

The Patents Act, 1970
Qualifying Examination under section 126 of the Patents Act
(As amended & updated)
PAPER- I (PROVISIONS OF PATENTS ACT & RULES)
SEPTEMBER 2005

Time: - 2 ½ Hrs

Total pages -3

Total Marks – 100

Instructions: 1. All questions are compulsory
 2. Marks of each question are indicated at the end of the question
 3. Answers should be precise and to the point supported by relevant provisions of the Act and Rules

Q. 1. Choose the correct option:

- (1) The provisional application may be filed in case of ;
 (a) an ordinary application
 (b) a Convention application
 (c) a patent of Addition application
 (d) national phase application
- (2) A divisional application may be filed:
 (a) Any time but within one month after grant of Patent on main patent application
 (b) Any time but within 31 months from the priority date of the main application
 (c) Any time but before grant of Patent on main Patent application
 (d) Within 18 months from the priority date but before the grant of patent
- (3) For a patent application filed on 01.10.2004 the request for examination U/S 11 may be filed:
 (a) within 36 month from the date of priority or date of filing, whichever is earlier
 (b) within 48 months from date of priority or 36 months from filing date
 (c) within 36 months from filing date of the Patent application or priority date ,whichever is later
 (d) within 48 months from the priority date or filing date in India, whichever is earlier
- (4) A request on Form – 9 may be made for;
 (a) sealing of the Patent
 (b) early publication U/S 11 A of the patent Application
 (c) Revocation U/S 64 of the patent application
 (d) Extension of time U/S 21
- (5) The national phase PCT application can be examined by the patent office only after:
 (a) 30 months from the priority date
 (b) 48 months from the priority date
 (c) 31 months from the priority date
 (d) any time on the request of the applicant

1x5=(5)

Q.2. Match Column A with Column B:

SL	Column A	Column B
1.	(i) Every application for Patent shall be for One invention only	Sec 3 (c)
2.	(ii) Mere discovery of the Scientific Principle is not Patentable	Sec 63 (1)
3.	(iii) Every specification, whether provisional or Complete shall describe the invention and shall begin with the title sufficiently	Sec 55 (1)

	indicating the subject matter	
4.	(iv) A patent of addition shall be granted for a equal term to that of Patent for the main invention...	Sec 7 (1)
5.	(v) A Patentee may, at any time by giving notice in the prescribed manner to the Controller offer to surrender the Patent...	Sec 10 (1)

(5)

Q. 3. State True / False:-

- A. The set of independent claims representing multiple inventions may be allowed in a single patent application.
- B. Methods of treatment of plants to keep them free of diseases are patentable.
- C. A subject matter to qualify, as patentable invention must not have been published in India in any kind of document before filing of the application.
- D. Patent of addition lapses if a renewal fee is not paid within the prescribed time limit.
- E. The priority under Paris convention may be claimed if application for patent for Substantially same invention is filed in India within 18 months after filing in Convention country.
- F Term of Patent in respect of Patent application filed through PCT route is counted from the filing date of international application .
- G. All orders of the Controllers are appealable only in the High Court.
- H. The PCT international application by Indian inventor can be filed in the Receiving Offices at Patent Office, Kolkatta, Delhi, Mumbai or Chennai only.
- I. Unless you pay the fees as mentioned in the fee schedule immediately for submission of any document before the Controller of Patents, the document may not be taken on record.
- J. The appropriate jurisdiction for filing of a patent application by an applicant residing outside India depends on the address for service in India desired by him. [1x10=(10)]

Q.4. Fill in the blanks:-

1. is the International depository Authority in India under Budapest Treaty for the Indian applicant.
2. India joined Budapest Treaty for deposition of Microorganisms on
3. The number of Claims in a Patent application for which no additional charges are required to be paid , are.....
4. The opposition after grant of the Patent may be filed within a period of -----from the date ofof the grant of patent.
5. A request to withdraw the patent application must be made withinfrom Priority date.
6. The time for putting an application in order for grant, which has been examined before 1st day of January 2005, is -----
7. The fees for filing an express request for examination for legal entity is Rs
8. Third party representation for opposition U/S25(1) can be filed within a period not exceeding -----months from the date of publication U/S 11A.
9. A request for examination of the Patent application may be filed only after the
10. An opposition Board shall consist ofmembers andof them shall be a Chairman

1x10=(10)

Q.5. (A) State the fees or additional fees as the case may be paid by the legal entities to the Controller of Patents for the following:

- (a) If complete specification filed contains total of 15 claims but less than 30 sheets;
- (b) If the complete specification contains total of 40 pages including abstract & drawings but less than 10 claims
- (c) For a petition under rule 138
- (d) Transmittal fees for a PCT international application
- (e) For extension of time for two months U/S 21

(1x 5=5)

(B). State the time limits provided under Patents Act & Rules (as amended)

- (a) For putting application in order for grant;
- (b) Filing of a national phase applications under PCT in India
- (c) Filing of request for examination in respect of applications filed u/s 5(2)
- (d) Filing of a proof of right to make an application
- (e) Filing of an information regarding foreign filing U/S 8

1x5=(5)

Q.6. Write short notes on any (5):

- (a) Rights of the patentee
- (b) The opposition by way of representation U/S 25 (1)
- (c) Filing of Patent application abroad by an Indian applicant
- (d) Patentability of pharmaceutical products
- (e) Non- patentable inventions
- (f) Restoration of lapsed Patent

5x5=(25)

Q.7. Answer any 5 of the following :

- (a) What is the jurisdiction for filing the suit for infringement and reliefs for plaintiff.
- (b) What acts as mentioned in section 107-A of the Patents Act are not considered infringements of the patent Rights?
- (c) What is IPAB? What are it's functions? State the qualifications of technical member of the IPAB.
- (d) State the names of the international search & Examining Authorities recognized by the International Bureau. Also state the names of International Search & Examining authorities recognized by India for search & Examination of the Patent application originating from India.
- (e) State in brief the grounds for the grant of compulsory licence including the terms and conditions thereof
- (f) Explain briefly about the publication of unexamined Patent applications U/S 11 A. Also state effects of such publication. Is there any method available for the applicant to stop publication of his application under the Act, if yes please state the relevant provisions?

7x5=(35)