

**PATENT AGENT EXAMINATION, 2013**  
**[Under Section 126 of the Patents Act, 1970]**

**4th MAY 2013**

**PAPER I**

Max. Marks: 100  
TIME: 10.30 a.m. to 1.30 p.m.  
Three Hours

**Instructions:**

1. This paper consists of 2 parts—Part A (40 marks) & Part B (60 marks).
2. ALL questions in Part A are compulsory.
3. Part A comprises two sections - Part A1 and A2. Part A1 is of 30 marks and consists of 15 multiple choice questions of 2 marks each. Part A2 is of 10 marks and consists of 10 true/false type questions of 1 mark each.
4. Part B consists of 8 questions out of which the candidates should answer 6 questions (10 marks each). In case a candidate answers more than 6 questions, the first 6 questions will be evaluated.
5. Candidates should read the questions very carefully before answering.
6. No clarification will be provided during the course of the examination.
7. There is no negative marking.

**PART A**

**PART A1**

**15 x 2 = 30 marks**

1. The statement and undertaking regarding the filing of foreign application by an applicant shall be filed
  - a. Within six months of the filing of such application
  - b. Immediately after grant of the foreign patent
  - c. Simultaneously on the date of foreign filing
  - d. Within one year of the filing
2. A divisional application may be filed by the applicant
  - a. Within six months from the date of filing provisional application
  - b. Within 31 months of the filing of a conventional application
  - c. Any time before the grant of patent on the first mentioned application
  - d. Before the publication of the patent application
3. The appropriate court for institution of a suit for infringement of patent is
  - a. The District Court
  - b. The High Court
  - c. IPAB
  - d. (a) or (b)

4. In settling the terms and conditions of a compulsory license, the Controller shall endeavor to secure
  - a. That the licence granted is exclusive and non-assignable
  - b. That the licence is for a period of twenty years from the date of grant of licence
  - c. That the patented invention is worked to a reasonable extent
  - d. None of the above
5. Information relating to an unpublished patent application filed at the patent office can be obtained by any person
  - a. Immediately after filing the application
  - b. On payment of prescribed fees
  - c. By physical inspection of the file at the patent office
  - d. None of the above
6. When a patent is sought to be revoked on the ground of wrongful obtaining from the true and first inventor, the Controller may
  - a. Direct that the patent shall stand amended in the name of the opponent
  - b. Direct the person wrongfully obtaining to pay penalty to the true and first inventor
  - c. Revoke the patent and ask the rightful inventor to apply afresh.
  - d. Direct the central government to pay compensation to the inventor.
7. In which of the following cases, an appeal shall not lie to the IPAB?
  - a. Refusal of a patent application by the Controller under section 15
  - b. Decision regarding post-dating of an application under section 17
  - c. Decision of the Controller under section 54 regarding patent of addition
  - d. An application is deemed to have been abandoned under section 21
8. When an application for a patent is published but not yet granted, any person can oppose the patent application on the following grounds
  - a. Non-payment of prescribed fees
  - b. Non-disclosure of financial assets by the applicant before the patent office
  - c. The applicant has not provided an address of service
  - d. The invention is anticipated having regard to the knowledge of an indigeneous community in South Africa.
9. The Controller in any proceedings before him under the Patents Act, 1970 has the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters
  - a. passing an order regarding search and seizure of infringing products of an opponent who has also filed a post-grant opposition
  - b. requiring the discovery and production of any document
  - c. receiving evidence by way of declaration
  - d. passing an order granting interim injunction against alleged infringers

10. One of the following is not true in relation to a patent of addition

- a. If the patent for the main invention is revoked, the patent of addition may continue as an independent patent for the remaining part of the term of the main patent
- b. Renewal fee is to be paid to keep the patent of addition alive if the main patent is revoked
- c. A patent of addition can be granted before the grant of the patent for the main invention
- d. The term of the patent of addition is generally less than the term of the patent for the main invention

11. Identify the option in which both Ramesh and Suresh cannot be inventors as per the Indian Patents Act 1970

- a. Ramesh and Suresh work for the identification of a novel process in the laboratory
- b. Ramesh finances Suresh work for the identification of a novel process in the laboratory
- c. Ramesh, from US and Suresh from India work on identification of a novel process in the laboratory
- d. Ramesh conceptualizes the invention and joins Suresh in reducing the invention to practice

12. One of the following is not a ground for pre-grant and post-grant opposition of a patent in India

- a. Wrongful obtaining of the invention
- b. Non-disclosure or wrong mentioning of the source or geographical origin of biological material used for the invention
- c. Complete specification does not sufficiently and clearly describe the invention
- d. Invention was secretly used in India

13. A provisional patent specification must contain

- a. Description of the invention
- b. Claim or Claims defining the scope of Inventions
- c. Abstract of the technical information
- d. Background and prior art

14. In case of request for permission for making patent application outside India, the Controller shall dispose of the request within a period of

- a. 15 days
- b. 21 days
- c. 30 days
- d. None of the above



15. A post-grant opposition may be filed

- a. By any person
- b. Before the expiry of a period of 12 months from the date of publication under section 43
- c. Before the expiry of a period of 12 months from the date of publication under section 11A
- d. Before the expiry of 12 months from the date on which the Controller writes in the file 'GRANTED'.

**PART A2****Instructions:**

1. **Answer ALL questions. Each question carries one [1] mark.**
2. **Select whether the below propositions are "TRUE" or "FALSE". You can only select either "TRUE" or "FALSE". You must indicate your choice in the answer sheet given to you against the relevant question number.**
3. **Illustratively, if the right answer to Question (1) is "TRUE" you must write:**

**Question (1) = TRUE.**

**10 x 1 = 10 Marks**

1. Revocation of a patent on the ground of being mischievous to the State or prejudicial to the public can be done only by the High Court on application by any person interested.
2. If an applicant for a patent who has filed a provisional specification files a request for early publication before filing the complete specification, the application will be published within one month from the date of filing of such request.
3. It is mandatory to describe the closest prior art in a patent specification.
4. In order to get an assignment registered at the Patent Office, the application has to be filed for registration before the expiry of six months from the date of assignment.
5. An exclusive licensee of the Patent shall also have the right to sue for infringement of patents in any District Court adding the patentee as a defendant.
6. Use of the patented product for the purpose of development and submission of information before the Drugs Controller General of India is not considered as infringement.

7. A model or sample of anything illustrating the invention or alleged to constitute an invention, submitted by an applicant to supplement the application in compliance to a direction of the Controller shall be deemed to form part of the specification.
8. A patent may be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the District Court on the grounds specified under the Act.
9. When secrecy directions are in force, Controller shall not pass an order refusing to grant the patent.
10. Priority of an application filed in a convention country cannot be claimed if the application filed in the convention country is withdrawn before the date of filing of the corresponding convention application in India.

### **PART B**

**This Part contains Eight [8] Questions. Answer any SIX [6] questions. Your answers should be supported by relevant provisions of the Patents Act and Patent Rules.**

**6 X 10 = 60 Marks**

1. Rohit, the inventor of a locking mechanism for a refrigerator was invited by the Indian Institute of Science to present a paper in a conference. He presented the paper deliniating the invention in the abstract. The industrialists who attended Rohit's presentation are now interested in commercial exploitation of the invention. Rohit has approached you for professional help in procuring patent protection for his invention. Advise him.
2. Sheela filed a patent application accompanied by a provisional specification on 1<sup>st</sup> January, 2013 for her invention relating to a carburettor which is novel and has an inventive step. In continuation of the research, she found a new process for manufacture of the carburettor and she filed another patent application accompanied by a provisional specification, three months after the date of filing of the first patent application. She wishes to file one complete specification in which she wishes to incorporate the subject matter disclosed in both the aforementioned applications, i.e. of the carburettor as a product and the process of manufacture. She has approached you for advice and assistance. Explain to her how you will proceed with the preparation of the documentation and ensure that all the formalities are taken care of as per the Indian Patents Act.

3. Salim holds a patent on an agricultural tool in India and in the US. Salim authorizes Bharat to produce and sell the patented tool in the US. Julie buys the agricultural tool from Bharat and imports it into India. Will Julie be liable for infringement in India? Explain.
4. A leading natural products specialist, Leelavati on her return to India set up a new institute called Herbal Advance Research Institute (HARI), in Lucknow. Researching in natural products, she filed a patent application in India, jointly with her colleague Dr. Prathiba for a herbal composition for water purification and called the product "PaniPure". They were granted a patent for "PaniPure" as inventor applicants in 2010. Dr. Prathiba left HARI and joined a Water Treatment Company "AquaTreat" in Jammu to whom she licensed the patent. "AquaTreat" started marketing the product "PaniPure" based on this invention. Leelavati got to know about this development from the local newspapers. She has approached you for advice on the steps she can take to protect her interest. Please advise appropriately.
5. A patent applicant receives a First Examination Report for his application conveying the objections. Clearly explain all the possible options before the applicant while providing a brief overview of the process that may ensue.
6. What are the grounds to make an application for grant of compulsory licence on a patent under Section 84 (1)? What are the factors that the Controller is required to take into account while considering an application under this section.
7. Describe the powers of the Central Government to use inventions for the purpose of the Government along with the terms and conditions for such use.
8. What are the restrictive conditions that need to be avoided in the preparation of a contract or license related to patents and what are the consequences of such conditions in a contract or license as per the Patents Act?