



Examination Procedure Rules in Indian Patent Office

By

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Request For Examination

- ▶ By the applicant or by any other interested person
- ▶ Made in 48 month from date of priority of application or date of filing of the application whichever is earlier
- ▶ The office will not examine unless it is published
- ▶ The application filed by Startup companies can be expedited by filing request of examination for expedite.
- ▶ India has been indicated as the competent International Searching Authority or elected as an International Preliminary Examining Authority in the corresponding international application can be expedite on request of the applicant.

Examination of application

- ▶ **anticipation by previous publication**
 - All published document in any country
 - All Patent and non Patent literature
 - Before date of priority or date of filing application whichever earliest
- ▶ **Anticipation by prior claiming**
 - Application filed in India
 - Same claim
 - Filed before the date of filing of complete specification and published on or after the date of filing of complete specification

Examination of application

- ▶ **Novelty Under section 2(1)(j) of The Patents Act, 1970**
 - An invention is considered as new if it is not anticipated by prior publication, prior use or prior public knowledge
- ▶ **Inventive Step Under Section 2(1)(ja) of The Patents Act, 1970**
 - An invention that involves a technical advancement compared to the existing knowledge or having economic significance or both that makes the invention not obvious to a person skilled in the art.
- ▶ **Industrial applicability Under Section 2(1)(ac) of The Patents Act, 1970**
 - In order for an invention to be patentable, an invention must be capable of industrial application (capable of being made or used in an industry).

Invention not patentable Under Section 3 of The Patents Act, 1970

3(a). An invention which is frivolous or which claims anything obviously contrary to well established natural laws.

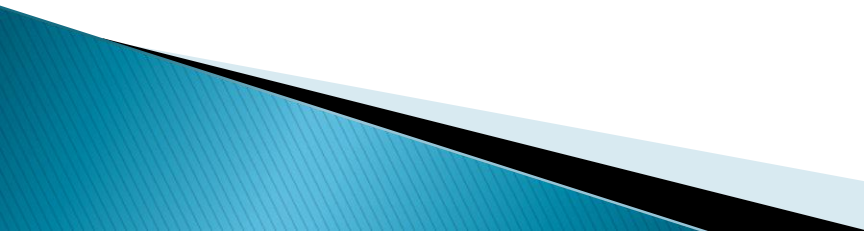
3(b). An invention, the primary or intended use or commercial exploitation of which would be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment;

Invention not patentable Under Section 3 of The Patents Act, 1970

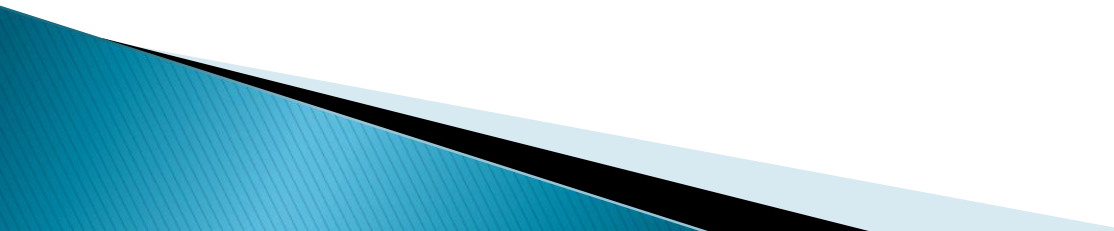
3(c). The mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature is not an invention;

3(d). The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process result in a new product or employs at least one new reactant;

Invention not patentable Under Section 3 of The Patents Act, 1970

- ▶ 3(e) A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance is not an invention.
 - ▶ 3(f) The mere arrangement or re-arrangement or duplication of known devices each functioning independently of one another in a known way is not an invention.
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Invention not patentable Under Section 3 of The Patents Act, 1970

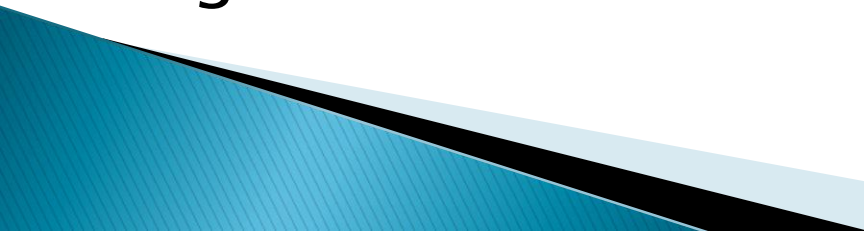
- ▶ 3(h) A method of agriculture or horticulture is not an invention.
 - ▶ 3(i) Any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products is not an invention.
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Invention not patentable Under Section 3 of The Patents Act, 1970

3(j) Plant and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals are not inventions.

- ▶ 3(k) A mathematical or business method or a computer programme per se or algorithms are not inventions and hence not patentable.

Invention not patentable Under Section 3 of The Patents Act, 1970

- ▶ 3(l) A literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions is not an invention.
 - ▶ 3(m) A mere scheme or rule or method of performing mental act or method of playing game is not an invention.
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Invention not patentable Under Section 3 of The Patents Act, 1970

- ▶ 3(n) A presentation of information is not an invention.
- ▶ 3(o) Topography of integrated circuits is not an invention.
- ▶ 3(p) An invention which is an effect, is traditional knowledge or which is an aggregation or duplication of known properties of which traditionally known component or components is not an invention.

- ▶ Invention relating to atomic energy not patentable

Thank You