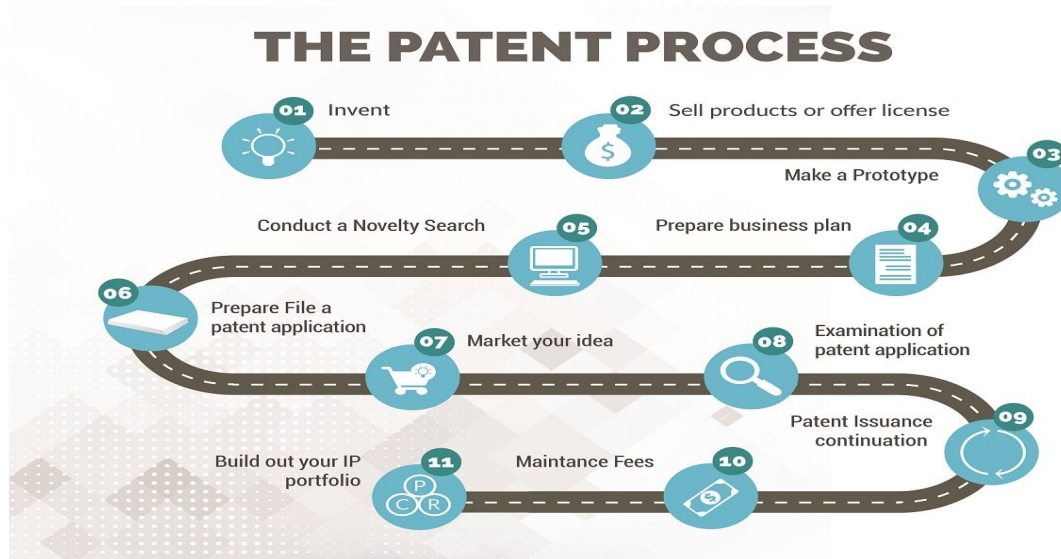


## PATENT SUPPORT



### Everything you need to know about Filing Patents in India

#### Step 1 – Check if your invention is patentable

Before you begin the patent registration process, you need to check if your invention is patentable. This means that you need to check if another individual has filed a patent for a similar technology for which you are filing. Performing an in-depth patentability search helps you understand whether or not you have a chance of getting a patent. While this step is optional, it can save time and help you understand whether or not you should file for a patent in the first place.

#### Step 2 – Draft the patent application

You can now begin the patent application process. Indian applicants need to fill Indian Patent Application Form 1. For every patent you file, you need to mandatorily provide a Form 2 patent specification. You can choose between a provisional and complete patent application, based on the stage of invention. This means that if you are still testing your invention, you need to apply for a provisional patent application. You get a period of 12 months to complete the invention and file for a complete patent.

You need to pay special attention when you are drafting your patent application. Your patent application should include clauses such as usability and outcome of the invention in detail. You should also include the necessary clauses including your intention to license your invention and preventing competition from using and thereby, profiting from your invention. Ensure caution while drafting your patent application, be meticulous and include clauses that prevent the competition from using your technology.

#### Step 3 – Filing the patent application:

Your patent application needs to be submitted with several application forms. As per the patent filing procedure in India, you need to submit all of the below mentioned forms. Links to all forms and an applicable fee is <http://www.ipindia.nic.in/form-and-fees.htm>

- **Form 1** – Application for patent grant
- **Form 2** – Patent specification form (provisional or complete)
- **Form 3** – Undertaking and statement with regards to foreign applications under section 8 (mandatory only in case a corresponding application for patent is filed in a foreign country)

- **Form 5** – Declaration of invention to be filed with complete application
- **Form 26** – Form authorizing patent agent (applicable only if you opt for an agent to help file the patent)
- **Form 28** – Mandatory only if applicant is claiming small entity or start-up status
- **Priority Documents** – You need to provide priority documents only if priority is being claimed from a foreign patent claim or application.

#### **Step 4 – Publishing the patent application**

After you submit all the documents, the patent application is safely secured by the Indian Patent Office. The patent is then published in an official patent journal after a period of 18 months approximately. However, inventors who wish to have their patent application published before this 18 month period can submit Form 9. This is an automatic process but if an inventor wishes to have his application published earlier, he needs to submit Form 9 (early publication request), in which case, the application will be published in the official patent journal within 1 month of making the request. However, there are certain scenarios in which your patent application may not be published. These include incomplete applications, withdrawal requests made by the individual filing the patent and secrecy direction imposed under Patent Act wherein the invention is against the nation's interests.

#### **Step 5 – Examining the patent application**

Before your patent is granted, it needs to be examined substantively. As per rules of the patent application process in India, your patent is thoroughly examined based on the merits of your invention as claimed and described in the patent specification form. Unlike the publication process, this is not an automatic process and the applicant needs to make a request to examine their patent application by submitting Form 18. The patent office queues the application for examination only after a formal request for examination is made. You can also expedite this process by filling and submitting Form 18 (A).

The patent examiner is obligated to follow a few steps of his/her own while examining your application. They are as under

- When the application lands on the examiner's desk, it is scrutinized according to the Patent Act and underlying rules.
- The patent examiner searches for similar technologies to ensure the invention satisfies patentability criteria.
- After reviewing the application, a first examination report (FER) is submitted in which, grounds for objections, if any, are also stated.
- The examiner lists his objections in detail. This can further extend the application process by another 6- 9 months. Note that examiner objections are quite common in case of patents.
- If the inventor needs to make changes to his/her objection, he/she can file a request for time extension by submitting Form 4.

#### **Step 6 – Decision to grant patent**

Once the examiner finds no objections in the patent application, he grants the patent. The patent is then published in the official patent gazette.

#### **Step 7 – Renewing the Patent**

The patent holder also needs to renew his patent by paying an annual renewal fee. In India, it is possible to renew your patent for a period of 20 years at maximum, from the date the patent was first filed.