



STEPS FOR OBTAINING PATENT

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ABSTRACT

A patent is one of the forms in intellectual property. The object of product law is to encourage scientific research, new technology and industrial process. The grant of exclusive privilege to own, use or sell the method or product patented for limited period, stimulates new inventors of commercial utility. The price of the grant of the monopoly is the disclosure of the inventing at the patent office, which after the expiry of the period of monopoly, passes into public domain. An invention which must be new and a useful. It must have novelty and utility. The patent are granted to encourage inventions and to secure that the invention are worked in India on a commercial scale and to the fullest extent that is reasonable practicable without undue delay. So true inventor required to know how to get patent in India and other countries through his self or legal representative. Without patent no one use, sell and research an invention.

Keywords :- Patent, patent history, Patent Application, processing an Application, Patenting abroad.

INTRODUCTION

Patents are a part of intellectual property, which is a legal way to protect all creations of the human mind. It is an exclusive right granted by the state for an invention that is new, involves inventive steps and is capable of industrial application. It gives its owner the exclusive right to prevent or stop other from making, using, selling or importing a product or a process, based on the patented invention, without the owner & prior permissions.

A patent is granted by the national patent office of a country or a regional patent office for a group of countries. It is valid for a invited period of time, generally for 20 years from the date

GANESH BABRUWAN JAMBALDARE

1P a g e



of filing of the patent applications, provided the required maintenance fees are paid on time. A product is a territorial right, invited to the geographical boundary of the relevant country or region.

Patent are perceived as a sound intellectual property title, granted after a rigorous examination process. Patented inventions have in fact, prevented every aspect of Human life, from electric lighting and plastic, to ballpoint pen and microprocessors. A complex product (such as a camera, mobile phone or a car) may incorporate a number of inventions that are covered by several patents, which may be owned by different patent holders. A patent is a powerful business tool for companies to gain exclusivity over a new product or process, develop a strong market position and earn additional revenues through licensing. They provide competitive advantages to the company in the market more than assets on company's balance sheets, patents can help companies attracts inventors. They can be a steady source of income as patents ownership affords, 20 years sanctioned monopoly, granting the right to market a technology or charge of loyalty for its use. They proper management of patents is the core of the competitive strategy.

Patent History Background

The term "Patent" originally was used to designate the document by which a sovereign conferred a privilege or right on someone. The term has, however, now come to refer to certain grant in respect of inventions only, although there is some evidence suggesting that something like patent were used among some ancient Greek cities, the first known "grant" by a state to an inventor is reported to have taken place in the republic of Florence in 1421 and an ordinance relating to patents was enacted in Venice in 1474. Such patent for invention gradually come into practice in many other European countries. USA come up with patent statute in 1790 and frame in 1791. It great Britain there was no general statute until 1852. Today there are hardly my countries without a patent region.

Since its founding in 1790, the United States patent and trademark office (USPTO) has issued over 7 million patents, of that number approximately 70 thousand have become legitimate products. Although most patent are obscure and long forgotten, in the 1% that did became successful are some very significant inventions that have changed the way we live our lives. The first inventor to avail himself of the advantages of the 1790 patent at was Samuel Hopkins, born in Vermont and living in Philadelphia, who received a patent on the 31st of July 1790 for an improved method of "making pot and pearl Ashes."

Patents



“A patent is the logical right of an inventor to exclude others from making or using a particular invention. This right is sometimes termed an “intellectual property right” and is viewed as an encouragement for invention.”

Obtaining Patent

When deciding whether or not to patent an invention, the first thing investors need to do is to find out if their inventions need to conditions of patentability, next inventors should try to find out how interested other people are in their inventions and if customer would be willing to buy them. The patenting process can be long and expensive so inventors should makes sure that one they have the patents they will be able to sell their inventions and recover the patenting and production costs.

It is preferable to apply for patent protection as soon as one has all the information required for drafting the patent applications. Generally the first step is to perform a prior art search with over 40 million of printed publications. Which are potential prior act against ones invention, there is a serious risk that same reference, or combination of references, may render the inventor’s invention non-novel or obvious and therefore, unpatentable. After a prior art search has been performed and the decision to seek patent protection has been made, a patent application has to be prepared and submitted to the relevant national or regional patent office. The application will include a full description of the invention. The patent claims that determine the scope of the patent applied for, drawing and an abstract.

1. Patent application

A patent application has a change of functions. It determines the legal scope of the patent. It describes the nature of the invention, including introduction, on how to carry out the invention, and it gives details of the inventor the patent owner and the legal information, it is the key document.

Patent applications are similarly structured worldwide and consist of a request, a description, claims, drawings and abstract. A patent document may be anywhere between a few pages to hundreds of pages long, depending on the nature of the specific invention and the technical field.

1.1 Request

It contains information on the title of the invention, the date of filing, the priority date and bibliographic data such as the name and address of the applicant and inventor.



1.2 Description

The written descriptions of an invention must describes the invention in sufficient details so that anyone skilled in the same technical field can reconstruct and practice the invention from the description and the drawings without putting in further inventive effort. If this is not the case, the patent may not be granted or may be revoked after it is challenged in a court actions.

1.3 Claims

The claims determine the scope of protection of a patent. The claims are absolutely crucial to a patented invention since, if they are badly drafted, even a truly valuable invention could result in a worthless patent that is easy to circumvent or design around. In patent litigation, interpreting the claims is generally the first step in determining whether the patent is valid and in determining whether the patent has been infringed. It is strongly advisable to seek the advice of an expert to draft patent applications, particularly the claims.

1.4 Drawings

The drawings show the technical details of the invention in an abstract and visual way. They help to explain some information, tool or result set out in the disclosure. Drawings are not always a necessary part of the application. If the invention is for a process or method of doing something, drawing usually are not required. If drawings are required, formal rules govern their acceptability.

1.5 Abstract

The abstract is the brief summary of the invention. When the patent office, the abstract is include on the front page. The abstract is sometimes improved or drafted by the patent examiner in the relevant patent office.

2. Processing an Application

A specially trained official, called a patent examiner, reviews the application to determine if it qualifies for a patent. During the patent examination process, the patent examiner may ask the applicant to answer various questions about the invention. The law requires the patent applicant to disclose all information in his or her possession that he relevant to whether the patent should be issued. Because this process often goes back and forth several times between the applicant and the examiner, a patent examination can be very time consuming and the legal fees can be expensive. This step taken by patent office to grant a patent very but, broadly speaking, follow a similar pattern. It involves following steps:-

GANESH BABRUWAN JAMBALDARE

4P a g e



2.1 Formal Examination

The patent office examines the application to ensure that it complies with the administrative requirements or formalities (that all relevant documentation is included and the application fee has been paid).

2.2 Search

The patent office conducts a search to determine the prior act in the specific field to which the invention relates. The search report is used during the substantive examination to compare the claimed invention with the prior act.

2.3 Substantive examination

The aim of the substantive examination nation is to ensure that the application satisfies the patentability requirements. Not all patent office check application against all the patentability requirements and some only do so upon request within a specific time. The result of the examination are sent in writing to the applicants so as to provide an opportunity to respond to and remove any objections raised during the examination. This process after results in the narrowing if the scope of the claims.

2.4 Publication

In most countries, the patent application is published 18 month after the first filing date. In general, patent office also publish the patent ones it is granted.

2.5 Grant

If the examination process reaches a positive conclusion, the patent office grant the patent and issues a certificates of grants.

2.6 Opposition

Many patent office provide a period during which third parties many oppose the grant of a patent for example on the basic that the claimed invention is not new opposition proceedings may be pre-grant and post grant and are possible within the specified time limits.

3. Patenting Abroad



Patents are territorial rights, which means that an invention is only protected in the countries or regions where patent protection has been obtained. In other words, if one has not been granted a patent with effect in a given country his or her invention will not be protected in that country, enabling anybody else to make use import or sell his or her invention in that country. It is now faster and easier for people and ideas to travel around the world. Because of this, it is no longer enough for inventors to protect their ideas in only one country.

Patent protection in foreign countries will enable any company to enjoy exclusive rights over the patented invention in these countries. In addition, patenting abroad may enable the company to license the invention to foreign firms, develop outsourcing relationship, and access those markets in partnership with others.

There are three main ways of protecting an invention abroad :-

3.1 The Regional Route:

When a number of countries are members of a regional patent system, one may apply for protection, with effect in the territories all same of these, by filling an application at the relevant regional office.

3.2 The National Route

One may apply to the national patent office of each country of interest by filling a patent application in the required language and paying the required fees. This path may be very cumbersome and expensive if the number of countries is large.

3.3 The International Route

The WIPO administered patent co-operation Treaty (PCT) provides for the filling of a single international patent application, which has the same effect as national application filed in the designated countries. An applicant seeking protection may file one application and request protection in as many signatory states as needed.

If any company wants to have the option of protecting an invention in any number of member countries of the Patent Cooperation Treaty (PCT), then it should consider filing an international PCT application. To be eligible to do so, one must be a national or resident of a PCT contracting state, or his or her business must have a real and effective industrial and commercial presence in one of these countries. By filing one international application under the PCT, one may simultaneously seek patent protection for an invention in the more than 125 member countries of the PCT. This application may be filed either at one's national or



regional patent office or at the PCT receiving office at the world intellectual property organization (WIPO) in Geneva, Switzerland. This is an easier and cheaper system to file international patent applications.

CONCLUSION

The patent are a part of intellectual property rights. The encouragement, inducement and reward are the main factor help to patent system. It encourages research and invention, it induces an inventors to disclose his disclovrories instead of keeping them a secret. It offers a reward for the expense of developing invention. Thus the presence of a strong and effective patent system way bring numerous benefits such as the distribution of information and providing a motivation in invest in the development of new products and process which will eventually help to the human being.

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