

## **Guideline for Patent Process in India**

### **Procedure for filing of Patent Application in India**

To file a patent application, a set of forms (Form-1, Form-2, Form-3 and Form-5) has to be submitted to the patent office and it should be filed for innovative R&D work only.

The Patent Office provides the facility to file a Patent Application online from the native place of the applicant or agent of the applicant through e-filing at the below link:

**<http://ipindiaonline.gov.in/epatentfiling/goForLogin/doLogin>**

Alternatively, one can file patent application offline in hard copies to the patent offices located at Delhi, Kolkata, Mumbai and Chennai. But the patent office charges 10% additional fee if the applications are filed offline.

The patent application has to be filed in the appropriate office based on your/your company location. The table below provides the addresses of the patent offices in India and their respective territorial jurisdiction.

<b>Office</b>	<b>Territorial Jurisdiction</b>
Mumbai	The States of Maharashtra, Gujarat, Madhya Pradesh, Goa and Chhattisgarh and the Union Territories of Daman and Diu & Dadra and Nagar Haveli
Chennai	The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the Union Territories of Pondicherry and Lakshadweep
New Delhi	The States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttaranchal, Delhi and the Union Territory of Chandigarh.
Kolkata	The rest of India.

The patent application has to be written in specified manner before filing the patent application in Indian patent office. In case your invention is maturing stage, you have the option to file the provisional patent application, and after that you can file the complete patent specification within 12 months from the date of filing of provisional application.

After filing your patent application, the patent application is published after 18 months from the date of first filing. If you would like to expedite your patent protection, place a request for early publication in Form-9 and the application will be ordinarily published within a month from the date of request.

Next step would be filing a request for examination in form-18 and the controller assigns the patent application to a patent examiner to scrutinize your invention to verify the invention matter is patentable or not. During the patent prosecution, the examiner submits the examination report, in which he may cite the relevant prior art/ patent, which might negate the claimed invention. The inventor has to analyze the report to respond the examination report along with providing proper reasoning about his invention for patentable. After meeting the objection raised by the examiner, the application would be placed order for grant and the grant will be notified in Patent journal.

An overview of each of the aforementioned Forms is as below.

### **Form 1-Application for Grant of Patent :**

As the name suggests, this form is an application for grant of patent in India. In this form, one has to furnish information, such as, name and address of the inventor(s), name and address of the applicant(s), information corresponding to prior patent applications relating to the current invention, which any authorized entity has filed, and some declarations, among other information.

### **Form 2-Provisional/Complete Specification**

Form 2 is used to furnish one patent specification. The patent specification can be provisional or a complete patent specification depending of the type of patent application (provisional or complete) one is filing. Additionally, the number of sheets and claims (extra fee for more than 30 sheets and more than 10 claims) is to be counted and the appropriate fee calculated. While counting the sheets, even the drawing sheets will have to be taken into account.

### **Form 3-Statement and Undertaking Under Section 8**

Form 3 is used to furnish information/actions relating to patent applications filed in other countries for the current invention. Further, using form 3 one undertakes that h/she will be keeping the patent office informed in writing the details regarding corresponding applications for patents filed outside India.

### **Form 5-Declaration as to Inventorship**

This form is used to declare the inventors of the subject matter sought to be protected using the current patent application.

### **Form 9-Request for Publication**

The patent specification will be published by the patent office after 18 months from the priority date (filing of the first patent application for the current subject matter). But by filing this form, one can generally have the patent specification published within 1 month from filing this form. Note that the patent rights start from the date of publication of the patent application (enforceable only after the grant of patent).

### **Form 18-Request for Examination of Application for Patent**

This form can be filed within 48 months from the priority date. The patent office will not consider a patent application for examination unless this form is filed. Hence, if one wishes to expedite the patenting process, filing of form 9 and 18 at an early stage is advised. In the table below, the list of forms that have to be submitted and their respective fees is provided. Please note that, the fee mentioned is for E-filing only. The patent office charges an additional fee of 10% over the fee for applications filed offline.

Form	Title	Patent Office Fee (INR) for E-Filing only		
		Applicant-Natural person	Applicant-other than natural person	
			Small Entity	Others except small entity
1	Application for Grant of Patent	1600	4000	8000
2	Provisional/Complete Specification	No Fees*	No Fees	No Fees
3	Statement and Undertaking Under Section 8	No Fees	No Fees	No Fees
5	Declaration as to Inventorship	No Fees	No Fees	No Fees
9	Request for Publication	2500	6250	12500
18	Request for Examination of Application for Patent	4000	10000	20000

\* - A fee of 160/400/800/sheet, based on the type of applicant, is applicable for each sheet exceeding 30 sheets in a patent specification. Further, a fee of INR 320/800/1600/claim, based on the type of applicant, is applicable for each claim exceeding 10 claims in the patent specification.

**For more details, please visit <http://ipindia.nic.in/ipr/patent/patents.htm>**