

「インド特許庁の特許実務及び手続の手引(2011)」と
「同手引(2019)改訂案)」との対比表

※本資料は、日本貿易振興機構ニューデリー事務所が現地法律事務所 LexOrbis Intellectual Property Attorneys に作成委託し、2019年3月に入手した情報に基づくものであり、インド特許庁が公式に発行したものではありません。ジェットロでは情報・データ・解釈などをできる限り正確に記すよう努力しておりますが、本資料で提供した情報などの正確性についてジェットロが保証するものではないことを予めご了承ください。

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
Chapter 01: Introduction			
	Indian Patent Office works from four locations viz. Delhi, Mumbai, Kolkata and Chennai with defined areas of territorial jurisdiction. Introduction of office automation and electronic processing of patent applications has resulted in a certain level of uniformity and transparency. Maximum amount of information has been made available to the public viz. information relating to patent applications, including the status, examination reports and other documents. This manual is expected to bring in further transparency and uniform practices in the four offices.	Indian Patent Office functions from four locations viz. Delhi, Mumbai, Kolkata and Chennai with defined areas of territorial jurisdiction. Introduction of office automation and electronic processing of patent applications has resulted in substantial uniformity and transparency in functioning. <u>Complete file wrapper in respect of published patent applications including information related to publication, examination reports, status of application, amendments, grant, opposition, renewal and decisions of controllers as well as legal status of patents in</u>	File wrapper as a manual to introduce transparency format to display detailed information related to patent prosecution in form of electronic patent register.

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		<p><u>the form of electronic Patent Register has been made available to the public.</u> This manual is expected to bring in further transparency and uniform practices in the patent office.</p>	
	<p>Chapters 3 to 7 deal with the procedure of filing a patent application, including Ordinary Application, PCT International Application, PCT National Phase Application, Convention Application, Application for Patent of Addition & Divisional Application.</p>	<p><u>Chapters 3 to 8</u> deal with the procedure for filing of patent applications including ordinary and PCT national phase applications, convention and PCT international applications, patent of addition, divisional application and <u>Indian ISA/IPEA</u>.</p>	<p>Indian ISA/IPEA introduced</p>
Chapter 02: Key Definitions			
<p>02.02.01 (Definitions)</p>	<p>The Central Government may also appoint other officers who shall discharge, under the superintendence and directions of the Controller General of Patents, Designs and Trademarks, such functions of the Controller under this Act as he may authorize in writing, from time to time by general or special order.</p>	<p>The Central Government may appoint <u>examiners</u> and other officers with designations as deemed fit, who shall discharge, under the superintendence and directions of the Controller General of Patents, Designs and Trademarks, such functions of the Controller under this Act, as he may authorize in writing from time to time, by general or</p>	<p>Inserted “examiners” word in paragraph</p>

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		special order.	
02.02.03A (Definitions)	-NA	“New invention” means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e. the subject matter has not fallen in public domain or that it does not form part of the state of the art.	New paragraph added under section 2(1)(l) to reflect the amendment done into the Patents Rules 2003 as on May 16, 2016.
02.02.12 (Definitions)	"Person interested" includes a person engaged in, or in promoting, research in the same field as that to which the invention relates.	"Person interested" includes a person engaged in, or in promoting, research in the same field as that to which the invention relates. <u>(In the matter of ‘Indian network for people living with HIV/AIDS’ v/s ‘Union of India’ the Madras high court widened the ambit of “person interested” by including person/persons who has a concern for public interest in the area of public health and nutrition.</u>	Widening of the ambit of Person interested by explanation through judicial precedent.
02.02.14 (Definitions)	NA	“Opposition Board” means an Opposition Board constituted	Opposition Board defined with

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		under sub - section (3) of section 25.	reference to Section 25(3) of the Patents Act,1970
02.02.16 (Definitions)	-NA	Small entity	Small entity explanation paragraph added
02.02.17 (Definitions)	-NA	Startup	Startup explanation paragraph added
02.02.18 (Definitions)	-NA	International Application” means an application for patent made with accordance with the Patent Cooperation Treaty	New paragraph to define International Application
Chapter 03: Filing of Patent Application			
03.01 (Applicant)	-	Natural person means any individual or a group of individuals. Other than natural person includes a registered company, small entity, startup, research organization, educational institute or Government.	Natural person inclusion in sub-paragraph
03.01.01 (Procedure to be followed in case of death of applicant, or in case the legal entity ceases to exist- substitution or addition of applicant)	-ii. <u>an acknowledgement indicating that the assignment or agreement</u> relates to the invention in respect of which the application is made, is produced before the Controller,	ii. <u>there is an assignment/ agreement produced before the Controller</u> by the person to whom it was made indicating that the assignment or agreement relates to the invention in respect of which the	Rewording for explanation regarding submission of assignment

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		application is made or, iv. The Controller takes a decision after hearing the disputed parties as per the proceedings under sub-section (5) of section 20.	New sub-section for Controller's duty
03.02 (Jurisdiction)		Also, the further application referred to in section 16 of the Act, shall be filed at the appropriate office of the first mentioned application only.	Divisional application has to be filed at the appropriate office of the first (parent) application.
	A foreign applicant is required to give an address for service in India and the jurisdiction will be accordingly decided	A applicant is required to give an address for service in India including a postal address in India and an email address. <u>However, a patent agent shall also be required to furnish a mobile number registered in India and an email address. Such address for service shall be considered for all proceedings under the Act and Rules.</u>	Further information related to patent agent like mobile number at the time of filing application to get updates via message of any actions performed by the patent office.
	-NA	However, the Controller may allocate an application for patent to any of the four Patent Offices, if required.	The controller can assist for patent office territorial location as per applicant's convenience

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03.04 (Filing of patent application)		It may be noted that 10 % additional fee shall be payable when the application for patent and other documents are filed through physical mode, namely, in hard copy format.	10% additional fees for physical mode filing of patent
03.04.01 (Documents required for filing Patent Application) Proof of Right:-	2. Applicant has to obtain a proof of right to file the application from the inventor. The Proof of Right is either an endorsement at the end of the Application Form-1 or a separate assignment.	A proof of right from the inventor(s) by way of endorsement in the appropriate column of Form-1 or as an assignment <u>duly authenticated. It shall be filed within 6 months from the date of filing of the application in India.</u>	Deadline for filing proof of right is mentioned. i.e. within 6 months from the date of filing of the application.
	NA	6. If an applicant is MSME/ Startup, Form 28, accompanied with appropriate evidence of being MSME/ Startup , shall be submitted in accordance with rule Rule 2(fa)/2(fb), respectively.	Form 28 needs to be filed with supporting document to claim MSME (Micro, Small & Medium Enterprises) / Startup start up benefits.

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Power of authority	<p>6. Power of authority in Form-26, if filed through a Patent Agent. In case a general power of authority has already been filed in another application, a self-attested copy of the same may be filed by the Agent.</p> <p>In case the original general power of authority has been filed in another jurisdiction, that fact may also be mentioned in the self-attested copy</p>	<p>7. Form of Authorisation:- <u>Power of Attorney to be filed within a period of three months from the date of filing of such application or document, failing which no action shall be taken on such application or documents for further processing till such deficiency is removed.</u></p> <p>In case a general power of attorney has already been filed in another application, a self-attested copy of the same shall be filed along with Form 26 by the authorized Patent Agent.</p>	<p>Form-26 filing deadline is included i.e. three months from the date of filing of such application else further processing of the application shall be held.</p>
8. Priority document is required in the following cases:	<p>The priority document may be filed along with the application or before the expiry of eighteen months from the date of priority, so as to enable publication of the application. In case of a request for early publication, the priority document shall be filed before/along with such request.</p>	<p>The priority document should be filed along with the PCT National phase application before the expiry of 31 months from the date of priority.</p>	<p><u>Submission of Priority document in PCT application along with its deadline further explained</u></p>
	<p>10. If the Application pertains to a biological material obtained from India, the applicant is required to submit the</p>	<p>11. If the application pertains to a biological material obtained from India, the applicant is required to</p>	<p>The underlined statement in column 2 has been eliminated in draft</p>

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	<p>permission from the National Biodiversity Authority any time before the grant of the patent. <u>However, it would be sufficient if the permission from the National Biodiversity Authority is submitted before the grant of the patent.</u></p>	<p>submit the permission from the National Biodiversity Authority any time before the grant of the patent.</p>	<p>manual 2019</p>
<p>03.04.02 Comprehensive E-filing E-Filing of Patent Application:</p>	<p>2. For e-filing, applicant / agent must have a digital signature. For the first time, applicant / agent has to register as a new user and has to create login ID and password on the Patent office portal. (http://www.ipindia.nic.in).</p>	<p>E-filing Portal of Patent Office, available in the official website of Controller General of Patents, Designs & Trade Marks (www.ipindia.nic.in), provides a comprehensive platform for online submission of patent applications and subsequent forms in a secure and authenticated electronic way. Authentication of the filing is done via a digital signature which the applicant or his agent must procure as Digital Signature Certificate (DSC) of class II or III from authorized vendors. (List is given on website).</p>	<p>Detailed procedure for E-filing of patent Application has been explained. Further, mandatory requirement related to DSC is provided and the list is present on the website.</p>
<p>03.04.03 (Leaving and serving documents at Patent Office)</p>	<p>-NA</p>	<p>2. A patent agent shall file, leave, make or give all documents only by electronic transmission duly</p>	<p>Patent Agent duties for e-filing process and further processing.</p>

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		<p>authenticated, including scanned copies of documents that are required to be submitted in original.</p> <p>Provided that the original documents that are required to be submitted in original, shall be submitted within a period of fifteen days, failing which such documents shall be deemed not to have been filed.</p>	
		<p>The condonation of such delay can also be made for reasons of war, revolution, civil disorder, strike, natural calamity, a general unavailability of electronic communication services or other similar reasons occurred in the locality where the applicant/agent resides or has place of business. The delay can be allowed when the applicant/agent files a petition for condonation of such delay to the Controller provided the situation was of such severity that it disrupted the normal</p>	<p>Pardon for delay of e-filing of documents and its deadline i.e. within maximum one month from the date of cessation of the situation as mentioned.</p>

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		communication in that area and that the petition is filed within maximum one month from the date of cessation of such situation.	
03.04.04 Receiving documents in Office:	2. Both the counters stand closed at 5 pm for facilitating further processing and no papers will be received after 5 pm.	This point has been eliminated in the current draft manual	NA
03.04.05 (Language and Paper size etc.)	All documents and copies of documents to be furnished shall be written or typewritten or printed either in Hindi or in English language in large and legible characters with deep indelible ink with lines widely spaced upon one side only of strong white paper of a size A4 with a margin of at least 4 centimeters on the top and left hand part and 3 centimeters on the bottom and right hand part thereof. It is desirable that the documents are prepared with lines spacing of 1 1/2 or double space in non-script type font (e.g., Arial, Times Roman, or Courier), preferably in a font size of 12.	Filed in typewritten or printed in Hindi or English (unless otherwise directed or allowed by the Controller) in large and legible characters not less <i>than 0.28-centimetre-high with deep indelible ink</i> with lines widely spaced not less than one and half spaced, only upon one side of the paper; 2. Filed on such paper which is flexible, strong, white, smooth, Non-shiny, and durable of size A4 of approximately <u>29.7 centimetre by 21 centimetre</u> with a margin of at least 4 centimetre on the top and left hand part and 3 centimetre on the bottom and right hand part thereof;	Specific measurements for paper size, however, examples of font type has been eliminated in the draft manual 2019.

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		<p>3. Filed with numbers in consecutive <u>Arabic numerals</u> in the centre of the bottom of the sheet; and</p> <p>4. Filed with the numbering to every fifth line of each page of the description and each page of the claims at right half of the left margin.</p> <p>5. Additional copies of all documents shall be filed at the Appropriate office as may be required by the Controller.</p> <p>6. Names and addresses of applicant and other persons shall be Given in full, together with their nationality and such other particulars, if any, as are necessary for their identification.</p>	
03.04.06 (Sequence listing)	<p>In case the Application for Patent discloses sequence listing of nucleotides and/or amino acids, the same shall be filed in electronic form. However, the fee with respect to the equivalent number of pages shall be payable.</p>	<p>If the application for patent discloses sequence listing of nucleotides or amino acid sequences, the sequence listing of nucleotides or amino acid sequences shall be filed in computer readable text format along with the application, and no print form of the sequence listing of</p>	<p>Detailed procedure for filing of sequence listing and references provided (Reference : <u>WIPO STANDARD ST.25 STANDARD FOR THE PRESENTATION</u>)</p>

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		<p>nucleotides or amino acid sequences is required to be given.</p> <p>A nucleotide sequence shall be listed with a maximum of 60 bases per line, with a space between each group of 10 bases. The bases of a nucleotide sequence (including introns) shall be listed in groups of 10 bases, except in the coding parts of the sequence. Leftover bases, fewer than 10 in number at the end of noncoding parts of a sequence, should be grouped together and separated from adjacent groups by a space. The bases of the coding parts of a nucleotide sequence shall be listed as triplets (codons). Any sequence listing in electronic form shall be contained within one electronic file encoded using IBM39 Code Page 437, IBM Code Page 93240 or a compatible code page to represent the sequence listing with no other codes included. Any sequence listing in the</p>	<p><u>OF NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS IN PATENT APPLICATIONS</u></p> <p><u>URL:</u> https://www.wipo.int/export/sites/www/standards/en/pdf/03-25-01.pdf</p>

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		electronic document format as specified shall preferably be created by dedicated software such as PatentIn.	
Chapter 03: Filing of Patent Application 03.04.07 (Fee)		3. Ten percent additional fee shall be payable when the application for patent and other documents are filed through physical mode, namely, in hard copy format. 4. In case of online filing, payment of fees is effected through a payment gateway with all the prevalent major modes of payment like Net banking, Credit Cards, Debit Cards or ATM Cards.	Explanation regarding additional Fees if Physical filing of application is done. Mode of payment for E-filing
	-	5. When a small entity/startup is an applicant, every subsequent document for which a fee has been specified, shall be accompanied by duly authenticated copy the evidence of small entity/startup.	Fees procedure for startup/small entity
	4. In case an application processed by a natural person is fully or partially transferred to a person other than a natural person, the difference, if any, in	6. In case an application processed by a natural person is fully or partially transferred to a person other than a natural person, the	Procedure of application transfer fees from natural person to other along with

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	<p>the scale of fee(s) between the fee(s) charged from a natural person and the fee(s) chargeable from the person other than a natural person in the same matter shall be paid by the new applicant with the request for transfer.</p>	<p>difference, if any, in the scale of fee(s) between the fee(s) charged from a natural person and the fee(s) chargeable from the person other than a natural person in the same matter for all previous proceedings <u>shall be paid by the new applicant with the request for transfer in Form 6 along with Form 30.</u></p> <p>Explanation- Where the startup ceases to be a startup after having filed an application for patent due to lapse of more than <u>seven/ten years from the date of its incorporation or registration as applicable or the turnover subsequently crosses the financial threshold limit as defined, no such difference in the scale of fees shall be payable.</u></p> <p>11. Fee once paid in respect of any proceedings shall not be ordinarily refunded whether the proceedings have taken</p>	<p>formalities has been explained.</p> <p>Criteria Limit in years for startup filing fees</p> <p>Fees refund procedure</p>

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		<p>place or not. <u>However, on the request _____ by _____ the applicant/agent in Form 30 and if the Controller is satisfied that during the online filing process, the fee was paid more than once for the same proceeding, the excess fee shall be refunded.</u></p>	
<p>03.05.02 Numbering System for Applications</p> <p>03.05.03 i. Numbering Format for Request for Examination</p>	NA	<p>FORMAT: YYYY J T NNNNNN , Where,</p> <p>"YYYY" is Four digit fixed length "Year of filing" (in YYYY/MM/DD)</p> <p>"J" is fixed length single digit "Jurisdiction" in numerals (1 for Delhi, 2 for Mumbai, 3 for Kolkata, 4 for Chennai)</p> <p>"T" is fixed length single digit "Type of Application" in numerals:</p> <p>(1 for Ordinary; 2 for Ordinary-Divisional; 3 for Ordinary- Patent of Addition; 4 for Convention; 5 for Convention- Divisional; 6 for Convention-Patent of Addition; 7 for PCT NP; 8 for</p>	<p>For understanding the format of nomenclature as applicable from 2016 has been explained.</p> <p>Nomenclature of allocation of application number, request for examination reference number explained.</p>

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		<p>PCT NP-Divisional and 9 for PCT NP-Patent of Addition)</p> <p>"NNNNNN" is 6 digits fixed length common continuous running serial number of applications applicable for all Patent Offices in India</p> <p>Thus, 1st application (Ordinary) filed in Delhi in 2019 will be numbered as 201911000001.</p> <p>If 2nd application in 2019 is "Convention" application from Mumbai it would be numbered as 201924000002.</p> <p>i. Numbering Format for Request for Examination</p> <ul style="list-style-type: none"> • Where, "R denotes Request for examination u/r 24B(1) (i) "YYYY" denotes four digit fixed length "Year of filing" • "J" denotes Jurisdiction for Patent Application against which Request of Examination has been filed □ "NNNNNN" denotes 6 digits fixed length common continuous running serial number applicable for all Patent Offices in India. <p>ii. Numbering Format for Request for Expedited</p>	

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		Examination • Format: EYYYYJNNNNNN Where, "E denotes Request for expedited examination under rule 24 (C)	
03.05.04 (Scrutiny of application)	e. Power of Attorney or attested copy of General Power of Attorney (if any) is filed,	e. whether, Authorisation of an Agent in Form 26 or in the form of a power of attorney is filed <u>within a period of three months</u> from the date of filing of such application or document.	Time limit for filing Form 26
03.06 (Withdrawal of patent application)	The applicant may, at any time after filing the application but before the grant of a patent, withdraw the application by making a request in writing and by paying the prescribed fee.	The applicant may, at any time after filing the application but before the grant of a patent, withdraw the application by making a request in writing. <u>A request for withdrawing the application under sub-section (4) of section 11B shall be made in Form 29.</u>	Specific Form for Withdrawal of application
Chapter 04: Publication of Application			
04.01 (Publication of Patent Application) 04.04 Effects of Publication		e. Publication of application under sub-sections (2) and (5) of section 11A shall be identified by the letter 'A' along with the number of application.	Kind code "A" for indicating publication of application

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	<i>(d) The rights of patentee with respect to applications filed under section 5(2) before 1st day of January, 2005 will accrue from the date of grant of the patent. Further, in such a case, after the grant of a patent, the patent-holder shall only be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to 1st day of January, 2005 and which continue to manufacture the product covered by the patent on the date of grant of the patent and no infringement proceedings shall be instituted against such enterprises.</i>	NA	Italicized part of the 2011 manual is not present in draft manual 2019
Chapter 5: Provisional and Complete Specification			
05.01 (Specification)	-	Filing amendments in the specification: 1) When amendments are made to a provisional or complete specification or any drawing accompanying it, the pages incorporating such amendments shall be retyped and submitted to form a continuous document. 2) A marked copy clearly identifying the amendments	Amendments filing procedure

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		<p>carried out and a statement clearly indicating the portion (page number and line number) of the specification or drawing being amended along with the reason shall also be filed.</p> <p>3) Amendments shall not be made by slips pasted on, or as footnotes or by writing in the margin of any of the said documents.</p> <p>4) When a retyped page or pages incorporating amendments are submitted, the corresponding earlier page shall be deemed to have been superseded and cancelled by the applicant.</p>	
05.03 (Complete Specification)		<p>It is mandatory on the part of an applicant to disclose fully and particularly various features constituting the invention. The disclosure of the invention in a complete specification must be such that a person skilled in the art should be able to perform the invention.</p>	<p>Requirement for providing Sufficient information in description to enable a skilled person to perform invention is included.</p>
05.03.01 (Contents of Complete Specification)		f) Irrelevant or other matter, not necessary in the opinion	Irrelevant information

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		of the Controller for elucidation of the invention, shall be excluded from the title, description, claims and drawings.	exclusion
05.03.02 (National phase applications)	-	However, the applicant, while filing such Application corresponding to an international application designating India, may delete a claim, in accordance with the provisions contained in rule 14.	Explanation regarding deletion of claim while entering national phase through PCT
05.03.08 (Detailed Description of the Invention)	-	h) <u>If there is any request for early publication, then the said reference shall be given on or before the date of filing of such request.</u>	biological material information have to be provided on or before the date of filing request for early publication
05.03.16 Structure of Claims	The part coming before ‘_characterized by’ is the prior art while that comes after will be the features of the invention. In the following example –A data input device is the introductory phrase, –comprising is the transition phrase, and the rest of the claim is the body:	NA	This has been eliminated in the draft manual 2019

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06.01.04 (Appropriate office)	If a divisional application is filed in a jurisdiction other than that of the main application, the Examination is done vis-à-vis the main application.	The divisional application shall be filed at the appropriate office of the first mentioned application only.	Mandatory requirement of filing divisional application at the first mentioned office
Chapter 6: Divisional Application and Patent of Addition 06.02.02 Novelty and inventive step	An application for Patent of Addition cannot be challenged on the ground of lack of inventive step with respect to the disclosure in the main application or patent. But the disclosure in main application or patent may be cited for novelty against the application for patent of addition.	An application for Patent of Addition cannot be challenged on the ground of lack of inventive step with respect to the disclosure in the main application or patent. But the disclosure in main application or patent may be cited for novelty against the application for patent of addition. In the matter of Ravi Kamal Bali v/s Kala Tech and others the Bombay High Court on 12th February, 2008 dismissed the defendant's arguments that Patent of addition can only be granted if it has an inventive step over the main application.	For adjudicating inventive step of the patent of addition, case law has been cited
Chapter 07 Convention Application, International Application and National Phase Application			
07.02.01	PCT International application by Indian applicant The rules are same	PCT International application by Indian applicant If the applicant fails to	Reference to Patent Act under section 118, rule 4 has been added

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		<p>procure the foreign filing permission under section 39, the application will not be considered as international application.</p> <p>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.</p>	
07.02.02	<p>Indian Patent Office as Receiving Office and requirements</p> <p>An international patent application can be filed in Indian Patent Office as a Receiving Office, in request form (PCT / RO / 101) in triplicate, which can be obtained free of charge from the Receiving Office or from the International Bureau of WIPO or</p>	<p>Indian Patent Office as Receiving Office and requirements</p> <p>Online filing:</p> <p>An International patent application can be filed in Indian Patent Office as a Receiving Office, in request form (PCT/RO/ 101), <u>through the e-PCT module of WIPO (https://pct.wipo.int) along with application body, declaration, POA (In case of agents), MSME Certificate in</u></p>	<p>Filing process through the e-PCT module of WIPO along with the requirements have been explained in detail.</p>

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	can be downloaded from WIPO website	<p><u>case of small entity OR DIPP certificate in case of startup for claiming fee reduction in transmittal and priority fees.</u></p> <p>Offline filing: An International patent application can be filed in Indian Patent Office as a Receiving Office, in request form (PCT / RO / 101), which can be downloaded from the WIPO website, and has to be submitted in triplicates <u>along with application body, declaration, POA (Incase of agents), MSME Certificate in case of small entity OR DIPP certificate in case of start up for claiming fee reduction in transmittal and priority fees.</u></p> <p><u>Foreign filing permission should be submitted as per requirement.</u></p> <p><u>a) 90% Fee reduction, in case of International filing fees, for natural persons can be availed only if the nationality and residence of the applicant is India.</u></p> <p><u>b) In case the search authority is ISA/US, the</u></p>	Foreign filing requirements with respect to fees have also been explained.

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		<p><u>applicant has to submit the following documents.</u></p> <p>➤ <u>Micro entity certificate in form 15A of USPTO for claiming micro entity fee reduction.</u></p> <p>➤ <u>Small entity assertion/declaration for claiming small entity fee reduction.</u></p> <p>➤ <u>In USA, Universities are automatically considered as small entity and hence applicant can avail search fee reduction by mentioning the same in RO/101.</u></p>	
07.02.03	<p>Indian Patent Office as Receiving Office</p> <p>This section has been removed</p>	<p>Functions of Indian Patent Office as Receiving Office</p> <p>Receiving office (RO) – Receives the International Application (IA) and does the following verifications:</p> <p>✓ <u>If formality criteria not satisfied, IA is referred to IB for further processing.</u></p> <p>COMPETENT INTERNATIONAL SEARCHING AUTHORITIES (ISAs):</p> <p>✓ <u>INDIAN PATENT OFFICE</u></p>	<p>Section 07.02.04 in 2011 Manual is now 07.02.03 in 2019 Draft Manual</p> <p>Reference to Patent Act under article 16 of PCT has been added</p> <p>Articles and rules have been included in parenthesis next to the data to provide clarity</p> <p>Indian Patent Office</p>

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		<p><u>(IN)</u></p> <p>Fees payable to the receiving Office:</p> <ul style="list-style-type: none"> ➤ <u>search fee (for ISA)</u> ➤ <u>supplement per sheet in excess of 30 (for IB)</u> <p>Intimation of Fee payment :RO /102</p> <ul style="list-style-type: none"> ➤ Demand letter (PCT/RO/102) issued <p><u>Demand letter (PCT/ RO/102) with the INR equivalent towards calculation of IB fee and a mode of payment letter is dispatched to applicant (hardcopy/email) on the same day by RO.</u></p>	<p>(IN) is now an ISA (since 2013)</p> <p>Additionally, to the fees mentioned in the previous column, the fees marked in italics in the draft manual are to be paid only as per instructions from RO</p>
07.02.04	<p>PCT Fee (may vary from time to time)</p> <p>This section is numbered 07.02.05 in the old rules manual</p> <p>An Indian applicant, for filing an International Application under Patent Cooperation Treaty, is required to remit the consolidated amount towards International filing fee and search fee in US Dollar by Demand Draft, payable to the Controller of Patents at State Bank of India, New York</p>	<ul style="list-style-type: none"> ➤ The applicant can make payment towards IB fee and ISA (except ISA/IN) <u>fees directly through NEFT/RTGS and submit the UTR /Ref no: via email to RO/IN</u> ➤ <u>RO prepares debit instructions to the bank and transmits the payment subsequently to IB and ISA and also intimate the same</u> 	<p>International filing fee in terms of amount with respect to jurisdiction has been specified in a table</p> <p>Payment method has been changed to NEFT/RTGS transactions instead of demand draft</p>

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	Branch. Transmittal Fee payable to the Indian Patent Office shall be paid in INR to the Controller of Patents, preferably along with the application but not later than one month from the date of receipt of the International Application.	<u>through e mail to all International authorities.</u>	
07.02.07	International Preliminary Examination		
	This section is numbered 07.02.08 in the old rules manual	International Preliminary Examining Authorities For an Indian Applicant, the following are competent International Preliminary Examining Authorities (IPEAs): <u>7. Indian Patent Office (IN)</u>	Indian Patent Office is also an International Preliminary Examining Authorities (IPEA) since 2013
07.03.02	Basic Requirements to enter National Phase in India		
	2. The applicant has to file the National Phase Application within 31 months from the priority date or International Application date, whichever is earlier. 8. If PCT/IB/304 is available on the website of WIPO, the Patent Office shall not require the applicant to submit the priority document. If not available on	1. The applicant has to file the National Phase Application within 31 months from the priority date or International Application date, whichever is earlier. <u>The application with respect to the National Phase Application may be made in Form -1.</u> 9. If PCT/IB/304 is available	Reference to Patent Act under rule 14 has been added According to draft manual 2019, if PCT/IB/304 is available on WIPO

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	<p>the website of WIPO, the Office may request for the same from the International Bureau.</p> <p>1. A PCT National Phase Application is considered as a Convention Application under Section 135 of which the filing date is the date of International Application.</p>	<p>on the website of WIPO, the Patent Office shall not require the applicant to submit the priority document.</p> <p><u>If not available on the website of WIPO, the Office may request for the same from the applicant. If the applicant filed a priority document through WIPO-DAS in such case, the applicant shall provide the code for accessing the priority document.</u></p> <p><u>14. If the applicant for national phase application is willing for expedited examination under Rule 24 C (1) before the expiry of 31 months from the date of priority, he may do so after filing express request under Rule 20 (4)(ii).</u></p> <p><u>15. International Application filed under the PCT designating India is considered as a Convention Application under Section 135 for which the filing date is the date of International Application.</u></p>	<p>website the requirement for submission of priority document will not be raised by the patent office.</p> <p>However, if not available on the website of WIPO, option for submission of priority document is explained.</p> <p>Pointer 14 with respect to expedited examination is new addition.</p> <p>Comparing Pointer 1 in old rules manual and Pointer 14 of the new draft manual, the language has been changed to denote a PCT National Phase Application</p>
Chapter 8 Indian International Searching Authority and Indian International Preliminary Examination			

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
Authority			
	<p>It contains the following parts:</p> <ul style="list-style-type: none"> • India as ISA/IPEA • Applicants in ISA/IPEA • Indian International Searching Authority • International search report • Time limit for establishing international search report • Transmittal of International Search Report and written opinion • Confidential treatment • Indian International Preliminary Examining Authority • Period for making a demand • Fees payable to Examining Authority • Manner of making a demand • Processing of demands for international preliminary examination • International Preliminary Examination Report • Period for establishing international preliminary examination report and its transmission • Transmittal of International Preliminary Examination Report • Conditions for and extent of refund 		<p>This is a new chapter.</p> <p>The Indian Patent Office was recognized as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the PCT and, accordingly, started functioning from 15th October 2013 as ISA and IPEA.</p> <p>The sub-sections of the chapter have been tabulated in the previous columns</p>
Chapter 9 Examination & Grant			
09.01	<p>Request for Examination</p> <p>This section was numbered 08.01 in old rules manual</p>	<p>Request for Examination</p> <p>1) An Application for a Patent shall not be examined unless</p>	<p>Reference to Patent Act under rule 24C has been added.</p>

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	1. An Application for a Patent will not be examined unless the applicant or any other person interested makes a request for examination. The request is to be filed in Form 18 with the fee as prescribed in First Schedule.	the applicant or any other person interested makes a request for examination. The request is to be filed in Form 18 or <u>Form 18A (as the case may be)</u> along with the fee as prescribed in First Schedule.	References to case laws have been made, wherever required. This part was not present in the 2011 rule manual.
09.01.02	-	Expedited examination of applications	Expedited examination is added new
09.02	Reference for Examination This section was numbered 08.02	Reference for Examination 2) Accordingly, the Controller shall refer the application, specification and other documents related thereto to the examiner and such reference shall be made in the order in which the request is filed. Provided that in case of a further application filed under section 16, the order of reference of such further application shall be the same as that of the first mentioned application. Provided further that in case the first mentioned application has already been referred for examination, the	Pointers 2 and 3 have been newly added.

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		<p>further application shall have to be accompanied by a request for examination, and such further application shall be published within one month and be referred to the examiner within one month from the date of such publication.</p> <p>3) A first statement of objections, along with any documents as may be required, shall be issued by the Controller to the applicant or his authorised agent within one month from the date of disposal of the report of examiner by the Controller:</p> <p>Provided that where the request for examination was filed by a person interested, only an intimation of such examination may be sent to such person interested.</p>	
09.03.01	<p>Search for anticipation by previous publication and prior claiming</p> <p>This section was numbered 08.03.01</p> <p>1. The examiner conducts a</p>	<p>Search for anticipation by previous publication and prior claiming</p> <p>1) The examiner conducts a search in the Indian Patent Database, starting from</p>	<p>Names of databases is not mentioned; however patent/non-patent literature is mentioned</p>

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	<p>search in the Indian Patent Database, starting from 1.1.1912, and all the patent databases of other countries such as: EPO database, WIPO database, USPTO database, JPO DATABASE, TKDL (Traditional Knowledge Digital Library) and other paid databases. In addition to the above, PCT Minimum required patent and non-patent literature is searched. The search is conducted to find out any publication which may anticipate the claimed subject matter. Another objective of the search is to ascertain whether an invention as claimed in any claims of the complete specification has been claimed in any claim of any other complete specification, filed in India, which has been published on or after the date of filing of the applicant's complete specification.</p> <p>3. The examiner records in his noting, the following items:</p> <p>a. International classification.</p>	<p>1.1.1912, and <u>all the available databases including patent/non patent literature</u>. In addition to the above, PCT Minimum documentation is searched. The search is conducted to find out any publication which may anticipate the claimed subject matter. Another objective of the search is to ascertain whether an invention as claimed in any of the claims of the complete specification has been claimed in any claim of any other complete specification, filed in India, which has been published on or after the date of filing of the applicant's complete specification.</p> <p>3) The examiner ascertains the following:</p> <p>a) International Patent classification.</p> <p>b) Search strategy.</p> <p>c) Keyword(s) used.</p> <p>d) Databases consulted for both Patent and non-Patent literature.</p> <p>e) Prior art findings and</p>	<p>With regards to pointer 3, "e. List of search queries" is removed</p>

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	b. Search strategy adopted. c. Key word(s) used. d. Databases consulted for both Patent and non-Patent literature. e. List of search queries. f. Prior art findings and analysis regarding the patentability g. Limitation on search if any, such as non-clarity of claims or multiplicity of inventions or any other reason due to which a reasonable search cannot be conducted.	analysis regarding the patentability f) Limitation on search if any, such as non-clarity of claims or multiplicity of inventions or any other reason due to which a reasonable search cannot be conducted.	
09.03.02	Novelty This section was numbered 09.03.02 c) While ascertaining novelty, the Examiner takes into consideration, inter alia, the following documents: <ul style="list-style-type: none"> • which have been published before the date of filing of complete specification. 	Novelty 3) While ascertaining novelty, the Examiner takes into consideration, inter alia, the following documents: <ul style="list-style-type: none"> • which have been published before the date of filing of <u>the application in any of the specifications filed in pursuance of application for patent in India on or after 1st January, 1912.</u> 	Patent specifications filed in pursuance of application for patent in India on or after 1st January, 1912 will be considered against novelty
09.03.05.03	This section was numbered 08.03.05.03 ii) A scientific theory is a statement about the natural world. These theories	b) A scientific theory is a statement about the natural world. These theories themselves are not considered to be inventions, no matter	Point for abstract theory is removed from b)

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	<p>themselves are not considered to be inventions, no matter how radical or revolutionary an insight they may provide, since they do not result in a product or process. However, if the theory leads to practical application in the process of manufacture of an article or substance, it may well be patentable. A claim for formulation of abstract theory is not considered to be an invention. For example, the fact that a known material or article is found to have a hitherto unknown property is a discovery and not an invention. But if the discovery leads to the conclusion that the material can be used for making a particular article or in a particular process, then the article or process could be considered to be an invention.</p> <p>iii) Finding out that a particular known material is able to withstand mechanical shock is a discovery and therefore not patentable, but a claim to a railway sleeper made of the material would not fall foul of</p>	<p>how radical or revolutionary an insight they may provide, since they do not result in a product or process. However, any practical application of such theory in the process of manufacture of an article or substance may well be patentable.</p> <p>c) The fact that a known material or article is found to have a hitherto unknown property is a discovery and not an invention. <u>But if such discovery leads to the conclusion that the material can be used for making a particular article or in a particular process, then the article or process could be considered to be an invention.</u></p> <p>For example, the property of a particular known material to be able to withstand mechanical shock is a discovery and therefore not patentable, but a claim to a railway sleeper made of such material would not fall foul of this exclusion, and would be allowable if it passed the tests</p>	

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	this exclusion, and would be allowable if it passed the tests for novelty and inventive step. Similarly, finding of a new substance or micro-organism occurring freely in nature is a discovery and not an invention	for novelty and inventive step.	
09.03.05.03	This section was numbered 08.03.05.03 According to this provision, the following are not inventions and hence not patentable: (a) mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance; (b) the mere discovery of any new property of a known substance; (c) the mere discovery of new use for a known substance; (d) the mere use of a known process unless such known process results in a new product or employs at least one new reactant; (e) the mere use of a known machine or apparatus.	According to this provision, the following are not inventions and hence not patentable: a) mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance; b) the mere discovery of any new property of a known substance; c) the mere discovery of new use for a known substance; d) the mere discovery of use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant Section 3(d) stipulates that an	Pointers (d) and (e) from 2011 rules manual have been combined in the 2019 draft manual Additional explanation for section 3(d) has been added.

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
		<p>incremental invention, based upon an already known substance, having established medicinal activity shall be deemed to be treated as a same substance, and shall fall foul of patentability, if the invention in question fails to demonstrate significantly improved therapeutic efficacy with respect to the known substance.</p>	
09.03.05.07	<p>This section was numbered 08.03.05.07</p> <p><i>A method of agriculture or horticulture is not an invention.</i></p> <p>Examples of subject matters excluded from patentability under this provision are:</p> <p>(a) A method of producing a plant, even if it involved a modification of the conditions under which natural phenomena would pursue their inevitable course (for instance a green house).</p> <p>(b) A method of producing improved soil from the soil with nematodes by treating the soil with a preparation containing</p>	<p><i>A method of agriculture or horticulture is not an invention.</i></p> <p>Examples of subject matters excluded from patentability under this provision are:</p> <p>a) A method of producing a plant, even if it involved a modification of the conditions under which natural phenomena would pursue their inevitable course (for instance a green house).</p> <p>b) A method of producing improved soil from the soil with nematodes by treating the soil with a preparation containing specified</p>	Point e) is new

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	<p>specified phosphorathioates.</p> <p>(c) A method of producing mushrooms.</p> <p>(d) A method for cultivation of algae.</p>	<p>phosphorathioates.</p> <p>c) A method of producing mushrooms.</p> <p>d) A method for cultivation of algae.</p> <p>e) <u>A method for removal of weeds.</u></p>	
09.03.05.08	<p>This section was numbered 08.03.05.08</p> <p>(j) Patent may however be obtained for surgical, therapeutic or diagnostic instrument or apparatus. Also the manufacture of prostheses or artificial limbs and taking measurements thereof on the human body are patentable.</p>	<p>j) Patent may however be obtained for surgical, therapeutic or diagnostic instrument or apparatus.</p> <p>k) Also the manufacture of prostheses or artificial limbs and taking measurements thereof on the human body are patentable.</p>	(j) and (k) were initially one point
09.03.05.09	<p>This section was numbered 08.03.05.09</p> <p>Microorganisms, other than the ones discovered from the nature, may be patentable. For instance, genetically modified microorganisms may be patentable subject to other requirements of Patentability.</p> <p>A new process of preparation of a vaccine under specific scientific conditions, the vaccine useful for protecting poultry against contagious bursitis</p>	<p>Microorganisms, other than the ones discovered from the nature, may be patentable. For instance, genetically modified microorganisms may be patentable subject to other requirements of Patentability.</p> <p>Plant varieties are provided protection in India under the provisions of the 'Protection of Plant Varieties and Farmers' Rights Act, 2002'.</p>	The process of preparation of vaccine part is removed.

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	<p>infection was held to be patentable by the Court on the ratio that the statute does not make a manner of manufacture as un-patentable even if the end products contains a living organism. (Dimminaco – A.G. Vs. Controller of Patents & Designs and Others).</p> <p>Plant varieties are provided protection in India under the provisions of the ‘Protection of Plant Varieties and Farmers’ Rights Act, 2002.</p>		
09.03.05.10	This section was numbered 08.03.05.10	<p>2) Claims directed as “Business Method”: The term “Business Methods” involves whole gamut of activities in a commercial or industrial enterprise relating to transaction of goods or services. The claims drafted not directly as “business methods” but apparently with some unspecified means are held non-patentable. However, if the claimed subject matter specifies an apparatus and/or a technical</p>	<p>Better and detailed explanation as compared to the previous part for claims directed as</p> <ul style="list-style-type: none"> • Mathematical model • Business method • Algorithm • Computer Program per se <p>Over all explanation as per the latest CRI guidelines</p>

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		<p>process for carrying out the invention even partly, the claims shall be examined as a whole. When a claim is “business methods” in substance, it is not to be considered a patentable subject matter. <u>However, mere presence of the words such as “enterprise”, “business”, “business rules”, “supply-chain”, “order”, “sales”, “transactions”, “commerce”, “payment” etc. in the claims may not lead to conclusion of an invention being just a “Business Method”.</u></p>	given.
09.03.05.13	<p>This section was numbered 08.03.05.13</p> <p><i>A presentation of information is not an invention.</i></p> <p>Any manner, means or method of expressing information whether visual, audible or tangible by words, codes, signals, symbols, diagrams or any other mode of representation is not patentable. For example, a speech instruction means in the</p>	<p><i>A presentation of information is not an invention.</i></p> <p>Any manner, means or method of expressing information whether visual, audible or tangible by words, codes, signals, symbols, diagrams or any other mode of representation is not patentable. For example, a speech instruction means in the form of printed text where horizontal underlining</p>	<p>The matter of application No. 94/Cal/2002, is removed</p>

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	<p>form of printed text where horizontal underlining indicated stress and vertical separating lines divided the works into rhythmic groups is not patentable. For instance, railway time table, 100years calendar etc.</p> <p>In the matter of application No. 94/Cal/2002, the Controller held that the Patent system was meant for protecting only one kind of creativity i.e. technological creativity and since the claimed invention relates to business method and method of presenting information, it is not allowed.</p>	<p>indicated stress and vertical separating lines divided the works into rhythmic groups is not patentable. For instance, railway time table, 100 years calendar etc</p>	
09.03.06	-	Information and undertaking regarding foreign applications	Detailed explanation of Information and undertaking regarding foreign applications. Recent arrangement with WIPO DAS and WIPO CASE has been introduced in this manual. Judicial precedent

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			<p>introduced relating to Section 8.</p> <p>Further, provision for revocation of patent under section 64(1) (m) on the ground of non-compliance of Section 8 should not be exercised solely and automatically just because it exists in the Act, as there lies a discretion in the Court not to revoke the patent on the peculiar facts and circumstances of the present case. The said discretion exists by use of the word, “may” under Section 64 of the Act.</p>
09.03.07	This section was numbered 08.03.06		Error in bullets in the new manual. Information is same. No changes observed.
09.04	This section was numbered 08.04 4. The applicant is required to comply with all the	4) The applicant is required to comply with all the requirements imposed upon him by the Act as	This is with respect to point 4), the time line to respond to FER has been

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	<p>requirements imposed upon him by the Act as communicated through FER or subsequent communication, at the earliest. However, if applicant fails to respond to the FER, within twelve months from the date of issuance of FER, the application is deemed to have been abandoned under Section 21(1). A communication to that effect is sent to the applicant for information.</p> <p>7. When the applicant re-files the documents within twelve months, the application has to be examined in a fresh manner by the examiner. Upon examination, if it is found that the requirements of the Act have been met, the Patent is granted.</p> <p>8. If the applicant contests any of the objections communicated to him by the Controller or he re-files his specification or other documents, along with his observations as to whether or not the specification is to be amended, an opportunity of being heard is given, if</p>	<p>communicated through FER or subsequent communication, at the earliest. <u>However, if applicant fails to respond to the FER, within six months from the date of issuance of FER or within an extended period of 3 months the application is deemed to have been abandoned under Section 21(1).</u> A communication to that effect is sent to the applicant for information. <u>The period of 6 months is extendable only once for a maximum period of three months, if requested in Form 4 within the prescribed period of 6 months, along with fees.</u> <u>6. The hearing may also be held through video-conferencing or audio-visual communication devices. Such hearing shall be deemed to have taken place at the appropriate office.</u> <u>Explanation.— For the purposes of this rule, the expression communication device shall have the same</u></p>	<p>changed from 12 months to 6 months, is now reflected in the new manual. The time to extend the period for FER has also been added. Time lines and Forms for extension has been added (that was not present in the previous manual).</p> <p>This is with respect to point 6), in previous manual there has been no information of hearing through video-conferencing or audio-visual communication devices. Definition of communication</p>

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	requested by the applicant.	<p><u>meaning as assigned to it in clause (ha) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).</u></p> <p><u>In all cases of hearing, written submissions and the relevant documents, if any, shall be filed within fifteen days from the date of hearing.</u></p> <p>7. When the applicant re-files the documents <u>within stipulated time</u>, the application has to be examined in a fresh manner by the examiner. Upon examination, if it is found that the requirements of the Act have been met, the Patent is granted.</p> <p>8. If the applicant contests any of the objections communicated to him by the Controller or he re-files his specification or other documents, along with his observations as to whether or not the specification is to be amended, an opportunity of being heard is given</p>	<p>devices is inserted.</p> <p>Further, the time line to submit the written submissions and the relevant documents has been inserted.</p> <p>With respect to point 8, an opportunity to be heard is provided, whether requested or not requested by the applicant.</p>
09.05	Post-dating of Application	Post-dating of Application	Point 4 has been

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	This section was numbered 08.04	<p>4) <u>Regarding Date of filing for Post-dating of application, the following should be kept in mind:</u></p> <p>i) <u>Applicant can file an application with Provisional Specification and then file Complete Specification within the stipulated period of 12 months. In this case, his date of filing with provisional application will be the date of application.</u></p> <p>ii) <u>Applicant can file an application with Complete Specification and request to convert it into Provisional Specification within 12 months of original filing date (Section 9 (3)) and file Complete Specification within 12 months from the first filing date, then the date of filing will still be the date of first filing.</u></p> <p>123</p> <p>(iii) <u>After filing complete Specification, the applicant may cancel the provisional</u></p>	introduced regarding date of filing for Post-dating of application in the new manual;

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		<p><u>specification (i.e. the one filed directly under Section 9 (1) or the one converted from a complete specification under Section 9 (3)) and can postdate</u></p> <p><u>the application to the date of filing of the complete specification (Section 9 (3)). In this case, the date of application will be the date on which such Complete Specification is filed.</u></p> <p><u>(iv) Section 17 (1): Subject to the provisions of section 9, at any time after the filing of an application and before the grant of the patent, the Controller may, at the request of</u></p> <p><u>the applicant made in the prescribed manner, direct that</u></p> <p><u>the application shall be post-dated to maximum period of</u></p> <p><u>six months from the date of filing the application.</u></p> <p><u>Therefore, the said period of six months as provided in section 17 (1), shall be</u></p>	

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		<u>counted from the Date of application as stated above in (i) , (ii) or (iii) , as the case may be.</u>	
09.06	<p>Pre-Grant Opposition</p> <p>This section was numbered 08.05</p> <p>j. After considering the representation and submissions made during the hearing, the Controller shall proceed further simultaneously, either rejecting the representation and granting the patent or accepting the representation and refusing the grant, ordinarily within one month from the completion of the above proceedings. If the application for patent is to be refused on consideration of the pre-grant opposition u/s 25(1), a speaking order of refusal shall be issued under Section 15.</p>	<p>Pre-Grant Opposition</p> <p>10) <u>On consideration of the statement and evidence filed by the applicant, the representation including the statement and evidence filed by the opponent, submissions made by the parties, and after hearing the parties, if so requested,</u> the Controller may either reject the representation or require the complete specification and other documents to be amended to his satisfaction before the patent is granted or refuse to grant a patent on the application, by passing a speaking order to simultaneously decide on the application and the representation ordinarily within one month from the completion of above proceedings. If the application for patent is to be refused on consideration of the pre-grant</p>	<p>FORM 7A for pre-grant opposition has been inserted.</p> <p>A copy of representation is sent to the applicant has been inserted in the new manual.</p> <p>An opportunity of being heard to an opponent was granted when requested (as per previous manual). Now, an opportunity of hearing shall be granted to the opponent, automatically.</p> <p>Case law relating to pre-grant</p>

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		opposition u/s 25(1), a speaking order of refusal shall be issued under Section 15.	oppositions has been introduced in the new manual.
09.07	Grant of Patent	Grant of Patent	
09.07.01	This section was numbered 08.07.01 For instance, a. All objections raised by the examiner have been met and documents returned with the FER have been resubmitted after complying with the requirements, within 12 months from the date of the FER.	For instance, a) All objections raised by the examiner have been met and documents returned with the FER have been resubmitted after complying with the requirements, <u>within 6 months from the date of the FER or within the extended period</u>	The time lines have been revised in new manual. The time has been changed from 12 months to 6 months from the date of the FER or within the extended period
09.07.02	Consequences of grant This section was numbered 08.07.02 e. On the grant of patent, the patentee is required to pay the accumulated fee within 3 months from the date of recordal of Patent in the Register of Patents, which is now the same as the date of Certificate of Patent.	Consequences of grant 5) On the grant of patent, the patentee is required to pay the accumulated fee within 3 months from the date of recordal of Patent in the Register of Patents, <u>which is now the same as the date of grant of Patent. The said period is extendable by six months provided the request is made before the expiry of extendable period.</u> <u>Form-27: Every patentee and licensee has to furnish a</u>	Time line has been inserted with respect to payments of back annuities. The extended time period of 6 months when requested before expiry of extendable period in prescribed manner (i.e., Form-4) has been added in the new manual.

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
		statement regarding the working of the patented invention on commercial scale in India at regular intervals (not less than six months) in the prescribed format.	Form-27 is introduced: in point no. 7; to furnish a statement regarding the working of the patented invention on commercial scale in India at regular intervals.
09.07.03	<p>Date of Patent</p> <p>This section was numbered 08.07.03</p> <p>a. The date of Patent is the date of filing of the Application. However, in case of a PCT National Phase application, the date of filing is the international filing date.</p> <p>b. The time for payment of first renewal fee is reckoned from the date of recordal in the register of patents. However, since the introduction of electronic processing of patent applications, the date of recordal is same as the date of generation of Certificate of Patents.</p>	<p>Date of Patent</p> <p>1) The date of Patent is the date of filing of the Application. However, in case of a PCT National Phase application, the date of filing is the international filing date.</p> <p><u>2) Notwithstanding anything contained in this section, no suit or other proceeding shall be commenced or prosecuted in respect of an infringement committed before the date of grant of patent.</u></p>	Point 2 has been changed. New clause introduced and the previous clause was removed.
10.01 – 2011 11.01 - 2019	1) Any person interested can file a Notice of Opposition against the grant of Patent in the	1) Any person interested can file a Notice of Opposition against the grant of Patent in	Rewording of existing text

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	prescribed format, in duplicate, within twelve months from the date of publication of grant of patent at the appropriate Office.	the prescribed format, in duplicate, any time after the grant but within twelve months from the date of publication of grant of patent at the appropriate Office.	
	2) The date of grant of patent is the date on which the Controller grants a patent and since the granting of patent is now only done through electronic module, the date and time of grant is available to the public on a real time basis through the official website. Consequently, any opposition filed after the date of grant will be treated as a post grant opposition.		Point 2 of 2014 manual is Deleted from draft manual 2019
	4) Person interested includes a person engaged in, or in promoting research in the same field as that to which the invention relates. It may be an organization that has a manufacturing or trading interest in the goods connected with the patented article or which has a financial interest in manufacturing such goods or which possesses Patents relating to the same subject.		Point 4 of 2014 manual is Deleted from draft manual 2019

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	9) If the patentee does not desire to contest or does not file his reply and evidence within two months, the patent shall be deemed to have been revoked and the Controller shall issue the order of revocation of Patent and the fact of revocation is entered in the register of patents.	7) If the patentee does not desire to contest or does not file his reply and evidence within two months, the patent shall be deemed to have been abandoned and the Controller shall issue the order of revocation of Patent and the fact of revocation is entered in the register of patents.	Term abandoned is used instead of term abandoned
10.02	5. If further evidence is taken on record by the Controller, by an order in writing, the same shall be forwarded to the Opposition Board for their consideration. This shall also apply when such further evidence is taken on record after the receipt of report from Opposition Board.		Point 5 of 2014 manual is Deleted from draft manual 2019
09.03	1. After receiving the recommendation of Opposition Board the Controller shall fix without undue delay, a date and time for the hearing of the opposition and inform the parties, at least ten days in advance.		
Maintenance of Patent – renewal			
10.01 11.01	a. Where a patent is granted later than two years from the	1) Where a patent is granted later than two years from the	Recordal of patent in official register will

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
	date of filing of the application, the fees which have become due in the meantime may be paid within a period of three months from the date of the recording of the patent in the register. The date of recording of patent in the register of patents is communicated to the applicant <u>through a letter which accompanies the Certificate of Patent.</u> The period for payment of renewal fees may be extended by a maximum of six months by filing Form-4 with the required fee.	date of filing of the application, the fees which have become due in the meantime may be paid within a period of three months from the date of the recording of the patent in the register. The date of recording of patent in the register of patents is communicated to the applicant <u>through an email mentioned in file records.</u>	be communicated through email.
	b. If a patent is granted before the expiry of two years from the date of filing of application, the first renewal fee becomes due in respect of the third year. However, the renewal fee shall be paid before the expiry of second year. <u>This period is extendable by maximum six months.</u>		Underlined part deleted
	f. Annual renewal fee may be paid for 2 or more years in advance.	5) Annual renewal fee may be paid for more than one year in advance.	Rewording of the existing text
Procedure for disposal of application for restoration			
10.02.01 - 2011	a. When the Controller is prima	1) When the Controller is	Form 15 has been

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11.02.01 - 2019	facie satisfied that the failure to pay renewal fee was unintentional and there had been no undue delay, the application for restoration will be published in the official journal.	prima facie satisfied <u>after verification of evidence submitted in support of in Form 15</u> that the failure to pay renewal fee was unintentional and there had been no undue delay, the application for restoration will be published in the official journal <u>under rule 84(3)</u> .	incorporated
	c. Any person interested may give Notice of Opposition, in the prescribed manner, to the application within two months of the date of Publication in the official journal on the grounds that the failure to pay the renewal fee was not unintentional or that there has been undue delay in the making of the application.	3) Any person interested may give notice of opposition <u>in Form 14</u> , in the prescribed manner, to the application <u>for restoration</u> within two months of the date of Publication in the official journal on the grounds that the failure to pay the renewal fee was not unintentional or that there has been undue delay in the making of the application.	
Registration of assignments/Transfer of Right			
10.03 – 2011 11.03 – 2019	b. Any person who becomes entitled by assignment, transmission or operation of law to a patent or to a share in patent or becomes entitled as a mortgagee, licensee or otherwise	2) Any person who becomes entitled by assignment, transmission or operation of law to a patent or to a share in patent or becomes entitled as a mortgagee, licensee or	Further explanation provided securing that the terms of the licence

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	to any other interest in a patent, may apply in writing in Form-16 to the Controller, for the registration of his title or as the case may be of notice of his interest in the register. Such an application can also be made by the assignor, mortgagor, licensor or other party as the case may be.	otherwise to any other interest in a patent, may apply in writing in Form-16 to the Controller, for the registration of his title or as the case may be of notice of his interest in the register. Such an application can also be made by the assignor, mortgagor, licensor or other party as the case may be. <u>Provided that in the case of a licence granted under a patent, the Controller shall, if so requested by the patentee or licensee, take steps for securing that the terms of the licence are not disclosed to any person except under the order of a court.</u>	
Amendments after the grant of patents			
10.06 – 2011 11.06 – 2019	a. After the grant of patent, the patentee may apply in Form-13 for an amendment of the application for patent, complete specification or any document relating thereto to be amended subject to such conditions, if any, as the Controller thinks fit. Such a request may be filed in Form-13 with prescribed fee.	1) After the grant of patent, the patentee may apply in Form-13 for an amendment of the application for patent, complete specification or any document relating thereto to be amended subject to such conditions, if any, and as the Controller thinks fit. Such a request may be filed in	Underlined part deleted

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	<u>Such request may also be made for amendment of priority date.</u>	Form-13 with prescribed fee.	
Register of Patents			
10.08 – 2011 11.08 - 2019	a. <u>A register of patents is available to public at each Patent Office location</u> and contains details about the patentee, notifications in respect of assignments, transmissions, patents, licences under patents, and amendments, extension and revocations of patents.	1) <u>Patent Office maintains Electronic Register of Patents which is under the control and management of the Controller of Patents and same is available in the office website.</u>	Electronic register will now be under the control and management of the Controller of Patents
	b. A copy of, or extracts from, the register of patents, certified to be a true copy under the hand of the Controller or any officer duly authorized by the Controller is admissible in evidence in all legal proceedings.	2) E- register of patents contains details about the patentee, notifications in respect of assignments, transmissions, patents, licences under patents, and amendments, extension and revocations of patents and is available to public. A copy of, or extracts from, the register of patents, certified to be a true copy under the hand of the Controller or any officer duly authorized by the Controller is admissible in evidence in all legal proceedings.	Revised clause
	c. Upon grant of a patent, <u>the</u>	3) Upon grant of a patent, <u>the</u>	

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	<u>Controller enters</u> in the Register of Patents the names, addresses and nationality of the patentee, title of the invention including the categories to which the invention relates, date of the patent, date of granting thereof and address for service of the patentee.	<u>entries of name</u> , address and nationality of the patentee, title of the invention including the categories to which the invention relates, date of the patent, date of granting thereof and address for service of the patentee <u>are entered in the E-Register of Patents through the module.</u>	
		The term E-register has been used in points 4 and 5.	
Change needs to be made in 2019 draft			<u>15.01 has been wrongly numbered as 15.02</u>
			15.05 point f. has been correctly numbered
15.01 – 2011 16.01 – 2019		- <u>Particulars to be contained in the register of patent agents and</u> - <u>Application for registration of patent agents has been added in the 2019 manual</u> <u>Each part contains three elaborate sub-points</u>	Reference to Rule 108, 109 has been added to 16.01
Power of Controller to remove the name of a Patent Agent			
15.07 – 2011	c. Besides, the name of the	(1) The Controller may delete	The order of the

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
16.07 – 2019	Patent agent can be removed also when: i. request has been received from the Patent Agent to that effect; or ii. he/she is dead; or iii. if he/she has defaulted in the payment of fees specified in the <u>First Schedule</u> by more than three months after they are due.	from the register of patent agents, the name of any patent agent- (a) from whom a request has been received to that effect; or (b) when he is dead; or <u>(c) when the Controller has removed the name of a person under sub-section (1) of section 130; or</u> (d) if he has defaulted in the payment of fees specified in <u>rule 115</u> , by more than three months after they are due; or <u>(e) if he ceases to be a citizen of India:</u>	points in this chapter has been shuffled
Restoration of names of Patent Agents			
15.08 – 2011 16.08 – 2019	b. The restoration of name to the register shall be published and communicated to the person concerned.	b. The restoration of name to the register shall be published <u>on official website</u> and communicated to the person concerned.	
Alteration of names of patent agent			
16.09 – 2019		Alteration of names of patent agent	An entirely new sub chapter has been added with reference to section 125 of Patents Act, 1970
Offences by Companies			

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17.07 – 2019		However, if such person proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the <u>office</u> , he shall not be liable.	The underlined word should be changed to offence
Exercise of Discretionary Power by the Controller			
17.07 – 2011 18.07 – 2019			Additional reference has been made to rule 129A which was added in the 2016 rule amendments.
Inspection and supply of copies of documents			
18.04 – 2011 19.04 – 2019	h. If a Certificate of Patent is lost or destroyed, an application for a Duplicate Certificate of Patent may be made on a plain paper clearly mentioning the grounds for issue of the same.	h. Certified copies of any entry in the register, or certificates of, or extracts from patents, specifications and other public documents in the patent office, or from registers and other records including records in computer floppies, diskettes or any other electronic form kept there, may be furnished by the Controller on a request therefor made to him and on payment of the fee specified therefor in the First Schedule: Provided that certified copies shall be issued in the order in	Additional reference has been made to rule 133 which was added in the 2016 rule amendments. Point h. of 2011 manual has been removed from the 2019 manual and two additional points h. and i. have been added

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		<p>which the request is filed.</p> <p>i. Certified copies shall be furnished within a period of one week if such request is made along with the fee specified therefore in the First Schedule.</p>	
Information available at the Website			
18.06 – 2011 19.06 – 2019	<p>a. <u>Indian Patent Information Retrieval System (IPIRS)</u> provides information on:</p>	<p>a. <u>Indian Patent Advanced Search System (inPASS)</u> provides information on:</p>	
		<p>vi. Patent Application status.</p>	<p>It has been wrongly numbered in the 2019 manual. Should be changed to iv.</p>
		<p><u>In addition, the following information is also available :</u></p> <ul style="list-style-type: none"> - <u>News & Events/ Circulars by the Controller General</u> - <u>Manuals/ Guidelines</u> - <u>Act & Rules. e-version</u> - <u>Controller’s decisions d.</u> - <u>e- Journals</u> - <u>Dynamic utilities</u> - <u>List of registered Patent Agents.</u> - <u>Mobile App. A mobile App named “Intellectual Property India” has been developed and link is available on</u> 	<p>The additional points mentioned in the adjacent column are consistent with the new e-facilities which have been introduced by the Indian patent office</p>

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		<p><u>website for both android and iOS versions. Android version could also be downloaded from Google play store.</u></p> <p><u>- A link for video conferencing on website.</u></p> <p><u>- h. Feedback system</u></p>	
Roll of Scientific Advisors			
<p>19.02 – 2011</p> <p>20.02 – 2019</p>			<p>Additional reference has been made to rule <u>103A</u> which states conditions for <u>Disqualifications for inclusion in the roll of scientific advisers</u></p>
		<p>The Controller maintains a panel/list of scientific advisors for the purpose of Section 115. The panel/list is updated annually. The panel/list contains the names, addresses, specimen signatures and photographs of scientific advisors, their designations, information regarding their educational qualifications, the disciplines of their specialisation and their technical, practical and research experience. The panel/list is also accessible /</p>	<p>The paragraph mentioned in the adjacent column has been repeated twice. Needs to be removed</p>

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
		made available on the official website of the Patent Office at url: www.ipindia.nic.in	
Removal from the roll/panel of Scientific Advisor			
19.04 – 2011 20.04 – 2019		(c) such person has been convicted of an offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity and the Controller is of the opinion that his name should be removed from the roll; or (d) such person is dead: Provided that except in the cases falling under clause (a) and (d) above, before removing the name of any person from the roll of scientific advisers under this rule, such person shall be given a reasonable opportunity of being heard.	Additional conditions in the 2019 draft manual
Agency – Power of Attorney			
20.05 – 2011 21.05 – 2019	a. The authorisation of an agent for the purposes of the Act and the rules shall be in Form 26 or in the form of a Power of Attorney.	a. Authorisation of an agent for the purposes of the Act and the rules shall be made in Form 26 or in the form of a Power of Attorney <u>within a period of 3 months from the date of filing of such</u>	Limitation of time has been added

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		<u>application or document, failing which no action shall be taken on such application or documents for further processing, till such deficiency is removed.</u>	
	d. As a matter of practice, an application may be accepted without a Power of Attorney, for the purpose of saving priority. However, any subsequent papers can be filed only after submitting the required Power of Authority. Office will not take any action if a Form-26 /authorisation of agent is not present on the record. <u>In cases where a General Power of Attorney from an applicant has already been filed in the Office, a copy attested by the agent shall be filed for subsequent filing.</u>		Underlined portion relating to GPA in adjacent column has been deleted
Petition for extension of time			
21.02 – 2011 22.02 - 2019	Time limits prescribed in the Rules for an action or any proceedings thereunder may be extended by the Controller for a period of one month, if he thinks it fit to do so and upon such terms as he may direct. He may	(1) Except for the time prescribed in clause (i) of <u>sub-rule (4) of rule 20, sub-rule (6) of rule 20, rule 21, sub-rules (1), (5) and (6) of rule 24B, sub-rules (10) and (11) of rule 24C, sub-rule (4)</u>	underlined rules have been added after the 2015 and 2016 amendment of Patent rules, 2003 in the rule 138

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	do so based on a petition under Rule 138. However, the time limits prescribed under Rules 24B, 55(4) and 80(1A) are not extendable under this provision.	of rule 55, sub-rule (1A) of rule 80 and sub-rules <u>(1) and (2) of rule 130</u> , the time prescribed by these rules for doing of any act or the taking of any proceeding thereunder may be extended by the Controller for a period of one month, if he thinks it fit to do so and upon such terms as he may direct.	
	As Rule 138 specifically stipulates that any time limit prescribed by the Patents Rules can be extended by one month only, any further extension shall not be allowable by invoking any other provision, such as Rule 137, except wherever specifically allowed by the Act or Rules viz. Rules 13(6), 80(1A), 130.	(2) Any request for extension of time prescribed by these rules for doing of any act or the taking of any proceeding thereunder shall be made before the expiry of such time prescribed in these rules.	
Time limits prescribed by the Patents Act, 1970 and Patents Rules, 2003			
13. Publication of application	Ordinarily within one month from the expiry of eighteen months from the date of filing or priority or one month from the date of request for early publication, <u>whichever is earlier</u>	Ordinarily within one month from the expiry of eighteen months from the date of filing or priority date, <u>whichever is earlier</u> , or within one month from the date of request for early publication.	
Sec 11B(4), Rule 26 –	<u>Request for withdrawal –</u>	<u>Request for withdrawal and</u>	This provision has

Chapter Number/Section Number	Rule as Mentioned in 2011 Manual	Rule as Mentioned in Current Draft Manual*	Analyst Comment
2011 Rule 7(4A), Rule 26 - 2019	Any time before the grant of patent	<u>refund of Fee –</u> In case withdrawal is requested after filing the Request for examination but before issuance of FER, then the fee is refunded as prescribed in the First Schedule	been modified in the 2019 manual with respect to the issuance of FER
Rule 24B(2)(i) – 2011 – deleted from 2019 manual	Upon receipt of the Request for examination, the Controller refers the Application to the Examiner - Ordinarily within one month from the date of publication or request for examination, whichever is later	Entry in adjacent column has been deleted from 2019 column	
First Examination Report (FER) sent by the Controller to applicant - Rule 24B(3)	Ordinarily within six months from request for examination or publication, whichever is later	Within one month from the date of disposal of the report of examiner by the Controller	Time limit has been amended
Time for complying with all requirements imposed by the Act	Twelve months from the date of issuance of the FER	Six months from the date of issuance of the FER	Referred to Rule 24B(4) in 2011, but now refers to Section 21(1), Rule 24B(5) in 2019 and also time limit has reduced
Section 21 (1), Rule 24B (6)		Extension Time for complying with all requirements - Three months on a request in Form 4 if requested before expiry of time prescribed under Rule	Has been added in 2019 manual

(別紙：手引の対比表)

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		24B(5)	
Rule 80(1)	First renewal fee - In respect of third year, before the expiry of second year		No entry in 2019 manual
Rule 80(1A)		Extension in time for payment of renewal fee - Maximum six months	Has been added in 2019 manual

*The data underlined is the new addition..