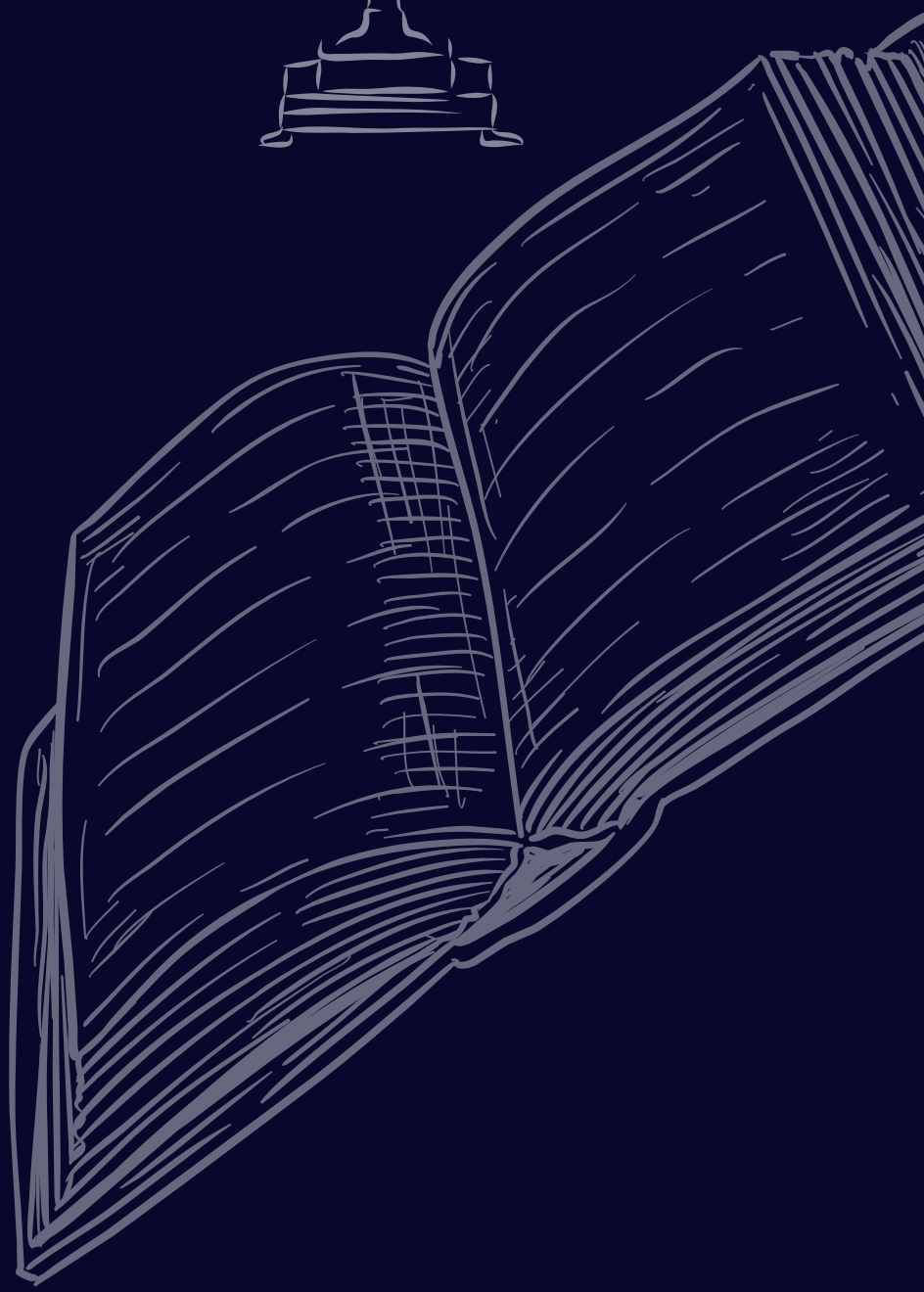
EDITION ONE

RASPREP

Module 2

THE PATENTS ACT, 1970 (No. 39 of 1970)

Part III



Section-wise Analysis of the Indian Patents Act, 1970 (Sections 116-163)

PREFACE

The Patents Act, 1970 (No. 39 of 1970), along with its subsequent amendments, governs the law relating to the grant, protection, and enforcement of patents in India.

This book provides a comprehensive explanation of the various sections of the Act. It is intended to assist students, legal practitioners, patent professionals, researchers and innovators in understanding the statutory provisions, their scope and practical applications.

Each section is explained in detail, supported by illustrative examples and interpretations where necessary. Special attention is given to patentability criteria, rights conferred by patents, procedures for filing, opposition and remedies for infringement.

By focusing on Sections 116 to 163, this book provides a concise yet comprehensive understanding of the key provisions of the Indian Patents Act, making it accessible and practically useful for both academic and professional purposes.

REFERENCE

The explanations and commentary in this book are based on the Indian Patents Act, 1970 (No. 39 of 1970) including all subsequent amendments. Sections cited in this book are reproduced from the Indian Patents Act, 1970, while the explanations and commentary are original, provided for clarity and understanding.

TABLE OF CONTENTS

1	**About The Company**	4
2	**Chapter 19: Appeals**	7
3	**Chapter 20: Penalties**	9
4	**Chapter 21: Patent Agents**	13
5	**Chapter 22: International Arrangements**	17
6	**Chapter 23: Miscellaneous**	21

RAS Intellect Pvt Ltd

RAS Intellect Pvt Ltd

MOHALI | NOIDA | AMBALA

Info@rasintellect.com

510-513, 5th floor, Jubilee Walk, Sector 70, Mohali, 160071

+ 91 7009846630 | +91 6280302834

www.rasintellect.com

About Us

At RAS Intellect, we specialize in patents, trademarks, copyrights, and everything that protects your brainchild. From solo inventors to growing startups and global enterprises, we empower creators to secure, protect, and profit from their innovation. Our team of skilled professionals is dedicated to guiding organizations through the complexities of IP processes, ensuring that valuable assets are effectively protected and leveraged for maximum benefit. We operate across multiple verticals to cater to the unique challenges faced by organizations in promoting innovation while ensuring effective protection and management of intellectual assets. We also offer end-to-end support for research paper writing and publication, enabling impactful dissemination of innovative ideas in reputed journals.

Vision

Our vision is to become a leading innovation and intellectual property enabler across India by empowering startups, universities, researchers, and enterprises with technology-driven IP, research, and commercialization solutions that transform ideas into impactful innovations.

Mission

To empower innovators and creators by protecting and maximizing the value of their intellectual property through strategic, tailored solutions, while advancing research excellence by enabling high-quality publications in globally recognized and reputed journals.

Charting the Course to Success

Our services are focused on strengthening measurable research, innovation, IPR, publication, and documentation outcomes for NIRF, NAAC and IIC.

1. IPR and Patent Filing Support

- Patentability assessment of faculty/student research
- Prior art searching and patent landscape reports
- Provisional and complete patent specification drafting
- Patent filing
- Early publication request support
- Request for examination filing support
- FER response drafting and prosecution assistance
- Patent grant tracking and reporting
- Design registration filing
- Copyright filing for software, manuals, literary works, lab content and academic material
- Trademark support for university innovation cells, incubation centres and institutional brands

2.NIRF Research Parameter Support

- Annual NIRF research data audit
- Patent published/granted tracking
- Research publication tracking
- Scopus publication mapping
- Citation and H-index monitoring
- Faculty-wise research output mapping
- Department-wise research performance reports

3. NAAC Criterion III Support

- Criterion III gap analysis
- Research policy drafting
- IPR policy drafting or revision
- Innovation and startup policy drafting
- Seed money policy documentation
- Research promotion mechanism documentation
- Faculty research incentive policy support
- Patent and publication evidence compilation
- MoU and collaboration evidence structuring
- Extension activity documentation
- Innovation ecosystem documentation

4. IIC and Innovation Cell Support

- IIC annual activity calendar planning
- Innovation and IP awareness sessions
- Patent search workshops
- Idea-to-IP mentoring
- Student innovation screening
- Hackathon planning and execution
- Prototype documentation support
- Startup mentoring sessions
- Entrepreneurship and commercialization workshops.

5. Research Paper and Publication Support

- Research topic selection support
- Literature review guidance
- Research paper structuring
- Journal selection guidance
- Scopus-indexed journal identification
- Plagiarism and AI-similarity reduction guidance
- Manuscript formatting as per journal guidelines
- Citation and referencing support
- Response to reviewer comments

6. Faculty Development and Student Training Programs

- Patent drafting workshop
- Patent search workshop
- Research methodology workshop
- Scopus publication workshop
- Copyright and design registration workshop
- Innovation-to-commercialization workshop
- Technology transfer and licensing session
- Startup and entrepreneurship bootcamp
- Patent Agent career awareness session
- IP for faculty research advancement
- IP for Ph.D. scholars and research supervisors

7. University IP Cell Setup and Management

- IP Cell formation support
- IP Cell SOP drafting
- Invention disclosure form preparation
- Patent review committee formation support
- IP ownership and revenue-sharing policy
- Faculty/student disclosure workflow
- Patent filing calendar
- IP awareness schedule
- Department-wise IP coordinators' training

8. Incubation and Commercialization Support

- Technology readiness assessment
- Commercial potential assessment
- Startup idea screening
- IP-based startup mentoring
- Licensing strategy
- Technology transfer documentation
- MoU drafting support
- Pitch deck preparation
- Innovation portfolio preparation

RASPREP University Training Programs

RAS Intellect offers structured IP training and internship programs for universities through 1-week, 6-week, and 6-month formats. These programs cover IP fundamentals, patent searching, patent drafting, legal understanding, innovation awareness, and career readiness in the intellectual property domain. The modules can be delivered in virtual, hybrid, or offline mode and may also be customized as credit-based, vocational, or skill-development programs for students and faculty. This initiative supports universities in strengthening innovation culture, student employability, academic enrichment, and evidence-based contribution towards NAAC, NIRF and IIC-related research and innovation parameters.

How this supports Universities

- NAAC Criterion III: research, innovation, extension, skill development, and institutional innovation ecosystem.
- IIC activities: IP awareness, innovation training, patent search workshops, idea-to-IP mentoring, and entrepreneurship-linked activities.
- NIRF support areas: research culture, professional practice, IPR awareness, patent filing pipeline, and student/faculty innovation outcomes.
- Employability and academic enrichment: by creating technically trained students for IP, patent drafting, research analysis, and innovation-based career roles.

Recent Milestones

Recognitions and Contributions from 2024–2025

- **National IP Outreach Mission – Viksit Bharat**

Dr. Ruchi represented RAS Intellect Solutions as a panelist in the "IPR for Women in Business" session organized by PHDCCI, contributing to the national dialogue on IP for inclusive innovation.

- **National IP Yatra 2025 – ASSOCHAM & MSME Ministry**

As co-panelist at this MSME Ministry-supported event, Dr. Ruchi addressed "Maximizing IP Value for Startups & MSMEs," underscoring the firm's expertise in IP commercialization.

- **National Intellectual Property Awards 2024 – Ministry of Commerce & CGPDTM**

Dr. Ruchi was invited to the prestigious IP Awards held at Bharat Mandapam, New Delhi, recognizing RAS Intellect's national contribution to IP literacy and strategy.

- **Leadership & Innovation Milestone – TiECON 2025**

Honoured by the Governor of Punjab, Dr. Ruchi received an award at TiECON 2025 for excellence in research and innovation leadership.

Building IP Foundations for Viksit Bharat

A visionary collaboration with Punjab School Education Board (PSEB)

In alignment with the national vision of **Viksit Bharat@2047**, RAS Intellect is collaborating with the **Punjab School Education Board (PSEB)** to introduce Intellectual Property (IP) education in schools across Punjab.

This initiative aims to embed IP awareness and foundational knowledge within the school curriculum — empowering students and educators to understand, create, and protect innovation from an early age. By nurturing IP consciousness at the grassroots level, we are shaping a generation of future-ready innovators equipped to lead India toward self-reliance and global competitiveness.

Meet the Founder

Visionary leadership driving India's IP revolution

Dr. Ruchi Singla

Director & CEO, RAS Intellect Solutions Pvt. Ltd

- Over 20 years of experience in academic research, intellectual property strategy, and innovation leadership
- Recognized among the **Top 50 Mentors in India** for contributions to national mentoring initiatives
- Serves as a **Regional Mentor of Change** under the **Atal Innovation Mission**, NITI Aayog
- Successfully guided **over 2,300 patent filings** across diverse fields, including AI, drones, and cybersecurity
- Established **three Centres of Excellence** during her academic leadership, fostering innovation ecosystems
- Licensed Indian Patent Agent (No. 5887) and Certified Canadian Patent Administrator by **the Intellectual Property Institute of Canada**
- Secured **over ₹15 crores** in funding for research, innovation, and startup incubation projects
- Empaneled as an **IP Facilitator under the Startup India Scheme (SIIP)** to support early-stage ventures
- Regular speaker and co-panelist at national forums including **TiECON, ASSOCHAM, and PHDCCI**
- Former **Director of Research & Innovation at CGC Landran** and **Director at ACIC RISE Association,** supported by NITI Aayog
- **Scientific Adviser**, IP India

At the intersection of policy, education, and intellectual property, Dr. Ruchi Singla is building a more innovation-ready India.

CHAPTER 19:
APPEALS

116

[Appellate Board.] Omitted by the Tribunals Reforms Act, 2021 (33 of 201), s. 13 (w.e.f. 4-4-2021).

117

[Staff of Appellate Board.] Omitted by s. 13, ibid. (w.e.f. 4-4-2021).

117A

Appeals to High Court

(1) Save as otherwise expressly provided in sub-section (2), no appeal shall lie from any decision, order or direction made or issued under this Act by the Central Government, or from any act or order of the Controller for the purpose of giving effect to any such decision, order or direction.

(2) An appeal shall lie to the High Court from any decision, order or direction of the Controller of Central Government under section 15, section 16, section 17, section 18, section 19, section 20, sub-section (4) of section 25, section 28, section 51, section 54, section 57, section 60, section 61, section 63, section 66, sub-section (3) of section 69, section 78, sub-sections (1) to (5) of section 84, section 85, section 88, section 91, section 92 and section 94.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in such manner as may be prescribed and shall be accompanied by a copy of the decision, order or direction appealed against and by such fees as may be prescribed.

(4) Every appeal shall be made within three months from the date of the decision, order or direction, as the case may be, of the Controller or the Central Government or within such further time as the High Court may, in accordance with the rules made by it, allow.

Explanation:

No appeal lies from any decision, order, or directions made by the Central Government, or any act or order of the Controller made to give effect to such decisions or directions.

An appeal can be filed before the High Court against specific decisions, orders, or directions of the Controller or Central Government under specific sections (15, 16, 17, 18, 19, 20, 25(4), 28, 51, 54, 57, 60, 61, 63, 66, 69(3), 78, 84(1)-(5), 85, 88, 91, 92, 94).

Every appeal must be in the prescribed form, verified and accompanied by a copy of the decision/order/direction being appealed and the prescribed appeal fee.

The appeal must be filed within 3 months from the date of the decision/order/direction. However, the High Court may allow further time if satisfied with the reasons for delay — in accordance with its procedural rules.

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117B
[Procedure and powers of Appellate Board.] Omitted by the Tribunals Reforms Act, 2021 (33 of 201), s. 13 (w.e.f. 4-4-2021).

117C
[Bar of jurisdiction of courts, etc.] Omitted by s. 13, ibid. (w.e.f. 4-4-2021).

117D
[Procedure for application for rectification, etc., before Appellate Board.] Omitted by the Tribunals Reforms Act, 2021 (33 of 201), s. 13 (w.e.f. 4-4-2021).

117E
Appearance of Controller in legal proceedings

(1) The Controller shall have the right to appear and be heard—

- (a) in any legal proceedings before the High Court in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the patent office is raised;

(b) in any appeal to the High Court from an order of the Controller on an application for grant of a patent—

- (i) which is not opposed, and the application is either refused by the Controller or is accepted by him subject to any amendments, modifications, conditions or limitations, or
- (ii) which has been opposed and the Controller considers that his appearance is necessary in the public interest, and the Controller shall appear in any case if so directed by the High Court.

(2) Unless the High Court otherwise directs, the Controller may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him or of the practice of the patent office in like cases, or of other matters relevant to the issues and within his knowledge as the Controller may deem it necessary, and such statement shall be evidence in the proceeding.

Explanation:
In case any legal proceedings involves correcting entries in the Patent Register, or interpreting Patent Office procedure, the Controller may appear to assist the Court. The High Court may direct the Controller to appear in any case — in which case his appearance becomes mandatory. The Controller's written explanation can substitute his personal appearance and serves as valid evidence.

117F
[Costs of Controller in proceedings before Appellate Board.] Omitted by the Tribunals Reforms Act, 2021 (33 of 201), s. 13 (w.e.f. 4-4-2021).

117G
[Transfer of pending proceedings to Appellate Board.] Omitted by s. 13, ibid. (w.e.f. 4-4- 2021).

117H
[Power of Appellate Board to make rules.] Omitted by s. 13, ibid. (w.e.f. 4-4-2021).

CHAPTER 20:
PENALTIES

118
Contravention of Secrecy provisions relating to certain inventions

If any person fails to comply with any direction given under section 35 or makes or causes to be made an application for the grant of a patent in contravention of section 39, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Explanation:
As per Section 118, if a person fails to comply with the secrecy directions (Section 35) or files a patent outside India without taking permission/informing the IP office, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

119
Falsification of entries in register, etc.

If any person makes, or causes to be made, a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in such a register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both.

Explanation:
If any person is falsifying entries or copies in any register under the Patents Act, or using them as evidence knowingly, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

120
Unauthorised claim of patent rights

If any person falsely represents that any article sold by him is patented in India or is the subject of an application for a patent in India, he shall be liable to penalty which may extend to ten lakh rupees, and in case of the continuing claim, a further penalty of one thousand rupees for every day after the first during which such claim continues.

Explanation I.—For the purposes of this section, a person shall be deemed to represent— (a) that an article is patented in India if there is stamped, engraved or impressed on, or otherwise applied to, the article the word "patent" or "patented" or some other word expressing or implying that a patent for the article has been obtained in India; (b) that an article is the subject of an application for a patent in India, if there are stamped, engraved or impressed on, or otherwise applied to, the article the words "patent applied for", "patent pending", or some other words implying that an application for a patent for the article has been made in India.

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Explanation 2.—The use of words "patent", "patented", "patent applied for", "patent pending" or other words expressing or implying that an article is patented or that a patent has been applied for shall be deemed to refer to a patent in force in India, or to a pending application for a patent in India, as the case may be unless there is an accompanying indication that the patent has been obtained or applied for in any country outside India.

Explanation:
False representation or claim by any person that an article is patented or patent is pending in India shall be liable to pay a penalty of up to ₹10 lakh, plus ₹1,000 per day for continuing misrepresentation.

121
[Wrongful use of words "patent office".] Omitted by the Jan Vishwas (Amendment of Provisions) Act, 2023 (18 of 2023), s. 2 and Schedule (w.e.f. 01-08-2024).

122
Refusal or failure to supply information

(1) If any person refuses or fails to furnish:—
- (a) to the Central Government any information which he is required to furnish under sub-section (5) of section 100;
- (b) to the Controller any information or statement which he is required to furnish by or under section 146, he shall be liable to penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues.

(2) If any person, being required to furnish any such information as is referred to in sub-section (1), furnishes information or statement which is false, and which he either knows or has reason to believe to be false or does not believe to be true, he shall be liable to penalty for a sum equal to one half per cent. of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five crore rupees, whichever is less.

Explanation:
If any person fails or refuses to provide Information related to the use of patented inventions by or for the government to the Central Government under Section 100(5), or Information/statements regarding working of patented inventions in India (Form 27) under Section 146, to the Controller of Patents, then, such person shall be liable to a penalty of up to ₹1,00,000, and in case of continuing refusal or failure, a further penalty of ₹1,000 per day after the first day during which such refusal/failure continues.

123
Practice by non-registered patent agents

If any person contravenes the provisions of section 129, he shall be liable to penalty, which may extend to five lakh rupees, and in case of the continuing default, a further penalty of one thousand rupees for every day after the first during which such default continues.

Explanation:
If any person violates the confidentiality provisions under Section 129, he shall be liable to a penalty which may extend to ₹5,00,000. In case of continuing default, an additional penalty of ₹1,000 per day after the first day during which such default continues.

124
Offences by companies

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—
(a)"company" means any body corporate and includes a firm or other association of individuals; and
(b) "director", in relation to a firm, means a partner in the firm.
Explanation:
As per Section 124, a company AND the responsible officers are liable for offences. Officers can escape liability only by proving lack of knowledge or due diligence. Directors/managers/secretaries can be punished if the offence occurred with their consent, connivance, or due to their neglect.

124A
Adjudication of penalties

The Controller may, by an order, authorise an officer referred to in section 73, to be the adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving the person concerned a reasonable opportunity of being heard.

Explanation:
Section 124A empowers the Controller of Patents to appoint an Adjudicating Officer for conducting inquiries and imposing penalties under the Act. The Controller may issue an order authorising an officer (as mentioned in Section 73) to act as the adjudicating officer. Section 73 lists officers such as the Controller, Deputy Controllers, Assistant Controllers, and other designated officers. The appointed officer is responsible for holding an inquiry, and Imposing penalties as provided under the Act.

124B
Appeal

(1) Whoever aggrieved by an order of the adjudicating officer under section 124A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.
(2) Every appeal under this section shall be preferred in such form and manner as may be prescribed.

(3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
(4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
(5) The appellate authority referred to in sub-section (1) shall dispose of the appeal within sixty days from the date of filing the appeal.
(6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 124A or the order of the appellate authority under this section, as the case may be, within ninety days of such order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both.

Explanation:
1. Any person aggrieved by the order of the adjudicating officer may file an appeal. The appeal must be made to an Appellate Authority. The Appellate Authority must be an officer at least one rank higher than the adjudicating officer and notified by the Central Government for this purpose. The appeal must be filed within 60 days from the date the order is received.
2. The appeal must be submitted in the prescribed form and manner, as provided by rules under the Act.
3. The Appellate Authority may accept an appeal even after 60 days if the appellant shows sufficient cause for the delay. This protects appellants who missed the deadline for valid reasons.
4. The appeal cannot be disposed of without giving the appellant a reasonable opportunity to present their case.
5. The Appellate Authority must decide the appeal within 60 days from the date it was filed.
6. If the person fails to comply with the order of the adjudicating officer (under Section 124A), or the order of the Appellate Authority, within 90 days of the order, then, in addition to the original penalty, they will be liable to a fine of ₹1,00,000, or imprisonment up to 1 year, or both.

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CHAPTER 21:
PATENT AGENTS

125
Register of patent agents

(1) The Controller shall maintain a register to be called the register of patent agents in which shall be entered the names, addresses and other relevant particulars, as may be prescribed, of all persons qualified to have their names so entered under section 126.
(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Controller to keep the register of patent agents in computer floppies, diskettes or any other electronic form subject to such safeguards as may be prescribed.

Explanation:
The Controller is required to maintain a Register of Patent Agents, which includes the names, addresses, and other prescribed particulars of all persons qualified under Section 126. The Act also permits this register to be maintained in electronic form (such as computer media or other digital formats), subject to prescribed safeguards to ensure authenticity and security.

126
Qualifications for registration as patent agents

(1) A person shall be qualified to have his name entered in the register of patent agents if he fulfils the following conditions, namely: —

- (a) he is a citizen of India;
- (b) he has completed the age of 21 years;
- (c) he has obtained a degree in science, engineering or technology from any University established under law for the time being in force in the territory of India or possesses such other equivalent qualifications as the Central Government may specify in this behalf, and, in addition,has passed the qualifying examination prescribed for the purpose; has, for a total period of not less than ten years, functioned either as an examiner or discharged the functions of the Controller under section 73 or both, but ceased to hold any such capacity at the time of making the application for registration;
- (d) he has paid such fee as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a person who has been registered as a patent agent before the commencement of [the Patents (Amendment) Act, 2005 (15 of 2005)] shall be entitled to continue to be, or when required to be re-registered, as a patent agent, on payment of the fee as may be prescribed.

Explanation:
A person is qualified to have his/her name included in the Register of Patent Agents if:

- **He/She is a citizen of India.**
- **He/She has completed 21 years.**
- **He/She holds a degree in science, engineering, or technology from a recognised Indian university, or equivalent qualification as notified by the Central Government.**

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- **He/She has passed the prescribed qualifying exam, or has worked for at least 10 years as an Examiner or has discharged functions of the Controller under Section 73 (and is no longer in that position at the time of applying).**
- **He/She has paid the prescribed fee.**
- **A person already registered as patent agent before the Patents (Amendment) Act, 2005 may continue or be re-registered upon payment of prescribed fees.**

127

Rights of patent agents

Subject to the provisions contained in this Act and in any rules made thereunder, every patent agent whose name is entered in the register shall be entitled:—
(a) to practice before the Controller; and
(b) to prepare all documents, transact all business and discharge such other functions as may be prescribed in connection with any proceeding before the Controller under this Act.

Explanation:
A registered patent agent is entitled to practice before the Controller, and prepare documents, transact business, and perform prescribed functions in connection with any proceeding under the Act.

128

Subscription and verification of certain documents by patent agents

All applications and communications to the Controller under this Act may be signed by a patent agent authorised in writing in this behalf by the person concerned.

Explanation:
Only registered Patent Agents can prepare documents and communicate to the Controller and do business related to applying for or obtaining patents in India or elsewhere.

129

Restrictions on practice as patent agents

(1) No person, either alone or in partnerships with any other person, shall practise, describe or hold himself out as a patent agent, or permit himself to be so described or held out, unless he is registered as a patent agent or, as the case may be, unless he and all his partners are so registered.
(2) No company or other body corporate shall practise, describe itself or hold itself out as patent agents or permit itself to be so described or held out.

Explanation.—For the purposes of this section, practise as a patent agent includes any of the following acts, namely:—

1. *applying for or obtaining patents in India or elsewhere;*
2. *preparing specifications or other documents for the purposes of this Act or of the patent law of any other country;*
3. *giving advice other than of a scientific or technical nature as to the validity of patents or their infringement.*

Explanation:
Section 129 restricts persons other than registered patent agents from practising before the Controller, or preparing documents or transacting business relating to proceedings under the Patents Act. Only registered patent agents can perform such professional acts, except in situations expressly permitted by the Act (such as applicants acting on their own behalf). No person may practise, describe, or hold himself out as a patent agent unless he is registered as a patent agent, and if in partnership, all partners are registered patent agents.

A company or body corporate is not permitted to practise or represent itself as a patent agent.
Practising as a patent agent includes:
(a) Applying for or obtaining patents, in India or abroad;
(b) Preparing specifications or documents relating to Indian or foreign patent laws;
(c) Giving legal advice on validity or infringement of patents.

130
Removal from register of patent agents and restoration

(1) The Controller may remove the name of any person from the register when he is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as he thinks fit to make—

- (i) that his name has been entered in the register by error or on account of misrepresentation or suppression of material fact;
- (ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which in the opinion of the Controller renders him unfit to be kept in the register.

(2) The Controller may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.

Explanation:
The Controller may remove a person's name from the Register of Patent Agents after giving a reasonable opportunity of being heard, if he is satisfied that:
(i) Entry was wrongfully made—the name was entered by error, misrepresentation, or suppression of material facts; or
(ii) The person has been convicted and sentenced to imprisonment, or guilty of professional misconduct, making him unfit to remain on the register.
The Controller may restore the name of a person removed from the register if:

- **an application is made, and**
- **sufficient cause is shown.**

131
Power of Controller to refuse to deal with certain agents

(1) Subject to any rules made in this behalf, the Controller may refuse to recognise as agent in respect of any business under this Act—

- (a) any individual whose name has been removed from, and not restored to, the register;
- (b) any person who has been convicted of an offence under section 123;

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- c) any person, not being registered as a patent agent, who in the opinion of the Controller is engaged wholly or mainly in acting as agent in applying for patents in India or elsewhere in the name or for the benefit of the person by whom he is employed;
- (d) any company or firm, if any person whom the Controller could refuse to recognise as agent in respect of any business under this Act, is acting as a director or manager of the company or is a partner in the firm.

(2) The Controller shall refuse to recognise as agent in respect of any business under this Act any person who neither resides nor has a place of business in India.

Explanation:
The Controller may refuse to recognise any person as an agent in respect with business under the Patents Act in the following cases:
(a) Individuals removed from the Register, whose names have not been restored.
(b) Persons convicted of an offence under Section 123.
(c) Persons not registered as patent agents but who, in the Controller's opinion, are wholly or mainly acting as agents in applying for patents in India or elsewhere for their employer's benefit.
(d) Companies or firms where any person whom the Controller has refused to recognise them as an agent.
The Controller shall refuse to recognise any person as an agent who does not reside in India and does not have a place of business in India.

132
Savings in respect of other persons authorised to act as agents

Nothing in this Chapter shall be deemed to prohibit—
(a) the applicant for a patent from drafting any specification or appearing or acting before the Controller; or
(b) an advocate, not being a patent agent, from taking part in any hearing before the Controller on behalf of a party who is taking part in any proceedings under this Act.

Explanation:
An applicant for a patent may draft specifications, file documents, and appear or act before the Controller on their own behalf.
A qualified advocate, even if not a registered patent agent, may appear in hearings before the Controller on behalf of a party in any proceeding under the Act.

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CHAPTER 22:
INTERNATIONAL ARRANGEMENTS

133
Convention countries

Any country, which is a signatory or party or a group of countries, union of countries or inter-governmental organisations which are signatories or parties to an international, regional or bi-lateral treaty, convention or arrangement to which India is also a signatory or party and which affords to the applicants for patents in India or to citizens of India similar privileges as are granted to their own citizens or citizens to their member countries in respect of the grant of patents and protection of patent rights shall be a convention country or convention countries for the purposes of this Act.

Explanation:
Patent rights are territorial in nature. This means we need to file a patent application in all the countries where we seek protection. An applicant is required to file a patent application in all the countries where the applicant seeks protection for his idea/product. To facilitate this, the Paris Convention Treaty was signed by countries or a group of Countries. Any country which is a signatory or a part of Paris Convention Treaty is called a Convention Country. The Convention provides for the right of priority in the case of patents. This right means that, on the basis of a regular first application filed in one of the Contracting States(member countries), the applicant may, within a certain period of time (12 months), apply for protection in any of the other Contracting States. These subsequent applications will be regarded as if they had been filed on the same day as the first application. In other words, they will have priority over applications filed by others during the said period of time for the same invention.

134
Notification as to countries not providing for reciprocity

Where any country specified by the Central Government in this behalf by notification in the Official Gazette does not accord to citizens of India the same rights in respect of the grant of patents and the protection of patent rights as it accords to its own nationals, no national of such country shall be entitled, either solely or jointly with any other person,—
(a) to apply for the grant of a patent or be registered as the proprietor of a patent;
(b) to be registered as the assignee of the proprietor of a patent; or
(c) to apply for a licence or hold any licence under a patent granted under this Act.

Explanation:
As per Section 134, citizens of such countries who do not grant the same patent rights to citizens of India are not allowed to apply for Indian patent or to be registered as an assignee of a patent or apply/hold a licence for a granted patent.

135
Convention applications

(1) Without prejudice to the provisions contained in section 6, where a person has made an application for a patent in respect of an invention in a convention country (hereinafter referred to as the "basic application"), and that person or the legal representative or assignee of that person makes an application under this Act for a patent within twelve months after the date on which the basic application was made, the priority date of a claim of the complete specification, being a claim based on matter disclosed in the basic application, is the date of making of the basic application.

Explanation.—Where applications have been made for similar protection in respect of an invention in two or more convention countries, the period of twelve months referred to in this sub-section shall be reckoned from the date on which the earlier or earliest of the said applications was made.

(2) Where applications for protection have been made in one or more convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single convention application may, subject to the provisions contained in section 10, be made in respect of those inventions at any time within twelve months from the date of the earliest of the said applications for protection:

Provided that the fee payable on the making of any such application shall be the same as if separate applications have been made in respect of each of the said inventions, and the requirements of clause (b) of sub-section (1) of section 136 shall, in the case of any such application, apply separately to the applications for protection in respect of each of the said inventions.

(3) In case of an application filed under the Patent Cooperation Treaty designating India and claiming priority from a previously filed application in India, the provisions of sub-sections (1) and (2) shall apply as if the previously filed application were the basic application: Provided that a request for examination under section 11B shall be made only for one of the applications filed in India.

Explanation:
As per Section 135.1, a convention application needs to be filed within 12 months from the date of the first filing date. In case two or more applications are filed in two or more convention countries, the period of 12 months will be calculated from the date from which the earliest application was made. The priority date for the convention application will be the earliest filing date of the application.

As per Section 135.2, a single convention application can be filed in the Indian patent office claiming priority from the multiple filings in one or more convention countries, provided such inventions are cognate or modifications of one another. In such cases, one application within 12 months from the earliest application can be filed in the Indian Patent office. The fee that would be charged by the Indian patent office would be charged for the multiple applications.

As per Section 135.3, In case of an application filed through the Patent Cooperation Treaty (PCT) route designating India where the earlier application is also filed in India, then following PCT route, the application enters India through the National Phase Entry, the request for examination is to be made for either one of the application-Basic application or the application which has entered through the National Phase.

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136

Special provisions relating to convention applications

(1) Every convention application shall—

- (a) be accompanied by a complete specification; and
- (b) specify the date on which and the convention country in which the application for protection, or as the case may be, the first of such applications was made; and
- (c) state that no application for protection in respect of the invention had been made in a convention country before that date by the applicant or by any person from whom he derives title.

(2) Subject to the provisions contained in section 10, a complete specification filed with a convention application may include claims in respect of developments of, or additions to, the invention in respect of which the application for protection was made in a convention country, 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.

(3) A convention application shall not be post-dated under sub-section (1) of section 17 to a date later than the date on which under the provisions of this Act the application could have been made.

Explanation:

As per Section 136.1, a convention application shall be accompanied by a complete specification. No provisional specification is allowed for a convention application. And you are required to specify the date on which the application was filed for the very first time in one of the convention countries. You also need to state that no application was filed before the date mentioned in the application.

As per Section 136.2, an applicant is free to include claims in the convention application with regards to any addition or modification that might have happened to the original application that was filed in the convention countries. The priority date of the claim will be computed when it was first disclosed.

As per Section 136.3, you can post-date a convention application but post-dating of a convention application should be done subject to ensuring that the 12 months period from the date of filing the Indian application does not get extended. Post dating is done as per Section 17.

137

Multiple priorities

(1) Where two or more applications for patents in respect of inventions have been made in one or more convention countries and those inventions are so related as to constitute one invention, one application may be made by any or all of the persons referred to in sub-section (1) of section 135 within twelve months from the date on which the earlier or earliest of those applications was made, in respect of the inventions disclosed in the specifications which accompanied the basic applications.

(2) The priority date of a claim of the complete specification, being a claim based on matters disclosed in one or more of the basic applications, is the date on which that matter was first so disclosed.

(3) For the purposes of this Act, a matter shall be deemed to have been disclosed in a basic application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of a prior art) in that application, or any documents submitted by the applicant for protection in support of and at the same time as that application, but no account shall be taken of any disclosure effected by any such document unless a copy of the document is filed at the patent office with the convention application or within such period as may be prescribed after the filing of that application.

Explanation:
As per Section 138.1, the Controller may request the applicant to provide complete specification and the copies of documents submitted by the applicant in the patent office of the convention countries. This has to be submitted within three months from the request made by the Controller.

As per Section 138.2, all the documents in the foreign language should be translated into English and then duly certified copies should be submitted to the patent office.

As per Section 138.3, when an Indian applicant claims priority from an earlier application filed in a convention country, the Controller must be satisfied about the actual filing date in that country. The proof form of a certificate issued by the foreign patent office confirming the filing date. This ensures that the claimed priority date in India matches the verified date of filing abroad.

As per Section 138.4, on filing a PCT international application that designates India, it is treated as that the applicant has filed a patent application under Section 7 (ordinary application) or patent of addition under Section 54, or a convention application under Section 135,
depending on what applies. Once the PCT application enters the Indian national phase, the documents filed by an applicant are treated as your complete specification in India.

Section 138.5 states that when India acts as a designated office (Entering national phase in India), the international filing date given by the PCT system is treated as the filing date in India.
As per Section 138.6, in case the applicant has made amendments to your international application and the applicant designates India, then the same amendments will be recognized automatically in India.

139

Other provisions of Act to apply to convention applications

Save as otherwise provided in this Chapter, all the provisions of this Act shall apply in relation to a convention application and a patent granted in pursuance thereof as they apply in relation to an ordinary application and a patent granted in pursuance thereof.

Explanation:
Once a Convention application is filed, examined, and granted, it is treated exactly the same as a normal Indian patent in every aspect, such as:

- **Examination, publication, opposition, and grant procedures**
- **Renewal fees and term of patent**
- **Rights of the patentee**
- **Revocation, surrender, infringement, and enforcement provisions**

CHAPTER 23: MISCELLANEOUS

140

Avoidance of certain restrictive conditions

(1) It shall not be lawful to insert—

- (i) in any contract for or in relation to the sale or lease of a patented article or an article made by a patented process; or
- (ii) in a licence to manufacture or use a patented article; or
- (iii) in a licence to work any process protected by a patent, a condition the effect of which may be—
  - (a) to require the purchaser, lessee, or licensee to acquire from the vendor, lessor, or licensor, or his nominees, or to prohibit him from acquiring or to restrict in any manner or to any extent his right to acquire from any person or to prohibit him from acquiring except from the vendor, lessor, or licensor or his nominees, any article other than the patented article or an article other than that made by the patented process; or
  - (b) to prohibit the purchaser, lessee or licensee from using, or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee, to use an article other than the patented article or an article other than that made by the patented process, which is not supplied by the vendor, lessor or licensor or his nominee; or
  - (c) to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee to use any process other than the patented process; or
  - (d) to provide exclusive grant back, prevention to challenges to validity of patent and coercive package licensing, and any such condition shall be void.

(2) A condition of the nature referred to in clause (a) or clause (b) or clause (c) of sub-section (1) shall not cease to be a condition falling within that sub-section merely by reason of the fact that the agreement containing it has been entered into separately, whether before or after the contract relating to the sale, lease or licence of the patented article or process.

(3) In proceedings against any person for the infringement of a patent, it shall be a defence to prove that at the time of the infringement there was in force a contract relating to the patent and containing a condition declared unlawful by this section: Provided that this sub-section shall not apply if the plaintiff is not a party to the contract and proves to the satisfaction of the court that the restrictive condition was inserted in the contract without his knowledge and consent, express or implied.

(4) Nothing in this section shall—

- (a) affect a condition in a contract by which a person is prohibited from selling goods other than those of a particular person;
- (b) validate a contract which, but for this section, would be invalid;
- (c) affect a condition in a contract for the lease of, or licence to use, a patented article, by which the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the patented article as may be required or to put or keep it in repair.

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Explanation:
Section 140 prohibits the inclusion of restrictive and anti-competitive conditions in contracts relating to patented articles or patented processes. It declares certain clauses unlawful and void, ensuring that patentees do not misuse their monopoly. The section forbids "tie-in" conditions requiring purchasers or licensees to buy non-patented goods only from the patentee, and also prohibits restrictions on using goods or processes other than the patented one. Further, it invalidates clauses related to exclusive grant-back obligations, prevention of challenges to patent validity, and coercive package licensing. Such conditions remain void even if placed in a separate agreement. The section also provides that presence of a prohibited clause can serve as a defence in infringement proceedings, except where the patentee proves lack of knowledge. It preserves certain legitimate contractual restrictions such as exclusive dealing for other goods, rights to supply spare parts, and repair obligations. Overall, this section safeguards competition and prevents abuse of patent rights.

141
Determination of certain contracts

(1) Any contract for the sale or lease of a patented article or for licence to manufacture, use or work a patented article or process, or relating to any such sale, lease or licence may at any time after the patent or all the patents by which the article or process was protected at the time of the making of the contract has or have ceased to be in force, and notwithstanding anything to the contrary in the contract or in any other contract, be determined by the purchaser, lessee, or licensee, as the case may be, of the patent on giving three months' notice in writing to the other party.
(2) The provisions of this section shall be without prejudice to any right of determining a contract exercisable apart from this section.

Explanation:
Section 141 deals with the termination of contracts relating to patented articles or patented processes after the expiry of the corresponding patent rights. It provides that any contract for the sale, lease, or licence to manufacture, use, or work a patented article or process may be determined by the purchaser, lessee, or licensee once the patent, or all patents protecting that article or process, has ceased to be in force. This right exists irrespective of the terms of the contract and overrides any clause that seeks to bind the parties even after patent expiry. Termination can be affected by giving three months written notice to the other party.

Sub-section (2) clarifies that this right is in addition to any other termination rights available under general contract law.

The provision ensures that contractual obligations do not extend beyond the life of the patent monopoly and prevents patentees or licensors from continuing to derive benefits from an expired patent.

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142
Fees

(1) There shall be paid in respect of the grant of patents and applications therefor, and in respect of other matters in relation to the grant of patents under this Act, such fees as may be prescribed by the Central Government.
(2) Where a fee is payable in respect of the doing of an act by the Controller, the Controller shall not do that act until the fee has been paid.
(3) Where a fee is payable in respect of the filing of a document at the patent office, the fee shall be paid along with the document or within the prescribed time and the document shall be deemed not to have been filed at the office if the fee has not been paid within such time.
(4) Where a principal patent is granted later than two years from the date of filing of 2 [the application], the fees which have become due in the meantime may be paid within a term of three months from the date of the recording of the patent in the register or within the extended period not later than nine months from the date of recording.

Explanation:
All fees relating to patent applications, grants, and related proceedings are prescribed by the Central Government through rules.

When a fee is required for the Controller to perform an act, he shall not do that act until the fee is paid.

When a fee is payable for filing a document, it must be paid along with the document, or paid within the prescribed time. If not paid within such time, the document is deemed not filed.
If the principal patent is granted more than 2 years from filing date, then all fees that is due in that intervening period may be paid within 3 months from the date the patent is recorded in the register, or extended period of up to 9 months from the recording date.

143
Restrictions upon publication of specification

Subject to the provisions of Chapter VII, an application for a patent, and any specification file in pursuance thereof, shall not, except with the consent of the applicant, be published by the Controller before the expiration of the period prescribed under sub-section (1) of section 11A or before the same is open to public inspection in pursuance of sub-section (3) of section 11A or section 43.

Explanation:
Section 143 imposes limitations on the Controller regarding early publication of patent applications and their specifications. It provides that no application or specification filed in connection with a patent shall be published before the expiry of the 18-month period prescribed under Section 11A(1), unless the applicant expressly consents. Further, publication cannot occur before the application becomes open to public inspection under Section 11A(3) or before publication on grant under Section 43.

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144
Reports of Examiners to be confidential

The reports of examiners to the Controller under this Act shall not be open to public inspection or be published by the Controller; and such reports shall not be liable to production or inspection in any legal proceeding unless the court certifies that the production or inspection is desirable in the interests of justice, and ought to be allowed.

Explanation:
All the reports prepared by examiners and submitted to the Controller under the Patents Act are confidential documents. The Controller is prohibited from publishing these reports or making them available for public inspection. Moreover, such reports cannot be compelled to be produced in any legal proceedings. The only exception is where a court expressly certifies that their production or inspection is desirable in the interests of justice.

145
Publication of official journal

The Controller shall publish periodically an official journal which shall contain such information as may be required to be published by or under the provisions of this Act or any rule made thereunder.

Explanation:
As per Section 145, the Controller is required to periodically publish an Official Journal. The journal contains all information required to be published under the Patents Act, or the Patent Rules.

146
Power of Controller to call for information from patentees

(1) The Controller may, at any time during the continuance of the patent, by notice in writing, require a patentee or a licensee, exclusive or otherwise, to furnish to him within two months from the date of such notice or within such further time as the Controller may allow, such information or such periodical statements as to the extent to which the patented invention has been commercially worked in India as may be specified in the notice.
(2) Without prejudice to the provisions of sub-section (1), every patentee and every licensee (whether exclusive or otherwise) shall furnish in such manner and form and at such intervals (not being less than six months) as may be prescribed statements as to the extent to which the patented invention has been worked on a commercial scale in India.
(3) The Controller may publish the information received by him under sub-section (1) or sub-section (2) in such manner as may be prescribed.

Explanation:
As per Section 146.1, at any time during the term of the patent, the Controller may require the patentee or any licensee (exclusive or non-exclusive) to furnish information related to commercial working of the patented invention in India. The information must be furnished within 2 months of notice or extended by time allowed by Controller.
As per Section 146.2, every patentee and every licensee must compulsorily file periodic statements on the working of the patent in India (Form 27) at an Interval not less than 6 months.
As per Section 146.3, the Controller may publish the information (generally through the Patent Office website/official system) received under sub-section (1) or (2).

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147
Evidence of entries, documents, etc.

(1) A certificate purporting to be signed by the Controller as to any entry, matter or thing which he is authorised by this Act or any rules made thereunder to make or do, shall be prima facie evidence of the entry having been made and of the contents thereof and of the matter or thing having been done or omitted to be done.
(2) A copy of any entry in any register or of any document kept in the patent office or of any patent, or an extract from any such register or document, purporting to be certified by the Controller and sealed with the seal of the patent office shall be admitted in evidence in all courts, and in all proceedings, without further proof or production of the original.
(3) The Controller or any other officer of the patent office shall not, in any legal proceedings to which he is not a party, be compellable to produce the register or any other document in his custody, the contents of which can be proved by the production of a certified copy issued under this Act or to appear as a witness to prove the matters therein recorded unless by order of the court made for special causes.

Explanation:
Section 147(1) provides that a certificate signed by the Controller relating to any entry or act that he is authorised to make serves as prima facie evidence of that entry or act.
Sub-section (2) states that certified copies of entries in the register, documents kept in the Patent Office, or copies of patents, when signed by the Controller and sealed with the Patent Office seal, are admissible in all courts without requiring the original documents.
Sub-section (3) protects Patent Office officials by providing that they cannot be compelled to produce original documents or appear as witnesses unless a court specifically orders it for special reasons.

148
Declaration by infant, lunatic, etc.

(1) If any person is, by reason of minority, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such things in the name and on behalf of the person subject to the disability.
(2) An appointment may be made by the court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Explanation:
Section 148 facilitates persons who are unable to act under the Patents Act due to minority, lunacy, or other legal disabilities.

Sub-section (1) authorises the lawful guardian, committee, or manager of such individuals to make statements or perform acts required under the Act on their behalf. Where no such guardian exists, the court may appoint a suitable person to act for them.

Sub-section (2) enables the court to appoint such a person upon petition by anyone acting on behalf of the disabled person or anyone interested in the required act.

149
Service of notices, etc. by post

Any notice required or authorised to be given by or under this Act, and any application or other document so authorised or required to be made or filed, may be given, made or filed by post.

Explanation:
Section 149 recognises postal communication as a valid and legally acceptable mode for fulfilling procedural requirements under the Act. It ensures accessibility and convenience for applicants and patentees by allowing notices and documents to be transmitted without requiring physical submission.

150
Security for costs

If any party by whom notice of any opposition is given under this Act or by whom application is made to the Controller for the grant of a licence under a patent neither resides nor carries on business in India, the Controller may require him to give security for the costs of the proceedings, and in default of such security being given may treat the opposition or application as abandoned.

Explanation:
Section 150 empowers the Controller to require security for costs from any person who files an opposition or applies for a licence under a patent but neither resides nor carries on business in India. If such a party is a foreign resident or an entity with no Indian presence, the Controller may insist on security to cover the costs of the proceedings. Failure to provide the required security may result in the opposition or licence application being treated as abandoned.

151
Transmission of orders of courts to Controller

(1) Every order of the High Court on a petition for revocation, including orders granting certificates of validity of any claim, shall be transmitted by the High Court to the Controller who shall cause an entry thereof and reference thereto to be made in the register.
(2) Where in any suit for infringement of a patent or in any suit under section 106 the validity of any claim or a specification is contested and that claim is found by the court to be valid or not valid, as the case may be, the court shall transmit a copy of its judgment and decree to the Controller who shall on receipt thereof cause an entry in relation to such proceeding to be made in the prescribed manner in a supplemental record.
(3) The provisions of sub-sections (1) and (2) shall also apply to the court to which appeals are preferred against decisions of the courts referred to in those sub-sections.

Explanation:
As per subsection (1), every order passed by the High Court on a petition for revocation must be transmitted to the Controller. This includes orders regarding revoking the patent, dismissing revocation and granting certificate of validity of any claim. The Controller must make an entry and reference in the patent register.
If in a suit for patent infringement, or a suit under Section 106, the validity of any claim or specification is contested and the court rules on it, the court must send a copy of the judgment and decree to the Controller. The Controller must record this information in a supplemental record in the prescribed manner.
The same requirements apply to any court hearing an appeal from the above decisions.

152
Transmission of copies of specification, etc., and inspection thereof
Omitted by The Patents (Amendment) Act, 2005 (15 of 2005), s. 75 (w.e.f. 1-1-2005)

153
Information relating to Patents

A person making a request to the Controller in the prescribed manner for information relating to any such matters as may be prescribed as respects any patent specified in the request or as respects any application for a patent so specified shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly.

Explanation:
As per Section 153, any person may request information from the Controller regarding prescribed matters concerning any specified patent or patent application. The request must be made in the prescribed manner and upon payment of the required fee. Once these conditions are met, the person becomes entitled to receive the requested information.

154
Loss or destruction of Patents

If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on application made inthe prescribed manner and on payment of the prescribed fee, cause a duplicate thereof to be sealed and delivered to the applicant.

Explanation:
Section 154 provides a procedure for obtaining a duplicate patent document in cases where the original has been lost, destroyed, or cannot be produced. Upon receiving an application made in the prescribed manner, accompanied by the prescribed fee and a satisfactory explanation for the non-production of the original, the Controller may issue and seal a duplicate patent.

155
Reports of Controller to be placed before Parliament

The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution of this Act by or under the Controller.

Explanation: As per Section 155, the Central Government must place an annual report before both Houses of Parliament.

156
Patent to bind Government

Subject to the other provisions contained in this Act, a patent shall have to all intents the like effect as against Government as it has against any person.

Explanation:
Section 156 provides that a patent shall have the same legal effect against the Government as it has against any private individual. This means the Government is bound by patent rights and cannot use or exploit a patented invention without authorisation, except as permitted under specific provisions of the Act.

157
Right of Government to sell or use forfeited articles

Nothing in this Act shall affect the power of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force.

Explanation:
Section 157 preserves the Government's right to sell or use articles that have been forfeited under any law. A patentee does not limit or interfere with the Government's authority over such forfeited items. Any person who obtains title directly or indirectly from the Government may also sell the forfeited article and use the forfeited article, without infringing patent rights.

157A
Protection of security of India

Notwithstanding anything contained in this Act, the Central Government shall
(a) not disclose any information relating to any patentable invention or any application relating to the grant of patent under this Act, which it considers prejudicial to the interest of the security of India;
(b) take any action including the revocation of any patent which it considers necessary in the interest of the security of India by issue of a notification in the Official Gazette to that effect. Explanation. —For the purposes of this section, the expression "security of India" include any action necessary for the security of India which-

- (i) relates to fissionable materials or the materials from which they are derived; or
- (ii) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; or
- (iii) is taken in time of war or other emergency in international relations.

Explanation:
Section 157A empowers the Central Government to protect the security of India in matters related to patents. Notwithstanding anything in the Act, the Government may refuse to disclose information concerning any patentable invention or patent application if such disclosure is considered prejudicial to national security. Further, the Government may take any action, including revoking a patent, where necessary in the interest of India's security, by issuing a notification in the Official Gazette.

158
Power of High Courts to make rules

The High Court may make rules consistent with this Act as to the conduct and procedure in respect of all proceedings before it under this Act.

Explanation:
High Courts are empowered to frame rules for proceedings related to the Patents Act. Rules may govern conduct of proceedings, procedural steps, filing requirements, hearing mechanisms, appeals and revocation petitions.

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159

Power of Central Government to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, the Central Government may make rules to provide for all or any of the following matters, namely:—

- (i) the form and manner in which any application for a patent, any specifications or drawings and any other application or document may be filed in the patent office;
  - (ia) the period which the Controller may allow for filing of statement and undertaking for in respect of applications under sub-section (1), the period within which the details relating to processing of applications may be filed before the Controller and the details to be furnished by the applicant to the Controller under sub-section (2) of section 8;
  - (ib) the period within which a reference to the deposit of materials shall be made in the specification under sub-clause (A) of clause (ii) of the proviso to sub-section (4) of section 10;
  - (ic) the period for which application for patent shall not be open to the public under sub-section (1) and the manner in which the applicant may make a request to the Controller to publish his application under subsection (2) of section 11A;
  - (id) the manner of making the request for examination for an application for patent and the period within which such examination shall be made under sub-sections (1) and (3) of section 11B;
  - (ie) the manner in which an application for withdrawal of an application for grant of a patent shall be made and the period within which a request for examination from the date of revocation of secrecy directions shall be made under the proviso to sub-section (4) of section 11B.
- (ii) the time within which any act or thing may be done under this Act, including the manner in which and the time within which any matter may be published under this Act;
- (iii) the fees which may be payable under this Act and the manner and time of payment of such fees;
- (iv) the matters in respect of which the examiner may make a report to the Controller;
- (v) the manner in which and the period within which the Controller shall consider and dispose of a representation under sub-section (1) of section 25;
  - (va) the period within which the Controller is required to dispose of an application under section 39;
- (vi) the form and manner in which and the time within which any notice may be given under this Act;
- (vii) the provisions which may be inserted in an order for restoration of a patent for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased;
- (viii) the establishment of branch offices of the patent office and the regulation generally of the business of the patent office, including its branch offices;
- (ix) the maintenance of the register of patents and the safeguards to be observed in the maintenance of such register in computer floppies, diskettes or any other electronic form] and the matters to be entered therein;
- (x) the matters in respect of which the Controller shall have powers of a civil court;
- (xi) the time when and the manner in which the register and any other document open to inspection may be inspected under this Act;
- (xii) the qualifications of, and the preparation of a roll of, scientific advisers for the purpose of section 115;
- (xiii) the manner in which any compensation for acquisition by Government of an invention may be paid;
  - (xiiia) the manner of holding inquiry and imposing penalty under section 124A;
  - (xiiib) the form and manner of preferring appeal under sub-section (2) of section 124B;

- (xiv) the manner in which the register of patent agents may be maintained under sub-section (1) of section 125 and the safeguards to be observed in the maintenance of such register of patent agents on computer floppies, diskettes or any other electronic form under sub-section (2) of that section the conduct of qualifying examinations for patent agents; and matters connected with their practice and conduct, including the taking of disciplinary proceedings against patent agents for misconduct;
- (xv) the regulation of the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office; and the inspection of indexes and abridgments and other documents;
- (xvi) any other matter which has to be or may be prescribed.

(3) The power to make rules under this section shall be subject to condition of the rules being made after previous publications:

Provided that the Central Government may, if it is satisfied that the circumstances exist which render it practically not possible to comply with such condition of previous publication, dispense with such compliance.

Explanation:

Section 159 empowers the Central Government to make rules, through notification in the Official Gazette, for carrying out the purposes of the Patents Act. Sub-section (1) gives broad rule-making authority, while sub-section (2) lists specific subjects on which rules may be framed, including filing procedures, examination timelines, fees, Patent Office administration, inspection of records, patent agent regulation, scientific advisers, Section 8 compliance, foreign filing permissions, and electronic maintenance of registers. The Central Government may also prescribe matters concerning pre-grant opposition, restoration safeguards, penalties, and compensation for Government acquisition of inventions. Under sub-section (3), rules must be previously published, except in cases where prior publication is impracticable.

160

Rules to be placed before Parliament

Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Explanation:

As per Section 160, every rule made by the Central Government should be placed before both Houses of Parliament for a total of 30 days, whether in one session or spread across successive sessions. During or before the end of the session immediately following this period, Parliament may modify or annul the rule. If so, the rule will thereafter operate only in its modified form or cease to have effect. Importantly, such modification does not invalidate actions previously taken under the rule.

161

Special provisions with respect to certain applications deemed to have been refused under Act 2 of 1911

Omitted by The Patents (Amendment) Act, 2002 (38 of 2002), s. 46 (w.e.f. 20-5-2003).

162

Repeal of Act 2 of 1911 in so far as it relates to patents and savings

(1)The Indian Patents and Designs Act, 1911, in so far as it relates to patents, is hereby repealed, that is to say, the said Act shall be amended in the manner specified in the Schedule.

(4) The mention of particular matters in this section shall not prejudice the general application of the General Clauses Act, 1897 (10 of 1987), with respect to repeals.

(5) Notwithstanding anything contained in this Act, any suit for infringement of a patent or any proceeding for revocation of a patent, pending in any court at the commencement of this Act, may be continued and disposed of, as if this Act had not been passed.

Explanation:

As per Section 162, the Indian Patents and Designs Act, 1911, insofar as it relates to patents, is repealed. The repeal is done by amending the 1911 Act in the manner specified in the Schedule to the Patents Act, 1970. Mention of specific "savings" does not restrict the application of the General Clauses Act, 1897. If, at the commencement of the Patents Act, 1970, there were suits for patent infringement, or proceedings for revocation of a patent, these proceedings may continue as if the 1970 Act had not been passed. This ensures no disruption of ongoing judicial matters. Subsection (4) prevents injustice by preserving pending rights, pending obligations, pending legal actions from the old Act.

163

Amendment of Act 43 of 1958

Omitted by The Patents (Amendment) Act, 2005 (15 of 2005), s. 77 (w.e.f. 1-1-2005)

Notes

RAS Intellect
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