



Patents (Amendment) Rules, 2024

Source: [Lexology](#)

Why in News?

Recently, the Ministry of Commerce and Industry has notified the **Patents Amendment Rules, 2024** making significant changes to Indian patent practice and procedure.

What are the Key Changes Introduced Under Patents (Amendment) Rules, 2024?

- **Reduced timeline for filing a Request for Examination (RFE):** The timeline for filing the RFE is now reduced from 48 months to 31 months from the priority date.
 - The **reduced timeline for filing a Request for Examination (RFE) will accelerate the patent examination process.**
- **Simplified Submission of Form 3:** Applicants can simply file a single updated Form 3 after receiving the **First Examination Report (FER)**.
 - The Patent office issues an examination report to the applicant which is generally known as FER.
- **Introduction of 'Certificate of Inventorship':** To recognise inventors' contributions to patented inventions.
 - As the Indian patent certificate does not identify the inventors, this provision will allow inventors to be identified for their inventions.
- **Frequency of filing statements:** The frequency of filing working patents was reduced from once in a financial year to once in every three financial years.
- **Amendments in Pre-grant and Post-grant Opposition Procedures:** The time frame for submission of recommendations by an Opposition Board and the response time for applicants have been adjusted.
 - A divisional application can be filed in respect of an invention disclosed in the provisional or complete application or a further divisional application.
 - This amendment is in alignment with the recent decision of the Delhi High Court in **Syngenta Limited v. Controller of Patents and Designs Case, 2023**.
 - In this the court clarified that **divisional applications may be filed in respect of parent applications** where the complete or provisional specification (and not necessarily the claims) of the parent application disclose a plurality of inventions.

What is a Patent?

- **About:**
 - A Patent is a **statutory right for an invention granted for a limited period to the patentee** by the Government, in exchange of **full disclosure of his invention** for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent.
 - The patent system in India is governed by the **Patents Act, 1970** which was amended in 2003 and 2005.
 - The Patent Rules are regularly amended in consonance with the changing **environment**,

the most recent being [Patents \(Amendment\) Rules, 2024](#).

▪ **Term of a Patent:**

- The term of every patent granted is 20 years from the date of filing of the application.
- However, for applications filed under the national phase of the **Patent Cooperation Treaty (PCT)**, the accorded term will be 20 years from the international filing date.
 - PCT is an international treaty with more than 150 contracting states, making it possible to seek **patent protection for an invention simultaneously in each of a large number of countries** by filing an international patent application.
 - Such an application may be filed by anyone who is a national or resident of a PCT contracting State, and generally be filed with the national patent office of the contracting State with the International Bureau of [World Intellectual Property Organisation \(WIPO\)](#) in Geneva.

INTELLECTUAL PROPERTY RIGHTS (IPRs)

IP refers to intangible assets owned/legally protected by an individual/company from outside use or implementation without consent.



NEED FOR IPR

- ↳ Encourages Innovation
- ↳ Economic growth
- ↳ Safeguard rights of creators
- ↳ Enhances ease of doing business



RELATED CONVENTIONS/TREATIES (INDIA SIGNATORY TO ALL)

- ↳ **WIPO Administered (first recognised IPR under):**
 - ↳ Paris Convention for the Protection of Industrial Property 1883 (**Patents, Industrial Designs**)
 - ↳ Berne Convention for the Protection of Literary and Artistic Works 1886 (**Copyrights**)
- ↳ **WTO - TRIPS Agreement:**
 - ↳ Ensures adequate standard of protection
 - ↳ Argues for incentives for technology transfer to developing countries
- ↳ **Budapest Treaty 1977:**
 - ↳ International recognition of the deposit of micro-organisms for the purposes of patent procedure
- ↳ **Marrakesh VIP Treaty 2016:**
 - ↳ Facilitate access to published works by visually impaired persons and persons with print disabilities
- ↳ IPR also outlined in **Article 27** (Universal Declaration of Human Rights)



INDIA AND IPRS - INITIATIVES

- ↳ **National IPR Policy 2016:**
 - ↳ **Motto:** "Creative India; Innovative India"
 - ↳ Compliant with TRIPS Agreement
 - ↳ Brings all IPRs to single platform
 - ↳ Nodal Dept - Department of Industrial Policy & Promotion (Ministry of Commerce)
- ↳ National (IP) Awareness Mission (**NIPAM**)
- ↳ Kalam Program for Intellectual Property Literacy and Awareness Campaign (**KAPILA**)

World Intellectual Property Day: 26th April

Intellectual Property	Protection	Law in India	Duration
Copyright	Expression of Ideas	Copyright Act 1957	Variable
Patent	Inventions- New Processes, Machines, etc.	Indian Patent Act 1970	20 years Generally
Trademarks	Sign to distinguish business goods or services	Trade Marks Act 1999	Can last Indefinitely
Trade Secrets	Confidential Business Information	Protected without Registration	Unlimited time
Geographical Indication (GI)	Sign used on specific geographical origin and possess qualities due to site of origin	Geographical Indications of Goods (R & P) Act, 1999	10 years (Renewable)
Industrial Design	Ornamental or aesthetic aspect of an article	Design Act, 2000	10 years

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims:

Q With reference to the 'National Intellectual Property Rights Policy', consider the following statements:

1. It reiterates India's commitment to the Doha Development Agenda and the TRIPS Agreement.
2. Department of Industrial Policy and Promotion is the nodal agency for regulating intellectual property rights in India.

Which of the above statements is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (c)

Q How does the National Biodiversity Authority (NBA) help in protecting Indian agriculture?

1. NBA checks the biopiracy and protects the indigenous and traditional genetic resources.
2. NBA directly monitors and supervises the scientific research on genetic modification of crop plants.
3. Application for Intellectual Property Rights related to genetic/biological resources cannot be made without the approval of NBA

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (c)

Mains:

Q. In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**