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24. A Study of Procedure of Filing Patent in India

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Abstract

This article merely elaborates the procedure for filing a patent application in India. The decision to provide a person with a patent is purely an administrative matter of the Indian Patent Office. Within the framework of rules and regulations of the said act patent department decides whether to allow any corporate form or person to enjoy patent rights or not. Therefore, it is not possible to provide a definitive answer to questions like "Will my product be patented?" or "How long will it take for me to get a patent?" So present article throws the light on the procedural part of filing patent and answers how to get our product, article, invention etc. get patented under Indian patent act.

Keywords: Patent, Patent Act, RFE

1. Introduction

Basically the patent act is proved to be a important tool in the hands of a person who want to make his invention recognized on his name as a reward of his dedication & hard work. A patent is nothing but a set of exclusive rights granted by a state, country or else to an inventor or assignee for a limited period of time in exchange for a detailed public disclosure of an invention. An invention may be new which is not being done earlier or may be to solve existing technological problem. Patent acknowledges the creation of mind hence it is a intellectual property. The procedure for granting patents, requirements placed on the patentee, and the extent of the exclusive rights vary widely between countries according to national laws and international agreements. Typically, however, a granted patent application must include one or more claims that define the invention. A patent may include many claims, each of which defines a specific property right. These claims must meet relevant patentability requirements, such as novelty, usefulness, and non-obviousness. The exclusive right granted to a patentee in most countries is the right to prevent others, or at least to try to prevent others, from commercially making, using, selling, importing, or distributing a patented invention without permission. Obtaining a patent is not quite so easy. Honestly speaking, in addition to the procedure being protracted especially in our country, it is an expensive affair. However the perks of obtaining a patent, without a doubt, outweigh the cons of the application procedure.

The very first step is to ensure that what you have is indeed an "invention". There are many instances where a person thinks he has invented something only to be told otherwise. It is always better to obtain a professional opinion in this regard. In fact, there are different kinds of services tailor-made to suit your ultimate goal for the invention. However, most inventors treat this as a dispensable expense and proceed to make an application for patent. While there is nothing wrong with this approach, you run a very high risk of losing the patent race at an early stage. So not obtaining a professional opinion about your invention is akin to leaping before looking.

2. Objectives of the Study

- 1) To understand the concept of Patent.
- 2) To know what things needs to be ensured before actually starting the patent filing procedure.
- 3) To understand the procedure of filing patent in India.

3. Data Collection

Present research article is written to understand the concept of patent and to well acquaint with the procedure of filing patent in India. Hence in view of these objectives the data for the present study is obtained from secondary sources i.e., books journals, websites etc.

4. Research Method

Present article is of informative nature hence to cope with and to justify the objectives laid down in the article descriptive method of research is undertaken.

5. Procedure to file patent in India

Following step by step procedure can be adopted to file and get the innovation, product or patented in India.

5.1. Write down the invention (idea or concept) with as much details as possible

Collect all the information about your invention such as:

1. Area of invention
2. Description of the invention what it does
3. How does it work
4. Advantages of the invention

Ideally, if you have worked on the invention during research and development phase you should have something call lab record duly signed with date by you and respective authority

5.2. Include drawings, diagrams or sketches explaining working of invention the drawings and diagrams should be designed so as to explain the working of the invention in better way with visual illustrations. They play an important role in patent application.

5.3. check whether the invention is patentable subject matter all inventions may not be patentable, as per Indian patent act there are certain inventions that are not patentable.

5.4. Patentability search

The next step would be finding out whether your invention meets all patentability criteria as per Indian patent act? That is,

1. Novelty
2. Non-obviousness
3. Industrial application
4. Enabling

The detailed explanation for patentability criteria should be given. The patentability opinion is provided by the patent professionals called as patent facilitators duly authorized by patent office and having fixed area or jurisdiction up on conducting extensive search and forming patentability report.

5.4.1. Decide whether to go ahead with patent the patentability report and opinion helps you decide whether to go ahead with the patent or not, chances are what you thought as novel might already been patented or know to public in some form of information. Hence this reports saves lots of time, efforts and cost of the inventor by helping him decide whether to go ahead with the patent filing process or not.

5.5. Draft (write) patent application

In case you are at very early stage in the research and development for your invention, then you can go for provisional application. It gives following benefits: After filing provisional application, you secure the filing date which is very crucial in patent world. You get 12 months of time to come up with the complete specification, up on expiry of 12 months your patent application will be abandoned. When you complete the required documents and your research work is at level where you can have prototype and experimental results to prove your inventive step you can file complete specification with patent application. Filing the provisional specification is the optional step, if you are at the stage where you have complete information about your invention then you can directly go for complete specification.

5.6 Publication of the application

Up on filing the complete specification along with application for patent, the application is published after 18 months of first filing. An early publication request can be made along with prescribed fees if you do not wish to wait till the expiry of 18 months from the date of filing for publishing your patent application.

Generally the patent application is published within a month from request from early publication.

5.7. Request for examination

The patent application is examined only after receiving request for examination that is RFE. Up on receiving this request the controller gives your patent application to a patent examiner who examines the patent application with different patentability criteria like: The examiner creates a first examination report of the patent application upon reviewing it for above terms. This is called patent prosecution. Everything happening to patent application before grant of patent is generally called as patent prosecution. The first examination report submitted to controller by examiner generally contains prior arts (existing documents before the date of filing) which are similar to the claimed invention, and same is reported to patent applicant.

5.8. Respond to objections

Majority of patent applicants will receive some type of objections based on examination report. The best thing to do it analyze the examination report with patent professional (patent agent) and creating a response to the objections raised in the examination report. This is a chance for an inventor to communicate his novelty over prior arts found in the examination report. The inventor and patent agent create and send a response to the examination that tries to prove to controller that his invention is indeed patentable and satisfies all patentability criteria's.

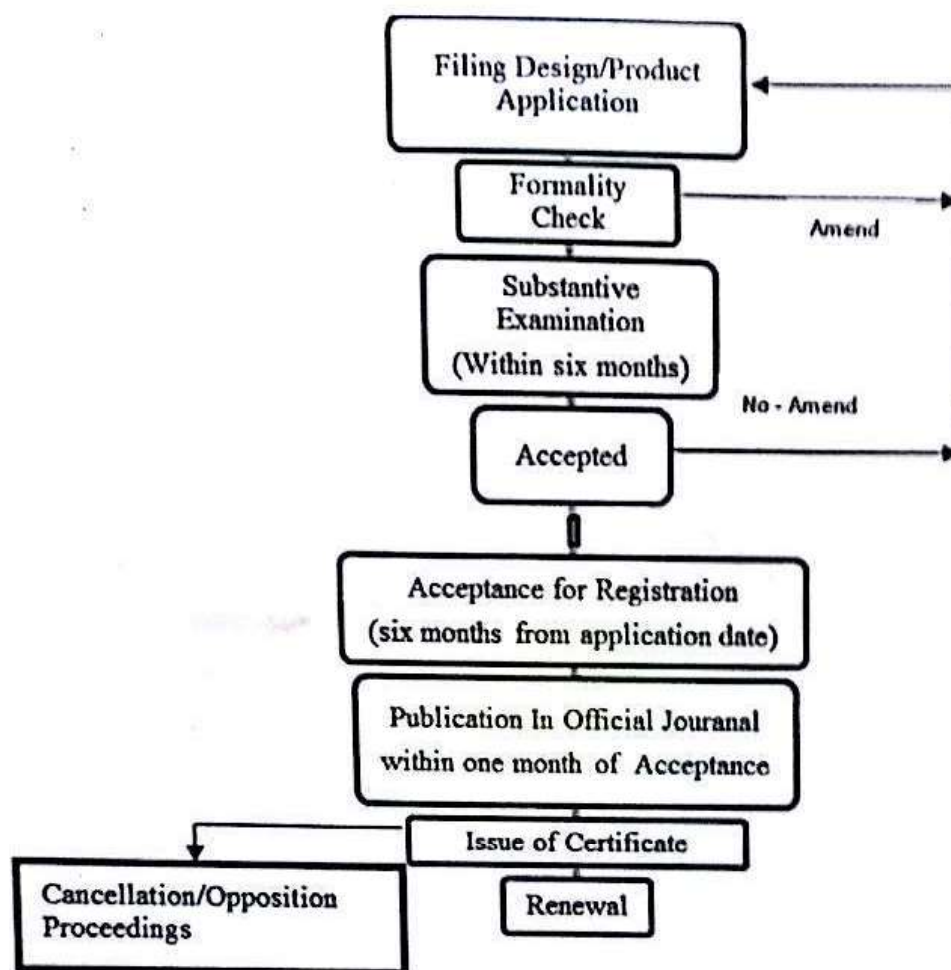
5.9. Clearing all objections

This communication between controller and patent applicant is to ensure that all objections raised in the patent application are resolved. (if not the patent will not be granted) and the inventor has his fair chance to prove his point and establish novelty and inventive step over existing prior arts. Up on finding the patent application in order of grant, it is grant to the patent applicant as early as possible.

5.10. Grant of patent

The application would be placed in order for grant once it is found to be meeting all patentability requirements. The grant of patent is noticed in the patent journal which is published time to time.

In a nutshell the procedure of filing patent in india can be understood with the help of following flow chart:



Conclusion

In the conclusion Indian patent act has been ratified in view of the changing global scenario and overarching patent laws of the different nations. It is very difficult to get exclusive patent rights on particular invention as the patents acts are different for nations. Though India have simplified the process of filling patent by removing the earlier loophole which were existing in the earlier process.

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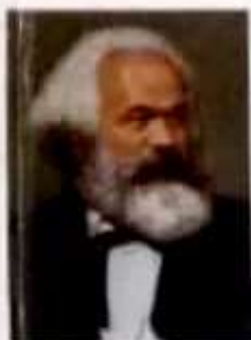
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A Study of Variability of Rainfall and Readiness of Drought in Marathwada Region

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Abstract: Drought has been a recurring and continuous phenomenon for most of the districts of the Marathwada. Marathwada region is facing severe drought condition since past few years. Marathwada region includes Aurangabad, Jalna, Beed, Osmanabad, Nanded, Latur, Parbhani and Hingoli districts. These eight districts are worstly affected and having less than normal rainfall since last few years consecutively. Agriculture constitutes most of the part of Marathwada's economy hence drought is adding in the woe of people and families depend on the agricultural sector. Drought has socio-economic impact on the families and peoples resides in the drought prone areas. The present research paper is undertaken to throw some light on the variability of rainfall and readiness of drought in Marathwada region.

Keywords: LPA, Drought, Deficient Rainfall, Surplus Rainfall, Socio-economic.

1. Introduction:

Generally, drought is considered as a deficiency in rainfall over an extended period (i.e., LPA), resulting in a water shortage causing adverse impact on vegetation, animals and on peoples. There is no single, legally accepted definition of drought in India. Some states resort to their own definitions of drought. State Government is the final

authority when it comes to declaring a region as drought affected. Union of India has published two important documents in respect of managing a drought. Manual for Drought Management prepared in November 2009 by the Department of Agriculture and Cooperation, Ministry of Agriculture in the Government of India and Guidelines for Management of Drought prepared in September 2010 by the National Disaster Management Authority of the Government of India. The concept of drought varies from place to place depending upon normal climatic conditions, available water resources, agricultural practices and the various socio-economic attributes of a region¹. In drought prone areas of Marathwada most of the land falls under arid and semi-arid category except for land falling in Godavari, Sindhphana, Doodhna, Manjara, Painganga river basin and the land situated in the vicinity of dams constructed on these major rivers in Marathwada. A drought condition in any region including Marathwada region occurs when there is less than 50 per cent of average rainfall for consecutive periods. The marathwada region is under the influence of southwest monsoon. When southwest monsoon reaches in western coast in the month of June, massive rainfall occurs in the western coast of Maharashtra (2,500 mm to 3,000 mm). Rainfall decreases from west to east. When it reaches Marathwada region, the average rainfall becomes 750 mm². Long period average rainfall of Marathwada is approximately 682.9 mm.

2. Historical Background of Drought in Marathwada:

The region had faced several droughts in the past. Droughts have occurred in the years 1899, 1918, 1972, 2012, 2014, 2016 and recently 2018. The 1972 drought is in the recent past; which people still remember. In 1972, food and fodder were the main concerns, but now drinking water is major problem. Recent drought is multi-dimensional. It has its impact on socio-economic indicators like income, education, social status, standard of living, food, shelter etc. Global climatic situation is also playing in the process, which was not so acute 50 years before³.

3. Research Methodology:

The present article is based on secondary sources of data like previous studies on the topic, books, journals, websites like IMD etc. With the help of secondary data study strives to understand present scenario of drought and its possible consequences in the future.

3.1. Objectives of the study:

- To study the concept of drought.
- To know the historical background of drought in Marathwada.
- To study trend and variability of rainfall in Marathwada division.
- To study the readiness of drought in Marathwada region.

Based on the nature of data retrieved, above objectives of the research paper are fulfilled by adopting descriptive method of research.

4. Rainfall in Marathwada:

4.1. Table showing division wise rainfall in Marathwada in last five years. (whereas, N= Normal Rainfall, A= Actual Rainfall, D= Deficient Rainfall, S= Surplus Rainfall)

Source: www.imd.gov.in

4.2. Table showing average division wise deficient rainfall in Marathwada in last five years.

Source: www.imd.gov.in

The above table shows that the probability of drought situation is more in Marathwada and vidharbha region in comparison with the other divisions of Maharashtra. But average deficient rainfall in Marathwada division is more (-27.5) than any other divisions in Maharashtra.

4.3. District wise rainfall in Marathwada (Five Years):

Source: <http://hydro.imd.gov.in/hydro/mctweb/Statelke55425y51r1vbzcczbz/DistrictRainfall.aspx>

The above table clearly shows the variability and uneven distribution of rainfall in the districts of Marathwada region.

4.4. Table showing variability of deficient rainfall in monsoon in eight districts over five years in Marathwada region.

Table No.4.4 shows that each & every district of Marathwada is facing drought situation to some or a great extent. Even though among these eight districts Beed, Parbhani and Latur has faced more than 50% deficient rainfall. Parbhani districts has faced severe drought situation in last five years i.e., two times. Aurangabad & Nanded districts has faced 4-time deficient rainfall in last five years followed by Jalna, Hingoli, Parbhani and Latur. Beed and Osmanabad has two years of deficient rainfall in last five years.

5. Conclusion:

Out of 36 subdivisions of Indian meteorological department, Marathwada division is consistently facing deficient rainfall. Above table (Table no. 4.4) elicits that

in some of the districts of Marathwada region the possibility of deficient rainfall 80% in last five years (2013-2017). The readiness of drought is even more than 50% in Beed, Parbhani and Latur districts. Drought has different socio-economic implications on society. As a result of the availability of surface water deployed in dams due to water used for domestic, agricultural and industrial purposes. As the severity of drought increases, it directly affects the agricultural sector and economy of the state. The people from drought affected areas start migrating towards urban areas of other parts for employment. Drought disrupts the agricultural production, it also disturbs the equilibrium between supply and demand of agricultural products, ultimately increases inflation⁴. The present study leads to certain recommendations which can recover the drought situation in Marathwada division by adopting water-conservation techniques and proper crop planning the agricultural yield can be increased. The development of watershed will increase surface and groundwater resources. The drought management should be carried out through public participation and awareness to cope up with possible future droughts. Scientific improvement in breeding more drought-resistant animal and plant varieties will play a key role to balance the ecosystem. The water budgeting at all levels is also very essential⁵. In a nutshell drought has innumerable impacts on each and every living organism on the earth.

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