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PROTECTION OF INVENTIONS: THE PATENT ACT, 1970

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ABSTRACT

A Patent Act offers an assurance of a property through a sovereign authority to an inventor. The Guarantee is furnished on an invention, Product, or Process. There are 162 Sections within the Indian Patent Act 1970 with 23 chapters.

On the premise of Research, current Statistics file from the USPTO, approx. 52% of all patents filed are approved. Guruswamy Nataraj turned into the primary patent Agent in India. George Alfred De Penning, a civil engineer who lived at 7 Grant's Lane in Calcutta, filed India's first patent application on March 3, 1856, for his ground-breaking Punkah Pulling Machine.

Filing of patents has increased from 42763 in 2014-15 to 66440 in 2021-22, an extra 50% boom in the past few years. There are 4 Patent Offices in India, which might be placed in Kolkata (Main Office), Mumbai, Chennai, and Delhi.

This article covers the True means of Patent with a proper definition and meaning. Relation with IPR in connection with the distinction among Copyright Trademark and Patent. A specified Study of Origin of Patent. Also, it covers all sorts of patents in India. Every coin has two facets so; right here we've mentioned the pros and cons of the Patent Act in addition to drawbacks. The main body contains why the Protection of Invention is necessary. What can happen if you don't patent your invention as well as how Patent can Increase new Inventions?

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INTRODUCTION

A patent effectively gives an innovation, product, or procedure legal protection. These things frequently involve new ways of doing things or brand-new technical fixes to problems. “Patent” is derived from the Latin verb “pater,” which means “to make open.” It is a legal instrument that gives the inventor, after exposing their discovery to the public, the only right to create, use, and sell their invention for a set period of time. Unlike patents, a monopoly existed in which Inventions have been now no longer disclosed and solely sold. Indian Patent Law is described as patent rights granted for innovations protecting a brand new and creative Process, a product, or an editorial of manufacture which might be capable of fulfilling the patent Eligibility necessities of getting novelty, able to commercial utility, and creative steps.

INTELLECTUAL PROPERTY RIGHTS (IPR)

It is a category that includes intangible works of art produced by the human intellect as assets. There are many sorts of highbrow assets; the typically recognized sorts are COPYRIGHTS, PATENTS, and TRADEMARKS. The idea of that evolved in England during the 17th and 18th centuries. "Intellectual assets" States for use within the 19th century. The foremost reason for highbrow asset regulation is to inspire the Creative type of highbrow goods. This lets people defend their thoughts and save you from copying. Patents, Copyright, and trademarks are exclusive sorts of highbrow assets.

- **What is a Copyright?**

  It is a set of rights for an authentic painting given to you. These rights consist of the proper breeding of paintings, putting together by-product works, distributing copies, carrying out the paintings publicly, and showing the paintings publicly. You have the right to preserve the works, transfer them individually to one or more individuals, or transfer them collectively to one or more people as the owner of the copyright. You can professionalize your paintings via licensing, assigning, and different varieties of transfers.

- **What is a Patent?**

  The foremost goal of the patent regulation is to inspire “innovation” and “commercialization” of improvement Progress. A patent protects innovations. Patent regulation stimulates inventors to publicly divulge their innovations in alternate for positive different rights. To obtain patent protection, one must first apply for and be awarded a patent from the U.S. Patent and Trademark Office (USPTO). Inventions include innovative and helpful methods for manufacturers, machines, and compositions in addition to improvements to those with copyright safety. The patent utility method must frequently be used with the assistance of a knowledgeable patent legal practitioner or agent since it is expensive, complex, demanding, and time-consuming, in contrast to the copyright registration method.

- **What is a Trademark?**

The phrase, symbol, or design that defines and sets one birthday celebration's items apart from those of competitors is what is known as a trademark. A phrase, symbol, or design that identifies and differentiates a provider's supply from that of a product is called a provider mark. For instance, emblem names, slogans, and logos. Similar to copyright, someone now no longer signs up for an indicator or provider mark to acquire safety rights, however, there are positive criminal advantages to registering the mark with the USPTO.

THE DIFFERENCE

POINTS	COPYRIGHT	PATENT	TRADEMARK
PROTECTION	Original creations, encompassing literature, written pieces, music, images, dance routines, audio recordings, and various other forms of artistic expression.	Improvements to existing processes, machinery, manufacturers, and material compositions are examples of inventions.	Any term, expression, mark, or visual representation that signifies and sets apart the origin of one party's products from those of others.
BASIC REQUIREMENTS FOR PROTECTION	Realistic, inventive work that is fixed in a physical medium is preferred.	An invention must be new, useful, and ambiguous.	A mark must be specific and able to pinpoint the origin of a particular commodity.

TIME PERIOD	70 years after the death of the author.	Death of author 20 years.	As long as the mark is used. Death of author 20 years.
RIGHTS GUARANTEED	Being able to use legal means to prevent others from creating, sharing, using, or importing a patentable innovation.	Having the legal right to stop others from producing, distributing, utilising, or importing a patented innovation.	Right to use the mark and to prohibit others from using it or marks that are similar in a way that might lead to misunderstanding about where certain products or services came from.

ORIGIN OF THE PATENT ACT

In the 1300s, the individual who based assets inside the Alps recited asset rights for mining, wood, and water. With the advancement of opposition, rewards were provided for valuable innovations. German inventor who improved a mill's design was given the first-ever patent in 1409. John of Utynam's contribution to the development of stained glass earned him a 20-year extension of the original English patent. The French, meantime, succeeded in the procedure by placing an emphasis on registration and comprehensive scrutiny. In the United States, a patent was conferred on Oliver Evans for his invention of a grain elevator mechanism known as the 'hopper boy.'

INDIAN SCENARIO

The history of patent regulation in India saw its initial developments in 1911 with the approval of the Indian Patents and Designs Act. The Patents Act of 1970 is the current legal framework that governs patents in India and became effective in 1972. The responsibility for overseeing the Indian Patent Act falls under the Office of the Controller General of Patents, Designs, and Trademarks (CGPDTM), which is headquartered in Mumbai. The Patent Office's central hub is located in Calcutta, and it maintains branches in New Delhi, Chennai, and Mumbai. Additionally, Nagpur is home to the Patent Information System office and the National Institute for Intellectual Property Management. This Act remained under pressure for approximately 30 years with no amendments, however, in the year 1883, positive changes within the patent regulation have been made in the United Kingdom and it was taken into consideration that the one change needed to additionally be included in the Indian Law. The laws governing innovations and designs were consolidated and modified in 1888 to comply with UK legal developments. Act II of 1911, often known as the Indian Patents and Designs Act, superseded all earlier Acts. This Act for the first time gave the Controller of Patents control over patent administration. Later, in 1920, it underwent modifications to create reciprocal agreements with the UK and other countries to guarantee precedence in patent cases. In 1930, additional revisions that covered a range of topics were put into effect, including clauses addressing confidential patents, the inclusion of patents, the appropriation of inventions by the government, the Controller's power to change applications for patents, and an increase in the length of the patent from fourteen to sixteen years. In 1945, a modification was introduced to allow for the submission of a provisional specification and the requirement to submit the complete specification within nine months. Following India's independence, it became evident that the Indian Patents & Designs Act of 1911 was no longer meeting its objectives. A comprehensive patent legislation had to be established because of significant changes in the nation's political and economic climate. As a result, the Indian government constituted a committee in 1949 under the direction of Justice (Dr.) Bakshi Tekchand, a former judge of the Lahore High Court. The committee's objective was to assess India's patent system and make sure it adhered to the national interests of the nation.

TYPES OF PATENT OPERATIONS GRANTED IN INDIA

- Divisional Application is a document in which the aspirant Wishes to divide an operation to grant or similar operations if a selected operation claims to be similar to one invention.
- A conference operation is filed for claiming a Priority or international shape date grounded at the identical or extensively analogous operation filed in any of the conference international locations.
- It's a transnational operation to streamline patent operation techniques in several international locations at one go. It's Governed through the Patent Cooperation Treaty. It may be verified in over one forty-two Countries.
- A public segment operation is filed in each of the United States in which safety is sought. The public segment operation should be filed within thirty or thirty-one months from the priority or the international shape date, whichever is before.

- A Non-Provisional operation is filed if the aspirant doesn't have any priority to Claim or in a case in which the operation isn't always filed in the overall performance of the preceding conference operation. The non-provisional operation, while filed, must be supported through an entire specification depicting the discovery in detail.
- If the discovery has been carried out for or patented earlier but has undergone revision, the aspirant may establish a patent of addition. For the duration of the primary Patent's term, no separate renewal determination is required because it is most efficient to award a patent of addition after the entitlement of the decided patent.

WHAT IS THE MAIN PURPOSE OF A PATENT?

A patent is the granting of ownership rights by a government agency to an inventor, providing them with exclusive control over their patented process, design, or invention for a designated period in return for full disclosure of the innovation.

BASIC ADVANTAGES OF THE PATENT

It converts your idea or Invention into a transactional outcome. Like you may earn, you may make cash via your Invention. Just like property and commercial enterprises you may promote your specific concept and Convert Invention Monetary Fund. After patenting your invention, you may freely proportion your concept to anyone.

CRITERIA FOR PATENT TO BE GRANTED

Section 2(1)(j) of the Indian Patent Act defines an "invention" as a novel product or method that involves a creative step and can be practically applied for commercial purposes. Additionally, according to Section 2(l) of the Act, a "new invention" is any new creation or innovation that hasn't been used in India or anywhere else in the globe prior to the date of filing a patent application with a detailed description and hasn't been published in any publication. In other words, the subject matter of the invention should not be publicly accessible or form part of the prior body of knowledge. In terms of the need for an "inventive step," as stated in Section 2(1)(a), it indicates that the invention must involve technological advancements above what is currently known, have economic significance, or provide a discovery that would not be obvious to a specialist in the relevant field. The final criterion for patentability, "industrial application," is detailed in Section 2(1) (c) of the Patents Act, 1970. It defines "Capable of Industrial utility" concerning an invention as the invention being "able to be made or used in an industry." In essence, for an invention to be eligible for a patent, it must have practical utility and be applicable for commercial use.

BASIS FOR REJECTION OF PATENT IN INDIA

The IPO has issued 1637 rejections, the bulk of which have been in section 15 proceedings. Usually, Section 15 is used in conjunction with other provisions and rarely on its own. The applicant may be asked to furnish more information when the IPO requests one (as per section 14) and starts a hearing. If the applicant is unable to respond to the section 14 objections, the Controller will reject the application in accordance with section 15.

Out of 54 cases, the Controller denied the request solely based on the provisions of section 16, indicating that the request did not satisfy the Act's requirements for divisional operation. Section 16 was referenced in connection with other provisions in 117 instances.

WHEN INDIA REALIZED FURTHER ABOUT "INTELLECTUAL PROPERTY"

An Issue of Turmeric Patent 10, 11

India makes widespread use of turmeric grease paint as a food, color, and medicinal ingredient. A patent on turmeric was given by the US In 1995, for the purpose of repairing cracks in real estate, to the University of Mississippi Medical Centre. Disturbing and selling is now legal. After challenging the university twice based on the originality of the findings, India's Council of Scientific and Industrial Research intervened. Because the patent lacked innovation, the USPTO revoked it.

An Issue of Basmati Rice Patent 12

In India, basmati rice is a well-known grain that is prized for both its flavor and fragrance. It is mostly cultivated in India's Basmati area, where it also gets its delicious flavor. While Indian farmers had been developing this rice for centuries, a Texan company managed to secure a patent for a hybrid variety produced by crossing it with American long-grain rice. The patent granted by the US was based on factors like fragrance, grain length, and chalkiness, allowing the company to charge fees to rice growers and control the planting of seeds for future crops. In response, India filed a request supported by scientific evidence, arguing that the most typical Basmati varieties also possess these characteristics. The USPTO accepted India's request.

THE PATENTS ACT, DT.20-5-2003 W.E.F. 16

India presented an alternative amendment bill and made many changes to the Patents Act to get around the restrictions of the current rules. A larger definition of patentable innovations in Section 2 of the 1970 Patents Act is one of these crucial adjustments. An innovative procedure or product that combines originality and the ability for practical application is now included in the definition. The definition is enlarged with the advent of product patents by the addition of the words "non-obvious" and "useful," which are synonyms for creative steps and practical application, respectively, and stand-alone.

DOWNSIDES IN PATENTS ACT, 1970

Indians have a tradition of freely sharing knowledge with others, but this openness can also be a significant disadvantage. The Patents Act of 1970 does not provide protection for ancient knowledge that has been passed down through generations. There are also initial drawbacks, such as the fact that patenting a product is a valuable but time-limited process.

THE CONCLUSION

The Patent Act simply protects your brand-new idea by simply protecting your patent rights. This will stop others from duplicating your original product. The Patent Act provides you the right to take action against making a duplicate copy of your innovation and, of course, selling your invention without your permission. But where this term came from, came from German in the year 1300. This act came to India in 1911 and got its actual place and recognition in 1970, after Independence. Under IPR, we have copyrights, trademarks, patents, and so on. Every right has its importance; the Patent protects your Invention and allows you to sell your invention, to convert your Idea into Money. A patent encourages a person to make more inventions as they feel secure and can take action at any time on anyone who copies their invention.

But what comes, in the end, is what if you don't patent your innovation? Anyone can still use your idea, and you won't be able to take any legal action. According to general psychology, we always end up discussing our ideas with others. They may copy your invention, sell your product, and earn money without your permission. In short, a patent protects your invention. So, the only solution to protect your invention is the timely registration of your patent and understanding of its perks.