

**PATENT AGENT EXAMINATION, 2011**

**(Under Section 126 of the Patents Act, 1970, as amended)**

**January , 15,2011**

**PAPER 1**

**TOTAL MARKS: 100**

**Time: (10.30a.m. to 1.30 p.m.-3 hours)**

**Total number of pages: 7**

**Instructions:**

1. This paper consists of 2 parts.

2. The first part (Part A) of 40 marks requires you to pick the right answer(s) from amongst given choices. This part consists of multiple choice questions (Part A1) and true/false type questions (Part A2). You must answer all questions in this Part.

3. The second part (Part B) has Eight (8) questions of 10 marks each and you need to answer any six questions.

4. Read the questions very carefully before answering them. No clarification or doubt can be sought on the questions to the invigilators and you need to interpret it from the questions given as it is.

**PART A (40 MARKS)**

**PART A1 (15x2 =30 MARKS)**

**Each Question Below Carries Two (2) Marks. Please answer all the questions**

**Instructions:**

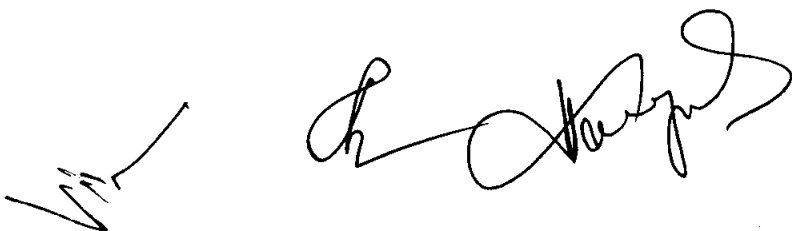
Chose the right answer by indicating your choice in the answer sheet given to you against the relevant question number. If there are two correct answers for a question, you must choose both. Illustratively, if the right answer to Question (1) is "c", you must write: Question (1) = c.

Similarly if question 1 has two right answers ("b" and "c"), then you must indicate: Question (1) = b and c.

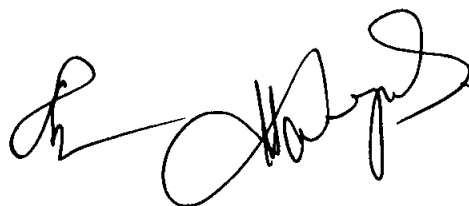
In the above example, if you pick only "b" and not "c", you will lose half the mark for that question. However, if you chose a wrong option, you will not get any marks. Illustratively, if you chose "a", "b" and "c" in the above example, you will not get any marks.



1. A Patent Application means
  - a. Provisional application
  - b. Complete specification
  - c. An application published before grant
  - d. An application of patent addition
  - e. An application which is accompanied by a sample
  - f. All of the above
2. The term of a patent of addition filed on 07.01.2006 and granted on 15.02.2009 in pursuance of complete specification for main invention which was filed on 23.08.2005 and granted on 30.10.2008 (if neither patent is revoked prior to term of validity) is-
  - a. 07.01.2026
  - b. 30.10.2028
  - c. 23.08.2025
  - d. 15.02.2029
  - e. None of the above
3. The Central Government is empowered to revoke a Patent in public interest:
  - a. After moving the appropriate court
  - b. After hearing the patentee
  - c. After issuing the necessary compulsory licence
  - d. After appealing in the IPAB
  - e. After allowing post grant opposition
  - f. None of the above
4. Register of Patents will contain:
  - a. Names and addresses of grantees of patentee
  - b. Assignments and Transmissions of patents
  - c. Notice of any Trust effecting the Patent
  - d. Infringement proceedings on the Patent
  - e. Opposition data on the patent
  - f. All of the above.
5. A patentee whose patent is lapsed and restored can
  - a. File a suit of infringement during the period of lapse and restoration
  - b. Licence after restoration of the patent
  - c. Bring an injunction during the period of lapse and restoration
  - d. Only be entitled for royalty during the period of lapse and restoration
  - e. All of the above
  - f. None of the above

The image shows two handwritten signatures in black ink. The signature on the left is a simple, stylized mark. The signature on the right is more elaborate and cursive, appearing to be a name.

6. Compulsory Licence for export under Indian Patents Act is for
- Pharmaceutical Products
  - Diagnostic Kits required for their use
  - Medicinal Plants
  - Clinical trial data
  - Genetic modified micro organism
  - All of the above
7. A Patent Infringement Case should be initiated only in
- In a district court
  - In any High Court
  - Directly before the IPAB
  - International Court of Justice if it is an international dispute
  - All the above
  - None of the above
8. Once a compulsory licence is granted
- It can be terminated by the Controller
  - The Compulsory licence holder has to be heard
  - Termination only on valid grounds
  - All of the above
  - None of the above
9. When a biological material has been mentioned in a patent application it must be deposited with International Depository Authority:
- When specifically requested by the patent office when the application comes up for examination
  - When it is not capable of being fully described in the application
  - When it is not easily available in India
  - When applicant finds that it will aid in convincing the patent office of the patentability of the invention containing the material All of the above
10. In Post Grant Opposition, the person opposing shall submit:
- One copy of the statement of opposition to the patent office
  - A copy to the Patentee
  - Notarized copy of the evidence
  - Through registered post with acknowledgment due
  - All the above
11. When submitting a Patent application the drawings should be:
- In three dimension if it relates to a molecular structure
  - In A4 size sheet



- c. Without descriptive matter in the drawings except the flow diagrams  
d. Without colours  
e. None of the above
12. An International Application can be filed:  
a. In any patent office in India  
b. Only in English  
c. In triplicate  
d. To be filed only in the head office  
e. All of the above  
f. None of the above
13. The Intellectual Property Appellate Board is :  
a. A statutory body under the Indian Patent Act  
b. Above the High Court and below the Supreme Court  
c. Immune to a challenge in a High Court  
d. Is a Board where the Controller has the right to appear before its legal proceedings  
e. All of the above  
f. None of the above
14. If the stamp of 'patent pending' is used by anyone before the grant of the patent, such an act  
a. Is liable for a punishment of Rs One Lakh  
b. Can be proceeded before the IPAB  
c. Allowed if there is an application pending in India  
d. Allowed if there is an indication it has been applied outside India  
e. All the above  
f. None of the above
15. A Request for Examination for an ordinary application can be filed:  
a. Along with the complete specification  
b. At anytime before publication of the complete specification  
c. At anytime after publication of the complete specification  
d. Anytime within 48 months of filing the complete specification  
e. (b) or (c) subject to (d)  
f. All of the above

**PART A2 (10x10=10 MARKS)**

**Each Question Below Carries One (1) Mark. Answer all questions.**

**Instructions:**

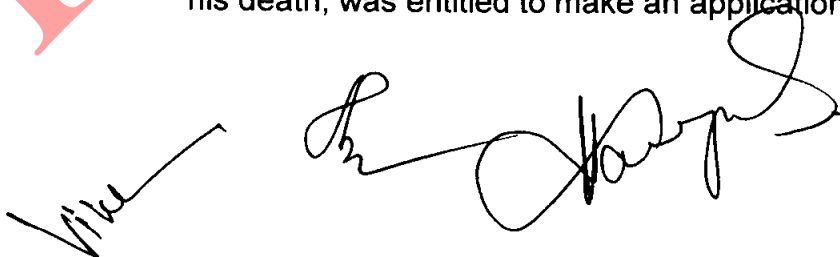
Select whether the below propositions are "true" or "false". You can only select either "true" or "false". You must indicate your choice in the answer sheet given to you against the relevant question number.

Illustratively, if the right answer to Question (1) is "true", you must write:

Question (1) = true.

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1. A Model or Sample of an invention should be submitted as part of the Specification.
2. Any Indian Resident can file a Patent in any SAARC Country before filing it in India.
3. A pre grant opposition has to be filed within six months of the publication of the invention by the Patent office.
4. A lapsed patent can be restored by filing a case in District Court.
5. A Patent acquired by the Government for Public Purpose is not entitled for any compensation for the owner of the patent.
6. In a Patent matter a court can give declaration or injunction against groundless threats but cannot award damages as a relief.
7. Any counter claim in a suit for infringement can be brought before the Appellate Board.
8. The Controller has the power to amend the abstract for providing better information to third parties.
9. The Controller can issue a compulsory licence in circumstances of national emergency, extreme emergency and public non commercial use.
10. A legal representative of any deceased person who immediately before his death, was entitled to make an application for Patent.

The image shows two handwritten signatures in black ink. The signature on the left is a simple, stylized name. The signature on the right is more complex and cursive, possibly reading 'Dr. [Name]'. Both signatures are written over a large, diagonal watermark that reads 'ThePharmapedia.com'.

**PART B (6x 10=60 MARKS)**

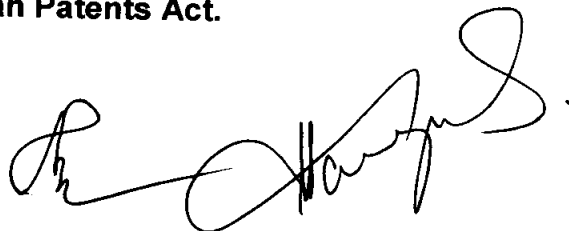
**This Part contains Eight (8). Answer any Six (6) questions. While answering the questions, you are expected to support your answer by citing the relevant sections and rules in the Indian Patents Act.**

I. Sigma and Theta are joint owners of a patent in an invention. Theta is independently approached by Trigonometric Ltd. which expresses its interest in commercialising the patented invention.

- 1) Can Trigonometric Ltd. become co-patentee alongwith Sigma, if Theta consents in writing to this?
- 2) Theta decides to commercialise the patented invention independently with financial aid from Trigonometric Ltd. for marketing the invention and getting a percentage of the profits in return. Is Sigma entitled to object on learning of Theta's business arrangement?
- 3) Theta licenses his share of the patented invention to Trigonometric Ltd. without obtaining Sigma's consent. Can Sigma object to this licence arrangement when he gets to know of it.
- 4) Theta independently manufactures the patented invention and without Sigma's consent sells it in the market. Trigonometric Ltd. becomes Theta's sole distributor. <sup>Sigma</sup> (A) gets to know of this and demands royalty from Trigonometric Ltd. for distributing/marketing the invention, as he is co-owner of the patent in that invention. Is Trigonometric Ltd. bound to pay Sigma royalty?

II. Enumerate the four key issues under the Indian Patent Act on Search for anticipation by previous publication and by prior claim.

III. List at least Ten(10) subject matters of Inventions that are not patentable under the Indian Patents Act.



**IV. Enumerate the three Key issues relating to the Power of Controller to make orders respecting division of application under the Indian Patents Act**

**V. Patents are granted subject to certain conditions. Enumerate the conditions with reference to the relevant section of the Patents Act.**

VI. Rita who lives in Mumbai made an invention related to some devices and methods of deboning of Chicken to prepare chicken chops. She filed a provisional patent application on January 26<sup>th</sup> 2010 at the Indian Patents Office. She discussed her invention with Ratna who lives in Colombo. She identified that Rita's invention was applicable for chickens of over 2 KG only. Ratna then made minor modifications so that the device and the method could debone chickens from without any weight limitations. Rita and Ratna then shared their inventions with Elina a British National who lives in London. Elina made a further improvement to the invention to ensure that Rita and Ratna's invention has no limitation on the size of the chicken to be deboned.

They now wish to progress their patent application in India and also wish to have the corresponding patent filed in several countries that include Kuwait, Dubai, UK, Germany, China, Sri Lank, Bangladesh and Pakistan.

They have hired you as their patent agent in India and would also want you to take care of their foreign filings.

**Give an elaborate answer to your clients with the relevant sections and rules of the Indian Patents Act and the appropriate International conventions.**

**VII. Enumerate the essential grounds and procedural aspects of Post Grant Opposition under the Indian Patent Act**

**VIII. Discuss the relevant sections and rules on Amendment of Applications and Specifications under the Indian Patent Act.**

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