibility refuse the form or may require the form, specification or the other documents, as the case may be, to be modified to his satisfaction before he proceeds with the application and refuse the application on not satisfied conditions.^[2]

Table 3.1

S.NO	Company	Number
1	CSIR	288
2	IIT Mumbai	87
3	IIT Chennai	69
4	FRAONHOFFER GES FORSCHING	59
5	National Institute Delhi	58
6	ICAR	50
7	IIT Delhi	32
8	GH Rossini	30
9	IIT Kanpur	30
10	Massachusetts	29

Above shows that the maximum research is done by the CSIR. Top IIT has a lot of contribution in the research done. Indian top 4 IIT has a lot of participation in the patent.

Fig 1.2

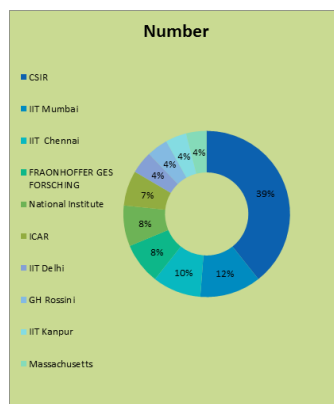


Fig 3.1

In the above fig shows that the CSIR has done most of research 39% is done. IIT Mumbai has done 12%. IIT Chennai has done 10%. FRAONHOFFER GES FORSCHING & National institute of Delhi is done 8%. ICAR has done 7%. IIT Delhi, GH Rossini, IIT Kanpur & Massachusetts have done 7%.

Publication:

IPRO has issue to patent Publication when organization has satisfied all factor related to patents things. Sometime some person thought that publication and granted has same meaning in the patent. But it is no so that. Granted meaning when IPRO only satisfied with fee and other formalities of patent apply. But, it is not included, the examination of the product which things for patent in the IPRO. When, IPRO has satisfied with the all types of standard of examination of product and patentee has given all questions answer of patentor.^[3]

Compulsory licenses :

The expiration of three years from the date of the granted of a patent, any person can file application to the Controller for grant of compulsory licenses on patent on any of the following grounds, namely:

- (a) That the reasonable requirements of the public with respect to the patented invention have not been benefit for her.

- (b) That patented invention is not available to the customer affordable price.
- © That the patented invention is not worked in the territory of India.

Report of examiner by Controller:

Where in respect of an application for a patent that report of the examiner received by the Controller is adverse to the applicant any modification of the form, the specification or other paper to ensure compliance with the provisions of this Act or of the rules made the order, the Controller, before proceeding to dispose of the application in accordance with the provisions after appearing, shall communicate as possible the gist of the objections to the applicant and should, if so required by the applicant within the prescribed period, give him an opportunity of being heard.^[3]

Conclusion:

Patent shows that if anybody want to get the patent of things. Then he follows a lot of official formalities to satisfied the terms of government. Hence patent's scope was increasing day by day. Patent is apply for new research^[4]. Which is done for first time for public benefits. Patent is valid for 2 years in India. If you want to continue to patent the you apply again for renewal of patent. CSIR & IIT has done a lot of research as comparison to other institute. According 2015-16 analysis, US have done most of patented things in the universe. India is first country in Asia but second in the world has done most of patented things. Japan is third country in the world but second in the Asia has done most of patented things. Patent process is so formal everyone can follow that very easily.^[5] In India mostly firm has apply for patent. Secondly, Institute has apply for patents things. AT the last, we want to say that things which is not benefit for public IPRO and patentee will not apply for patent.

REFERENCE:

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