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**HOW TO PATENT YOUR INVENTION: A STEP-BY-STEP GUIDE**- Akhil Sharma<sup>1</sup>**Introduction:**

A product or methodology that, in general, shows a new technical approach to a problem or offers a novel method of doing something is considered to be an invention. An innovation is granted an exclusive privilege known as a patent. To get a patent, the innovation's technical specifics must be disclosed in the application<sup>2</sup>. Although creating a novel product or process is an incredible feat, protecting your intellectual property requires filing for a patent. With the aid of this step-by-step tutorial, you may obtain a patent for your invention to safeguard your creative efforts and hard work:

**Step 1: Understand the Basics of Patents:**

Before beginning the patenting process, it is essential to understand the fundamental concepts. Learn about the many types of patents, including utility, design, and plant patents, to select the one that most closely matches the nature of your innovation<sup>3</sup>.

**Step 2: Conduct a Comprehensive Patent Search:**

A thorough patent search is an essential first step. You may be certain that your invention is original and unpatentable by doing this. For assistance with this significant investigation, use online databases, visit patent libraries, or employ a professional<sup>4</sup>.

**Step 3: Document Your Invention:**

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<sup>2</sup>World Intellectual Property Organization. "Patents." WIPO. <https://www.wipo.int/patents/en/>.

<sup>3</sup> United States Patent and Trademark Office. "Patents Basics." USPTO. <https://www.uspto.gov/patents/basics>.

<sup>4</sup> Sagacious Research. "How to Conduct a Patent Search." Sagacious Research Blog. <https://sagaciousresearch.com/blog/how-to-conduct-a-patent-search/>.

In-depth documentation is necessary to prove your invention's originality. Ensure that all relevant details are recorded thoroughly, including written descriptions, sketches, diagrams, and other resources. This paperwork will serve as a priceless proof of the originality of your work<sup>5</sup>.

#### Step 4: Determine Jurisdiction and Target Market:

An applicant, or first mentioned applicant in the case of joint applicants, may file a patent application with the applicable Patent Office under whose jurisdiction the applicant typically resides, has his domicile, has a place of business, or the location from which the invention originated. If the applicant is not a resident of India, does not have a domicile there, or does not have a place of business there, the address for service in India or the place of business of the applicant's patent agent determines which patent office the applicant should submit their application with. Select the area where you want to market or use your invention. To accomplish your goals, you can choose to apply for patents in specific countries, or you might look at global solutions like the Patent Cooperation Treaty (PCT)<sup>6</sup>.

#### Step 5: Seek Professional Guidance:

Working with a qualified patent attorney or agency is highly recommended. To complete the difficult process, they need to be knowledgeable about patent law and procedure. A knowledgeable attorney can assist you at every stage, provide helpful advice, and create a successful patent application<sup>7</sup>.

#### Step 6: Draft a Comprehensive Patent Application:

Together with your attorney or agent, complete the patent application. There must be a title, a field description, background details, a full explanation, claims, an abstract, and drawings (if required) in this report. Each section is necessary to successfully present your invention<sup>8</sup>.

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<sup>5</sup>Ignitec."5 Steps for Creating an Invention You Can Patent."Ignitec Insights. <https://www.ignitec.com/insights/5-steps-for-creating-an-invention-you-can-patent/>.

<sup>6</sup>World Intellectual Property Organization. "Patent Cooperation Treaty (PCT)." WIPO. <https://www.wipo.int/pct/en/>.

<sup>7</sup>United States Patent and Trademark Office. "Patent Process Overview." USPTO. <https://www.uspto.gov/patents/basics/patent-process-overview>.

<sup>8</sup>Patent Attorney Worldwide. <https://patentattorneyworldwide.com/in/>.

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### Step 7: File the Patent Application:

Send the relevant patent office your precisely crafted patent application. Most jurisdictions allow online filing, however traditional postal submission is still an option. The appropriate office of the patent office must be either the head office or the branch office, depending on which is situated within whose geographic boundaries. The applicant's home, place of residence, or place of business; or the actual birthplace of the idea.

The applicant must offer an Indian address even if they don't live there or operate a business there. Documents can be submitted electronically (e-filing), online, by mail, or in person at the patent office<sup>9</sup>.

### Step 8: Navigate the Examination Process:

Your application will be carefully reviewed by the patent office to ensure that it complies with all standards. During this stage, you could communicate with patent examiners and think about revising your application<sup>10</sup>. A patent application may only be examined by Section 11 B of the Patents Act of 1970 once the applicant or another interested person submits a request for examination. This request may be made at any time within 48 months after the date of priority or the date of filing of the application, whichever is sooner. It must be made on Form 18 and include the required fee. The examiner rigorously referred to the patent application in the order in which the requests were made. The examiner who is assigned the application for examination is obligated by Rule 24B (2) to submit his report to the Controller, typically within one month of the referral but not more than three months after the referral.

After receiving the request for inspection and after the application has been published by sections 12 and 13 of the Patents Act of 1970, the Controller is required to submit a specific application to an examiner for examination and search.

### Step 9: Respond to Office Actions:

With the help of your attorney or agent, respond as soon as you can to any office actions the patent office may issue. This could involve adding more information, explaining something, or making any necessary improvements to your application.

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<sup>9</sup>Intellectual Property Office of India. "Patent Office Procedures." <https://ipindia.gov.in/writereaddata/images/pdf/oatent-office-procedures.pdf>.

<sup>10</sup>Intellectual Property Office of India. "Guidelines on Draft Search Examination." [https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1\\_34\\_1\\_guidelines-draftSearch-examination-04march2015.pdf](https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1_34_1_guidelines-draftSearch-examination-04march2015.pdf).

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The Patent Office examiner checks for formal requirements and the application's eligibility under the laws of each country when a patent application is submitted and forwarded for evaluation of its validity. A preliminary decision is then made and is known as the First Examination Report (FER) or an Office Action, depending on the country in question. The Patent Application is simply rejected if it is determined to be unqualified and incorrect in light of prior arts and/or other eligibility requirements. This report outlines any modifications or revisions that could be necessary. Next, the patent attorneys for the applicant will draft a response that is packed with clarifications and is frequently referred to as a Patent Office Action Response.

An office action is frequently written by a patent examiner after evaluating a patent application to express his or her opinion regarding whether any or all of the claims are acceptable (i.e., patentable). If the Office Action indicates that any or all of the claims are not admissible, the applicant has the opportunity to reply. To address his or her objections, the applicant, for instance, can argue that the examiner made a mistake or altered the claims. A restriction requirement, a non-final Office action, and a final Office action are three examples of office actions.

For instance, under Indian Patent Practice, a patent applicant receives a FER if they have submitted a request for examination to the patent office. For the same, Form 18, also known as an RFE request form, must be submitted. A patent inventor must abide by all conditions included in the patent examination report by India's patent amendments. The primary deadline to be met for the decree of a grant of the patent application is within six months of the issuance of the first statement of objection, as stated in Rule 24B (ii)(5) of the Patent Rule, 2003<sup>11</sup>.

### Step 10: "Embracing the Award of a Patent":

Following the successful conclusion of the examination process, you will get a Notice of Allowance certifying the issue of your patent. This important step will assist you in safeguarding your creation. The inventor may mark their goods with the patent number after it has been granted to let everyone know that it is now covered by a patent. The innocent

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<sup>11</sup>Institute of Intellectual Property Research & Development. "Office Action Responses." <https://www.iiprd.com/office-action-responses/>.

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infringer's defense is nullified by the constructive notice. Since the AIA, virtual marking is now permitted by law<sup>12</sup>.

### Step 11: Maintain and Renew Your Patent:

To keep your patent valid, you need to regularly pay maintenance costs. These expenses, which vary depending on the jurisdiction, are required for the long-term defense of your patent rights. Twenty years from the filing date of the patent application is the period during which the patent is valid. According to section 53 of the Indian Patent Act, the patentee must pay a renewal fee up until the date of possession indicated by the patent office. If the renewal or maintenance costs are not paid by the patent holder by the Patent and Trademark Office's deadline, the patent will expire.

The renewal fee as specified in the first schedule is required for the third year before the second anniversary of the patent's filing date. The renewal fee must then be paid before the start of every new year after that. This term may be extended for an additional six months by requesting a time extension. If the patent is still pending or if it has been granted after the expiry period of two years from the date of filing, the renewal fee must be paid within three months of the date of recording in the registration of the patent, or the extended period, but not later than nine months from the recording date<sup>13</sup>.

### Conclusion:

A thorough understanding of patent rules and procedures is necessary, as well as rigorous attention to detail, to successfully get a patent. This step-by-step manual offers the systematic approach that is required for this complex procedure. Additionally, it is crucial to obtain the advice and expertise of a seasoned patent attorney or agent. Their knowledge helps you not only navigate any potential obstacles or complexity that may develop along the road but also guarantees that your application satisfies all the strict requirements outlined by patent offices. By doing this, you not only protect your original idea but also put yourself in a position to maybe lead a revolutionary change in your sector.

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<sup>12</sup>OC Patent Lawyer. "After Patent is Granted." <https://ocpatentlawyer.com/after-patent-is-granted/#:~:text=Once%20a%20patent%20is%20granted,now%20provides%20for%20virtual%20marking>.

<sup>13</sup>IndiaFilings."Restoration of Patent." <https://www.indiafilings.com/learn/restoration-of-patent/>.

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