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National Phase Entry - INDIA

Requirements | Timeline | Fee

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WHY INDIA?

- ❖ As being known as fastest growing economy in the world, **India** has experienced **positive changes** in both its market size and **technological capabilities** in recent years.
- ❖ Consequently, **foreign patent applications filed in India have increased** as more applicants recognize India's potential as a manufacturing and consumer center
- ❖ Most of the corporates across the world **considering India as their potential market** and started protecting their inventions in India too
- ❖ In this regard, it would be prudent to know what are the **documents required, timelines and fee associated with filing a patent in India**, especially through National Phase application
- ❖ Encompassing slides throw some light on **"National phase entry to India"**

What is PCT Application

- ❖ The Patent Cooperation Treaty (PCT) is an ***international patent law treaty***.
- ❖ It provides a ***unified procedure for filing patent applications*** to protect inventions in each of its contracting states.
- ❖ A patent application filed under the PCT is called an “***international application***”, or ***PCT application***.

What is a National Phase Application?

- ❖ A PCT application does not itself result in the grant of a patent, since there is no such thing as an "international patent", and the ***grant of patent depends on each national or regional authority.***
- ❖ In other words, a PCT application, which establishes a filing date in all contracting states, ***must be followed up with the step of entering into national phases*** to proceed towards grant of one or more patents.
- ❖ The PCT procedure ***essentially leads to a standard national or regional patent application***, which may be granted or rejected according to applicable law, in each jurisdiction in which a patent is desired
- ❖ ***The patent applications which are filed in individual contrasting countries of PCT is generally referred as "National Phase Application"***

Timeline to Enter into INDIA

- ❖ National Phase application in India can be filed ***within 31 months*** from the ***earliest priority date*** of the PCT application.
- ❖ India ***doesn't allow any time extensions*** beyond 31 months

Documents to be Submitted

Below documents need to be submitted while filing National Phase application in India

- ❖ **Form 2:** Complete specification, *as filed copy of the PCT* including figures, claims etc.
- ❖ **Form 1:** Application for *Grant of Patent*
- ❖ **Form 5:** Declaration as to *Inventorship*
- ❖ **Form 3:** *Statement and Undertaking*. Information of other country filings
- ❖ **Form 26:** Power of attorney
- ❖ **Proof of Right**, if available

Language

- ❖ Indian patent office accepts national phase application in either English or Hindi language, however, **English** is highly preferred language
- ❖ In addition, if the priority PCT document is not in English, an **English translated priority document** should be filed before 31 months from the priority date of the PCT application

Can I amend the specification or claims before filing?

- ❖ While entering the national phase in India, ***applicant is not allowed to amend any part of the application.***
- ❖ The National Phase application should be ***as filed copy with the PCT application***
- ❖ ***Any amendment*** whether in claims or specification can be filed by submitting ***Form 13 after filing the national phase application*** in India

Fee

Fee to be paid to the Indian Patent Office would be calculated based on

- ❖ **Who the applicant is?** and
- ❖ **Number of pages/sheets and number of claims** available in the PCT publication

Indian Patent office categorized applicants into **4 types**

- ❖ **Natural Person**
- ❖ **Other than Natural person – Start-up**
- ❖ **Other than Natural person – Small Entity**
- ❖ **Other Than natural person - Other than small entity (Corporates, big companies etc.)**

Fee

Below table summarizes fee to be payable to the Indian patent office (e-filing)

Activity	Fee		
	Individual/ Startup	Small Entity (SME)	Other than small entity (Corporates, Companies etc.)
Patent Filing	\$ 25	\$ 62	\$ 124
Each page in addition to 30	\$ 3	\$ 7	\$ 13
Each claim in addition to 10	\$ 5	\$ 13	\$ 25

- The final fee to be paid to the Indian patent office may vary as it depends on exchange rates
- For easy conversion, we have considered 1USD = INR 65

ABOUT US

- IMMUNIS delivers world class Patent and Intellectual property (IP) services globally.
- Immunis IP is a professional Intellectual Property Services firm providing solutions to various *businesses, law firms and individuals* alike.
- Most of our team members are *Registered Patent Agents* and possess impressive skills and cross-functional expertise in providing cutting edge solutions for our clients.
- Immunis IP has well qualified and experienced *technical and legal professionals*, high-end infrastructure and advanced patent searching and mining tools.

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