

(9) The complete specification filed after a provisional specification may include claims in respect of developments of, or addition to the invention which was described in the provisional specification, being developments or additions in respect of which the applicant would be entitled under the provisions of section 6 to make a separate application for a patent.

Section 10(2) provides that a Controller may require drawings to be supplied which shall form part of the specification.

A claim is a feature of the invention over which the applicants claims an exclusive right. It defines monopoly. The function of a claim is to define and limit with precision what is it, which is claimed to have been invented and therefore, entitled for the patent protection.

It is not necessary for a specification to explain all the advantages of an invention. It is also not necessary to describe the manner of performance of the invention with that length of detail with which the specification of the manufacturer of something is usually put before the workman, who is engaged to manufacture it; Amp. Inc. v. Utilix Pty. Ltd., (1973) RPC 175.

## PUBLICATION AND EXAMINATION OF THE APPLICATIONS

Chapter IV of the Patents Act, 1970 as amended by Patents (Amendment) Act, 2005 talks about Publication and Examination of Applications.

Section 11A provides that no application for patent shall be open to the public for a period of eighteen months from the date of filing of application or the date of priority of the application, whichever is earlier. The controller shall publish such application as soon as possible.

Every application for a patent shall be published on the expiry of the aforesaid period, except in the following cases where the application:

- (i) in which secrecy direction is imposed under section 35; or
- (ii) has been abandoned under section 9(1); or
- (iii) has been withdrawn three months prior to the prescribed period as aforesaid.

The publication of every application shall include—

- (a) particulars of the date of applications,
- (b) number of application,
- (c) name and address of the applicant,
- (d) an abstract.

Thereafter, upon publication of an application for a patent, the patent office may make the specifications and drawings (if any) of such application available to the public.

The Patents (Amendment) Act, 2005 provides that on and from the date of application of patent and until the date of grant of patent, the applicant shall have the like privileges and rights as if a patent for invention had been granted on the date of publication of the application. The applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted. However, rights of a patentee in respect of applications made under section 5(2) before January 1, 2005, shall accrue from the date of grant of the patent. The patent holder, in such a case, shall be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to January 1, 2005, and which continue to manufacture the product covered by the patent, on the date of grant of patent and no infringement proceedings shall be instituted against such enterprises.



document showing that made in favour of the applicant.

Section 7(3) lays down the procedure for the first inventor and when the applicant (for a patent) makes a declaration that the applicant is the person so named to be the first inventor.

Section 7(4) provides that an application or an application for a patent designating India shall be made by a person who is a national of a convention country or an Indian citizen to apply for a patent, accompanied with the

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- (b) number of application,
- (c) name and address of the applicant,
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Thereafter, upon publication of an application for a patent, the patent office will make the specifications and drawings (if any) of such application available to the public.

The Patents (Amendment) Act, 2005 provides that on and from the date of publication of patent and until the date of grant of patent, the applicant shall enjoy the like privileges and rights as if a patent for invention had been granted. The applicant shall not be liable to institute any proceedings for infringement until the patent has been granted. However, rights of a patentee in respect of applications made under the Patents Act, 1970 before January 1, 2005, shall accrue from the date of grant of the patent. The patent holder, in such a case, shall be entitled to receive reasonable royalty from enterprises which have made significant investment and were promoting or marketing the concerned product prior to January 1, 2005, and which have not manufactured the product covered by the patent, on the date of grant of patent. No infringement proceedings shall be instituted against such enterprises.

to section 11B, the applicant must request for examination of the patent within thirty six months from the date of filing the patent, otherwise the application shall be treated as withdrawn.

Once a request for examination has been made in respect of an application for a patent under section 11B, 11B(1) or (3), the application and specifications and drawings related shall be referred at the earliest by the Controller to the Controller for making a report in respect of the following matters:

(a) whether the application and the specifications and other documents referred to thereunder, are in accordance with the requirements of the Act and the rules made thereunder,

(b) whether there is any lawful ground of objection to the grant of patent,

(c) the result of investigation made under section 13,

(d) any other matter, which may be prescribed.

The Controller to whom such application and the specification and other documents referred shall ordinarily make the report to the controller within one month. However, this period shall not exceed three months from the date of filing of the application.

## Anticipation by previous publication and by prior claim

Under section 13, the examiner to whom an application for a patent is referred shall make investigation for the purpose of ascertaining whether the invention so claimed in any claim of the complete specification is anticipated by before the date of filing of the applicant's complete specification in any specification filed in pursuance of an application for a patent made in India and dated on or after the 1st day of January, 1912;

or in any claim of any other complete specification published on or after the date of filing of the applicant's complete specification, being a specification filed in pursuance of an application for a patent made in India and dated before or claiming the priority date earlier than that date.

The Controller shall, in addition, make such investigation for the purpose of ascertaining whether the invention has been anticipated by publication in India or in any document before the date of filing of the applicant's complete specification.

When the Controller is satisfied that the invention has been anticipated by publication in India or in any document before the date of filing of the applicant's complete specification, the Controller shall refuse the application.

## COMMUNICATION TO THE APPLICANT

When any objections are raised by the Patent Examiner concerned, the Controller will communicate to the applicant the objections so raised. The objections generally relate to the drafting of the specification and claims, or any of the claims in any prior publication of any specification or drawings, or prior publication of the invention in some book or journal.

The applicant is to make the amendment sought. If such amendments are not made within fifteen months from the date on which the first statement of objections is forwarded by the Controller to the applicant, the application is deemed to have been abandoned. Such period of fifteen months can be extended to a maximum of 18 months on a request for extension made by the applicant. If the objections are not satisfactorily answered by the applicant, the Controller, after giving an opportunity of hearing to the applicant, may refuse the application or acceptance of the application.

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Approval

## SPECIAL PROVISIONS

Section 8 provides that an application for a patent may be made alone or jointly with one or more other persons, and may be made by a person who is a national of a convention country or an Indian citizen to apply for a patent, accompanied with the

(1) a statement of the invention;

(2) an undertaking that the applicant will make the invention available to the public on the terms and conditions specified in the statement of the invention;

Controller in such a case, shall be entitled to receive reasonable royalty from enterprises which have made significant investment and were promoting or marketing the concerned product prior to January 1, 2005, and which have not manufactured the product covered by the patent, on the date of grant of patent.

However, at any time after the grant or refusal to grant of a patent, the Controller may, on the application of the applicant, make such amendments as may be necessary to bring the specification and claims into conformity with the requirements of the Act and the rules made thereunder.



## POWERS OF THE CONTROLLER OF PATENTS

Under section 14 of the Act provides that where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse, the Controller may require the applicant to amend the application, or requires any amendment of the application, the specification or the drawings, to ensure compliance with the provisions of the Act or of the rules made thereunder. The Controller shall communicate the gist of objections to the applicant and give him an opportunity of hearing.

The Controller may refuse the application, specification or the other documents to be amended to his satisfaction before he proceeds with the application, or refuse the application on failure to do so.

According to section 16, a person who has made an application for a patent under the Act may, at any time before the grant of the patent, if he so desires, with a view to remedy the objection raised by the controller on the ground that the claims of the complete specification relate to more than one invention, file a further application in respect of an invention disclosed. The further application shall not be accompanied by a complete specification, but such specification shall not be in any matter not in substance disclosed in the complete specification of the first mentioned application. The Controller may require the applicant to amend the complete specification, to ensure that neither of the complete specifications includes a claim for any matter claimed in the other.

Section 17 provides that subject to the provisions of section 9, at any time after the filing of an application and before the grant of the patent under the Act, the Controller may, at the request of the applicant direct that the application be amended post-dated to such date as may be specified in the request and proceed with the application accordingly. However, no application is to be post-dated to a date more than six months from the date on which it was actually made or would be made to have been made.

Under section 18, where it appears to the Controller that the invention has been anticipated as referred to under sections 13(2)(1) (a) or 13(2) he may refuse to accept the complete specification unless the applicant—

- (a) shows that the priority date of the claim of his specification is not later than the date on which the relevant document was published; or
- (b) amends his complete specification of the Controller.

According to clause (2) of section 18, if it appears to the Controller that the invention is claimed in a claim of any other complete specification as referred to under section 13(1)(b), he may, direct that a reference to that other specification shall be inserted by way of notice to the public in the applicant's complete specification unless within such time as may be prescribed—

- (a) the applicant shows to the satisfaction of the Controller that the priority date of his claim is not later than the priority date of the claim of the other specification; or
- (b) the complete specification is amended to the satisfaction of the Controller.

## OPPOSITION PROCEEDINGS TO GRANT OF PATENT

Where an application for a patent has been published but a patent has not been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent on the grounds:

- (1) The applicant had wrongfully obtained the complete invention or a part thereof from a person under or through whom he claims.



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Such an opposition can be envisaged in a case where there have been two inventors engaged in arriving at an invention. In case one of them files an application himself or through his assignee, the other inventor or his legal representative, in case he is dead, can oppose the application on the ground of wrongfully obtaining of a part of invention when the other inventor had invented a major portion of the invention and his invention having been stolen and proclaimed by the former as being his own.

- (2) Prior publication in any Indian specification or prior publication in any other document in India or elsewhere.
- (3) The invention has been the subject-matter of a prior claim in an application which is prior in time than the applicant's claim.
- (4) The invention as claimed in the complete specification was publicly known or publicly used in India before the applicant's claim.
- (5) The invention as claimed by the applicant in his complete specification is obvious and does not involve any inventive step.
- (6) The invention is not patentable or its patenting is prohibited under the Act.
- (7) The complete specification of the applicant does not sufficiently and clearly describe the invention or the method by which it is to be performed.
- (8) In case of foreign application, the failure to disclose information relating to such application filed in a foreign country.
- (9) In case of convention application, the application was not made within twelve months from the date of first application for protection of invention made in a convention country by the applicant or a person from whom he derives title.
- (10) In case the complete specification does not disclose or wrongly mentions the source or geographical origin or biological material used for the invention.
- (11) In case the invention so far as claimed in any claim of the complete specification is anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere.

The Controller shall, if requested by such person for being heard, hear him and dispose of such representation in such manner and within such period as may be prescribed.

However, at any time after the grant of patent but before the expiry of one year from the date of publication of grant of patent, any person interested may give notice of opposition to the Controller, on any of the similar grounds mentioned aforesaid.

Where any such notice of opposition is duly given, the Controller shall notify the patentee and shall constitute a Board, refer such notice of opposition along with the documents for examination and submission of its recommendations to the Controller. The Opposition Board, after giving the patentee and opponent, an opportunity of being heard, shall submit its recommendations to the Controller, and the Controller shall order either to maintain, or the amend, or to revoke the patent, though while passing an order, the Controller shall not take into account any personal document or secret trial or secret use.



Chapter VI of the Patents Rules, 2003 deals with the Opposition proceedings. Rule 55 states that opposition by representation against the grant of patent be duly filed in Form 7 and sent to the Controller in duplicate. Rule 57 lays down rule regarding the filing of written statement of opposition and evidence.

By the Patents (Amendment) Act, 2005 a dichotomy was inserted for the first time in the Patents Act w.e.f. 1-1-2005 by providing for "opposition to pre-grant" of patent *vide* section 25(1) and for "opposition to post-grant" of patent *vide* section 25(2). By reason of the Patents (Amendment) Act, 2005, the kind of opposition available under the Patents Act, 1970 is different from what existed earlier. Previously there was no "post-grant opposition" and the only provision of challenge by an interested party was a "pre-grant" challenge under section 25(1) as it then stood. Therefore, the Courts had evolved the "rule of caution" as the patent had not faced any challenge at the hands of interested parties. There is, however, a radical shift due to incorporation of section 25(2) where an interested party is granted the right to challenge the patent after its grant.

The ground of challenge under section 25(1) is identical to section 25(2) of the Patents Act, 1970. Opposition to pre-grant of patent (section 25(1)) is wider than opposition to post-grant of patent (section 25(2)) as the latter is available only to a "person aggrieved". The main difference between section 25(1) and section 25(2), as brought about by the Patents (Amendment) Act, 2005, is that even after a patent is granted, "post-grant opposition" can be filed under section 25(2) for a period of one year. *J. Mitra & Company Private Limited v. Assistant Controller of Patents & Designs*, (2008) 10 SCC 368; AIR 2009 SC 405; 2008 AIR SCW 7470; 2009 CLC 52; 2009 (1) Civ LJ 77; 2008 (38) PTC 6; 2008 (11) SCALE 524.

### GRANT OF PATENT

When the application for a patent has been found in order for grant of the patent and:

- (1) the application has not been refused by the Controller by virtue of any power vested in him,
- (2) the application has not been found to be in contravention of any of the provisions of the Act,

then the patent shall be granted as expeditiously as possible with the seal of the patent office, and the date on which the patent is granted shall be entered in the register. On the grant of the patent, the Controller shall publish the fact that the patent has been granted and it shall be open for the public inspection. A patent shall be granted for one invention only.

The decision of the Controller, if it is against the applicant, can be appealed against in the Appellate Board.

### Date of Patent

The patent becomes effective from the date of filing of complete specification. The date of every patent shall be entered in the register. No suit or other proceeding shall be commenced or prosecuted in respect of an infringement committed before the date of publication of the application.

### Extent and Effect of Patent

Every patent shall be in the prescribed form and shall have effect throughout India. A patent shall be granted for one invention.

However, it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.



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However, it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

### Permitted uses in Respect of a Patent

Under the Patents Act, 1970, the grant of patent shall be subject to certain conditions such as:

- (a) any machine, apparatus or other article in respect of which the patent is granted or any article made by using a process in respect of which the patent is granted, may be imported or made by or on behalf of the Government for the purpose merely of its own use;
- (b) any process in respect of which the patent is granted may be used by or on behalf of the Government for the purpose merely of its own use;
- (c) any machine, apparatus or other article in respect of which the patent is granted or any article made by the use of the process in respect of which the patent is granted, may be made or used, and any process in respect of which the patent is granted may be used, by any person, for the purpose merely of experiment or research including the imparting of instructions of pupils; and
- (d) in the case of a patent in respect of any medicine or drug, the medicine or drugs may be imported by the Government for the purpose merely of its own use or for distribution in any dispensary, hospital or other medical institution maintained by or on behalf of the Government or any other dispensary, hospital or other medical institution which the Central Government may, having regard to the public service that such dispensary, hospital or medical institution renders, specify in that behalf by notification in the Official Gazette.

### TERM OF THE PATENT

Section 53 of the Act lays down that the term of patent after the commencement of the Patents (Amendment) Act, 2002 or the term of every patent which has not expired and has not ceased to have effect, on the date of commencement of the said Act, shall be twenty years from the date of filing of the application for the patent.

Similarly, the term of patent in case of international applications filed under the Patent Co-operation Treaty designating India, shall be twenty years from the international filing date accorded under the Patent Co-operation Treaty.

### JOINT INVENTORS

The inventor is the person who thinks of the invention, not somebody who merely builds something described by another party. If an idea arises as a result of a discussion among several people, all those who contributed to the resulting invention are joint inventors. Where the application for patent is made by two or more joint applicants, an application for substitution of one of the joint applicants will not be allowed, except with the consent of the other joint applicants. This is in consonance with the principle that a co-owner of a patent cannot assign his rights without the consent of the other co-owners. On the death of a joint applicant before the patent is granted, the Controller may, on a request made by the survivors and with the consent of the legal representative of the deceased, direct the application to proceed in the name of the survivors alone.

### COMPULSORY LICENCE

The term of patent can, however, be cut short by the grant of 'compulsory licence' or 'licence of right' to any person to work the invention when the patentee fails to work the invention in public interest.



## JURISDICTION AND PATENT OFFICES IN INDIA

**Shri P.H. Kurian, IAS**

Controller General of Patents,

Designs & Trade Marks

Bhouthik Sampada Bhavan,

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S.M. Road, Antop Hill, Mumbai-400037,

Phones: 022-24132735, Fax: 022-24123322

Website: [www.ipindia.nic.in](http://www.ipindia.nic.in)

Address with Phone Nos and email	Contact Person	Jurisdiction
The Patent Office, Intellectual Property Office Building, G.S.T. Road, Guindy, <b>Chennai-600032</b> , Phone: 044-22502081-84, Fax: 044-22502066, Email: <a href="mailto:chennai-patent@nic.in">chennai-patent@nic.in</a>	<b>Shri V. Rengasamy</b> Deputy Controller of Patents & Designs Tel: 044-22502080	The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Pondicherry and the Union Territories of Laccadive, Minicoy and Aminidivi Islands.
The Patent Office, Intellectual Property Office Building, Plot No. 32, Sector 14, Dwarka, <b>New Delhi-110075</b> , Phone: 011-28034304, 28034305, 28034306, Fax: 011-28034301, 02, Email: <a href="mailto:delhi-patent@nic.in">delhi-patent@nic.in</a>	<b>Dr. K.S. Kardam</b> Deputy Controller of Patents & Designs Tel: 011-28034310	The States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh and Delhi and the Union Territory of Chandigarh.
The Patent Office, Office of the Trade Marks Registry, Bhouthik Sampada Bhavan, Near Antop Hill Head Post Office, S.M. Road, Antop Hill, <b>Mumbai-400037</b> , Phone: 022-24137701, 24141026, 24150381, 24148165, 24171457, Fax: 022-24130387 Email: <a href="mailto:mumbai-patent@nic.in">mumbai-patent@nic.in</a>	<b>Dr. W.M. Dhumane</b> Senior Jt. Controller of Patents & Designs Tel: 24153651	The States of Gujarat, Maharashtra, Madhya Pradesh and Goa and the Union Territories of Daman and Diu and Dadra and Nagar Haveli.
The Patent Office, Intellectual Property Office Building, CP-2 Sector V, Salt Lake City, <b>Kolkata-700091</b> , Phone: 23671945, 1946, 1987, Fax: 033-2367-1988, Email: <a href="mailto:kolkata-patent@nic.in">kolkata-patent@nic.in</a>	<b>Shri D.K. Rahut</b> Deputy Controller of Patents & Designs Tel: 033-23671987	Rest of India



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Patent Office, Intellectual Property Office Building, Plot No. 32, Sector 14, Dwarka, New Delhi-110075, Phone: 011-28034304, 011-28034306, 011-28034301, 02, Email: delhi-patent@nic.in	<b>Dr. K.S. Kardam</b> Deputy Controller of Patents & Designs Tel: 011-28034310	The States of Himachal Pradesh and Kashmir, Rajasthan, Uttar and Delhi and the Territory of Chan
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Patent Office, Intellectual Property Office Building, CP-2 Sector V, Salt Lake City, Kolkata-700091, Phone: 23671946, 1987, Fax: 033-23671987, Email: kolkata-patent@nic.in	<b>Shri D.K. Rahut</b> Deputy Controller of Patents & Designs Tel: 033-23671987	Rest of India

## Provisional and Complete Specification

### SPECIFICATION

To explain an invention, a description of the same is essential. An invention is to be explained to enable the general public to use the invention on the expiry of the protected period. The description of the patent is called 'specification'. The specification is an essential part of a patent application. The description of the invention in the specification is in fact, the consideration in lieu of which an exclusive right in the form of patent is granted.

### Contents and form of specification

(a) The specification begins with the title sufficiently indicating the subject-matter of the invention.

For instance title: MECHANISED RESPIRATOR.

(See the format of a specification attached). Every specification, whether provisional or complete, shall be made in Form 2 as specified in the Patents Rules, 2003.

(b) The full description of the invention and the method by which it is to be performed must be given. It should describe the best method of performance known to the applicant. (See the format of a specification attached).

(c) The specification must end with a claim or claims defining the scope of the invention for which protection is claimed. The claims should relate to one invention only and not be stated in a general manner. The claims must be clear and be fairly based on the invention disclosed.

(d) The specification must be accompanied by an abstract to provide technical information on the invention.

(e) In case of an international application designating India, the title, description, drawings, abstract and claims are to be filed with the application.

A declaration as to the inventorship of the invention should also be given.

A complete specification may include claims in respect of developments of, in addition to, the invention which was described in a provisional specification, being developments or additions in which the applicant would be entitled to make a separate application for a patent.

### Form of the patent specification

A patent specification is not merely a description of the invention but it is also a legal document. The importance of the claims in a specification is that when the technical interpretation of the specification is considered by the



Examiner in the Controller's Office. The description should satisfy the Examiner concerned that there indeed is an invention. The importance of specification arises when any party alleges that the specification of the applicant does not fully and sufficiently describe the invention and opposes the application on such ground. The specification has then to successfully meet the ground of opposition which it can do only if it gives sufficient description of the invention.

### KINDS OF SPECIFICATION

Depending upon the sufficiency of description, a specification may be either:

- (1) Provisional specification, or
- (2) Complete specification.

#### **Provisional specification**

While an inventor is in the process of finalising his invention, he may file a specification known as 'Provisional Specification' which is not a full and specific description. It contains only a general description of the invention, its field of application and anticipated results. The Provisional Specification need not contain the claim(s).

#### ***Need to file a Provisional Specification***

A provisional specification is filed to fix the priority date of the patent. Since the Indian patent law is based on the 'first-to-apply' principle, the inventor who first files provisional specification with claim(s) secures his invention against a similar claim for a patent being applied later by another inventor. The priority date of a claim is the date on which a specification containing the claim is filed. Normally, the priority date is the date of filing the provisional specification provided the claims are based on the matter disclosed in the provisional specification.

#### ***Provisional Specification to be followed by Complete Specification***

According to the provisions of section 9 of the Act, where an application for patent, not being a convention application or an application filed under the Patent Co-operation Treaty designating India, is accompanied by a provisional specification, a complete specification shall be filed within twelve months from date of filing of the application and if the complete specification is not filed, the application shall be deemed to be abandoned.

This provision ensures that the rights of any other inventor in the same field of research are not kept in suspended animation by denying them the right to seek a patent for the same invention in case the prior applicant of the patent fails to develop his invention to a working stage during the permissible period. The Controller is not to wait indefinitely for such an applicant to file his complete specification. When a complete specification does not follow a provisional specification within the maximum period of fifteen months, the patent application is deemed to have been abandoned.

During the period between the filing of the provisional specification and complete specification, the inventor may conduct further research on the subject-matter of his invention and improve the method of carrying out the invention or introduce further developments or additions to the invention which he can incorporate in the complete specification and the claims.

When a complete specification and the claims mentioned therein are fairly based on the matter disclosed in the provisional specification, the applicant gets the liberty to publish or use his invention after the date of filing the application without endangering the value of the patent when granted in course of time.



Examiner in the Controller's Office. The description should satisfy the Examiner concerned that there indeed is an invention. The importance of specification arises when any party alleges that the specification of the applicant does not fully and sufficiently describe the invention and opposes the application on such ground. The specification has then to successfully meet the ground of opposition which it can do only if it gives sufficient description of the invention.

### KINDS OF SPECIFICATION

Depending upon the sufficiency of description, a specification may be either:

- (1) Provisional specification, or
- (2) Complete specification.

#### Provisional specification

While an inventor is in the process of finalising his invention, he may file a specification known as 'Provisional Specification' which is not a full and specific description. It contains only a general description of the invention, its field of application and anticipated results. The Provisional Specification need not contain the claim(s).

#### Need to file a Provisional Specification

A provisional specification is filed to fix the priority date of the patent. Since the Indian patent law is based on the 'first-to-apply' principle, the inventor who first files provisional specification with claim(s) secures his invention against a similar claim for a patent being applied later by another inventor. The priority date of a claim is the date on which a specification containing the claim is filed. Normally, the priority date is the date of filing the provisional specification provided the claims are based on the matter disclosed in the provisional specification.

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During the period between the filing of the provisional specification and complete specification, the inventor may conduct further research on the subject-matter of his invention and improve the method of carrying out the invention or introduce further developments or additions to the invention which he can incorporate in the complete specification and the claims.

When a complete specification and the claims mentioned therein are fairly based on the matter disclosed in the provisional specification, the applicant gets the liberty to publish or use his invention after the date of filing the application without endangering the value of the patent when granted in course of time.

### Complete specification

The Complete Specification is the full description of the invention containing all the claims over which the applicant seeks monopoly right. The object of a complete specification is to define clearly and with precision the monopoly claimed so that others may know the exact boundaries of the monopoly right of the applicant.

#### The contents of a Complete Specification are:

- (1) Title sufficiently indicating the subject-matter to which the invention relates (See attached specification).
- (2) A full and particular description of the invention and its operation or use and the method by which it is to be performed.
- (3) A disclosure of the best method of performing invention which is known to the applicant and for which he seeks to claim protection.
- (4) The claim(s) defining the scope of the invention. The claim(s) must relate to one invention only. The claim(s) must be clear and precise.
- (5) The specification must be accompanied by an abstract to provide technical information on the invention.
- (6) In case of an international application designating India, the title, description, drawings, abstract and claims to be filed with the application.
- (7) A declaration as to the inventorship of the invention.
- (8) A complete specification filed after a provisional specification may include claims in respect of developments of, or additions to, the invention which was described in the provisional specification, being developments or additions in respect of which the applicant would be entitled, to make a separate application for patent.

### PRIORITY DATE OF A CLAIM

The priority date is important in determining whether the invention is indeed new keeping in view the present state of knowledge in the given field. The priority date is the date on which the patentee claims his invention. Since a provisional specification is generally filed much before the filing of complete specification, the priority date is the date of filing of the provisional specification provided the claims contained therein are fairly based on the description of the invention as given in the provisional specification. The novelty of an invention is tested with reference to the existing state of knowledge on such priority date. If the applicant's invention is novel and non-obvious to a person skilled in the art appropriately aware of the recent developments on such date, the invention qualifies the test of novelty and non-obviousness.

### THE INTERPRETATION OF SPECIFICATION AND ITS IMPORTANCE

The specification is the essence of the invention. It builds the boundaries around the monopoly right of the applicant. Anything falling outside the limits of such boundary cannot be claimed by the applicant. Any right within the limits of the specification cannot be denied. Therefore, the drafting of the specification is of utmost importance in creating the exclusive right and maintaining such right.

The claims must include all possible equivalent variations of the invention to guard against infringement.

For instance, when a feature of an invention is a movable coil with the help of a spring, the applicant must claim that any movable arrangement of a coil whether