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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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