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# Patentable Subject Matter: Examining The Boundaries Of Patent Protection

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## ABSTRACT

This thorough paper first examines the limits of patent protection in India, highlighting the 20-year exclusive rights bestowed to inventors. Additionally, a historical review shows how Indian patent rules have changed throughout time, culminating in the current Patent Act of 1972. In order to determine eligibility, the standards of patentability, such as novelty, inventive steps, and industrial application, are analyzed. Later, the article expands on the topic of patents with concepts of non-patentable inventions, from agricultural methods to frivolous claims, which are carefully examined under Section 3. The entire essay explores the intricacies of innovative steps, highlighting non-obviousness as a crucial patentability requirement. It ends by emphasizing the careful balance that patent rules uphold, guaranteeing adherence to the concepts of innovation and non-obviousness and industrial utility.

## KEYWORDS

Indian invention history, Section 3 exclusions, standards of patentability, Standards of Patentability and eligibility requirements for patents.

## INTRODUCTION

A patent is an exclusive right granted to an individual by the Patent Office to use his invention for a specific amount of time. A patent in India is valid for 20 years. The inventor will be able to prevent anyone from exploiting these patent rights during this time, save from himself and any other person to whom he has granted a license. In addition to encouraging the advancement of ideas within the nation and contributing to its technological advancement, the patent award acknowledges and honors the inventor's inventiveness.

Understanding patentable and non-patentable activities is crucial in today's world since, due to the modern era's abundance of inventions, there is always confusion or confusion over what kind of invention can be patented and what cannot.

## CERTAIN ESSENTIAL TERMS INTERPRETATION

Patent - The phrase "patent" When someone invents or discovers a new and useful process, product, or article, they are granted a patent. This right does not relate to the use or practice of the invention, but rather to prevent others from abusing it by selling or importing it without the inventor's prior consent during the patent period. The Patents Act of 1970 states in section 2(1)(m) that "patent means a patent for any invention granted under the act." It primarily refers to an inventor's temporary monopoly right granted by the patent office to use his creation.

Patentee- The Individual who is listed in the patent office as the initial owner or grantee of a patent is known as the patentee. To put it simply, the inventor receives patent rights from the patent office for his idea.

Invention – Any novel technique or product that incorporates an inventive step and can be used in industry is considered an invention. It should be mentioned that this Act covers even the method that includes an innovative step in an invention. Therefore, even if a product is significantly improved by an inventive step, it would still be considered an invention; it is not necessary for the product to be entirely new. It is commonly referred to as a Product and Process Patent.

## HISTORY OF PATENT LAWS IN INDIA

The British Patent Law of 1852 on Protection of Inventions served as the foundation for the initial enactment of the Patent Act of 1856 in India. Later, in 1859, the legislation was changed to issue patent monopolies, sometimes known as exclusive privileges, for a period of 14 years after the specification was filed. These rights include the ability to create, market, and use inventions in India as well as grant permission for others to do the same. As a result, in 1872 the Patent and Designs Protection Act was passed. The Inventions and Designs Act was created in 1888 after the later Protection of Inventions Act was passed in 1883. The Indian Patents and Designs Act was passed in 1911.

Furthermore, since the 1911 Act's passage, the nation's political and economic circumstances have undergone significant changes. When it became apparent that the 1911 Act was out of step with economic advancement and disregarded societal demands, a comprehensive patent legislation became necessary. In order to examine the operation of India's patent laws, the government established a Patent Enquiry Committee in 1948. The Patents Bill was tabled in the Lok Sabha in 1953, however it expired with the dissolution of the first Lok Sabha. The committee submitted its final report in 1950. In 1957, Justice Rajagopala Ayyangar was appointed by the Government to thoroughly evaluate and reassess the patent laws in India, as well as to counsel the Government on necessary amendments to the existing patent protection legislation. Justice Ayyangar submitted an extensive report, renowned as Ayyangar's report, which served as the foundation for the Patents Bill of 1965.

## PATENTABLE SUBJECT MATTER – AN OVERVIEW OF STANDARDS OF PATENTABILITY

The term "patentable," "statutory," or "patent-eligible" simply refers to an invention's subject matter in relation to the debate over whether or not it qualifies for national patent protection. Every individual who decides to secure their invention by obtaining a patent right by registering in the patent office must comply with a number of requirements set forth by the patent system.

These requirements make it clear that the government can only issue a patent if the inventor provides justification. The novelty of the invention, innovative steps, and industrial application are the three key criteria used by the majority of patent systems to decide whether or not the government can grant a patent.The identical

conditions mentioned above are also reflected in the TRIPS agreement. The following conditions must be met for an invention to be eligible for patent protection:

## NOVELTY IN THE INVENTION OR NEW INVENTION

In essence, "New Invention" refers to subject matter that, prior to filing a patent application, was neither in the public domain nor utilized domestically or internationally. This means that in order for an invention to be patentable, it cannot be found in any product or procedure that has been made available to the public anywhere in the world by usage, written or oral descriptions, or any other method. It states unequivocally that prior public knowledge of an invention—which the public may obtain through books, other media, or word-of-mouth—will not be eligible for a patent. As previously discussed when interpreting the term "invention," "new discovery" refers not only to a new manufactured product but also to the process or method of making something new.

Inventive Steps

The 2002 amendment established the criteria of the inventive step, which is described as a step that renders an invention obscure to an expert in the field. The inventive step serves as a necessary component of the invention to qualify an applicant for a patent grant by demonstrating that the invention is not obvious to a person skilled in the art and requires advancements in technology when compared to existing knowledge.

Non-obviousnes

An innovation must be not apparent in order to qualify for patent protection. Each case's specific facts will determine the crucial component of innovation and creative steps. There cannot be an originality in the subject matter if the specific manufacturing technique is the same as one that has already been developed. It is regarded as evident if there is no creative step.

The US Supreme Court ruled in **Graham v. John Deere Co. of Kansas City, [1]383 US 1 (1966)** that the scope and content of the prior art, the degree of ordinary skill in the prior art, the distinctions between the claimed innovation and the preceding art, and objective evidence of non-obviousness, such as commercial success, enduring but unmet needs, and the failure of others, should all be considered when determining obviousness.

## CAPABLE OF INDUSTRIAL APPLICATIONS

The question of whether a creation is competent enough to be applied in an industry is referred to as "capable of an industrial application." In **Indian Vacuum Brake Co. Ltd. V. E.S. Luard[2], AIR 1926 Cal 152,** the court determined that the patent could not be supported only by utility. In the case of **Young and Neilson v. Rosenthal & Co. [3], (1884) 1 Pat. C. 1,** the court defined "utility" as an invention that was superior to the prior knowledge of the trade regarding a certain commodity.

## What determines the scope of patent protection?

The patent claims, which are precise declarations that specify the technical characteristics of the invention and the limits of legal protection, largely dictate the extent of patent protection. Consider patent claims as the legal "fence posts" that delineate the invention's exclusive territory. These claims are carefully constructed legal declarations that come at the end of the patent specification in the Indian patent system, as they do in the majority of international patent systems. They specify which elements of the invention are protected by law and, as a result, what would be considered infringement if it were copied without permission.

Types of patent claims

Patent claims generally fall into two broad categories:

- **Independent claims:** These stand alone and define the essential features of an invention without reference to other claims. They provide the broadest protection.
- **Dependent claims:** These reference an earlier claim and add additional features or limitations. They provide narrower, more specific protection.

Additionally, claims can be categorized based on what they protect:

- **Product claims:** Protect physical entities such as devices, compositions, or articles of manufacture.
- **Process claims:** Protect methods, procedures, or series of steps.
- **Use claims:** Protect specific applications or uses of known products.

## Exclusive rights conferred by patents

The Indian Patents Act, 1970 (as amended) confers specific exclusive rights to patent holders. These rights form the core value of patent protection and include:

For product patents

When an inventor holds a patent for a product, they have the exclusive right to:

- **Make the product:** Only the patent holder can manufacture the patented product or authorize others to do so.
- **Use the product:** The patent holder controls how the product is used commercially.
- **Sell or offer for sale:** Distribution and commercial sale rights belong exclusively to the patent holder.
- **Import the product:** Bringing the patented product into India from another country also requires authorization.

For process patents

When the patent covers a process rather than a product, the exclusive rights include:

- **Using the process:** Only the patent holder can employ the patented process or authorize its use.
- **Making products directly obtained from the process:** Products created using the patented process are also covered.
- **Selling or importing products made by the patented process:** These activities are also restricted to the patent holder or authorized parties.

Section 48 of the Indian Patents Act clearly outlines these rights, which form the legal basis for patent enforcement.

## Importance of patent claims in defining protection boundaries

The precise wording of patent claims is crucial because it determines what constitutes infringement. Courts interpret these claims to decide whether a competing product or process falls within the protected scope. This interpretation follows specific legal principles:

### Literal infringement

Literal infringement occurs when all elements of a patent claim are present in the accused product or process. For example, if a patent claim describes a device with elements A, B, and C, another device with elements A, B, and C would likely constitute literal infringement.

### Doctrine of equivalents

Even when a product doesn't literally match every element of a claim, it may still infringe under the doctrine of equivalents. This principle, recognized in Indian patent law, holds that a product or process that performs substantially the same function, in substantially the same way, to achieve substantially the same result, may still infringe.

For instance, if a patent claims a fastening mechanism using a certain type of screw, replacing that screw with a functionally equivalent fastener might still constitute infringement.

### Claim construction

Courts engage in claim construction—interpreting what the claims actually mean—before determining infringement. This interpretation considers:

- **Ordinary meaning:** Words in claims are generally given their ordinary and customary meaning.
- **Specification context:** The patent specification provides context for understanding claims.
- **Prosecution history:** Statements made during patent examination can affect how claims are interpreted.

## Limitations on patent scope

While patents provide strong protection, this protection is not absolute. Several limitations define the boundaries of patent scope:

### Territorial limitations

Patents are territorial rights. An Indian patent only provides protection within the geographical boundaries of India. To obtain protection in other countries, separate patent applications must be filed in those jurisdictions or through international systems like the Patent Cooperation Treaty (PCT).

### Temporal limitations

Patent rights are time-limited. In India, patents generally last for 20 years from the date of filing the application. After this period, the invention enters the public domain, allowing anyone to use it without authorization.

### Subject matter limitations

Not everything is patentable. Section 3 of the Indian Patents Act explicitly excludes certain subject matters from patentability, including:

- Agricultural and horticultural methods
- Business methods and computer programs per se
- Scientific principles and abstract theories
- Traditional knowledge
- Methods of treatment for humans and animals

## Disclosure as a prerequisite for patent protection

Patent protection exists within a bargain between inventors and society. In exchange for exclusive rights, inventors must disclose their invention in sufficient detail to enable a person skilled in the relevant technical field to reproduce it. This disclosure requirement serves multiple purposes:

### Enablement requirement

A patent application must describe the invention in sufficient detail to enable someone skilled in the art to make and use the invention without undue experimentation. This “enablement requirement” ensures that the public receives valuable technical information in exchange for granting exclusive rights.

The disclosure must include:

- **Complete description:** A thorough explanation of the invention’s components and operation.
- **Best mode:** The best way known to the inventor for carrying out the invention.
- **Working examples:** Practical demonstrations or examples of the invention in use.

### Disclosure and claim relationship

The claims must be supported by the disclosure in the specification. If a claim extends beyond what is described in the specification, it may be rejected or invalidated. This ensures that inventors can't claim more than they've actually invented and described.

## Special considerations in the Indian context

India's patent system has some unique aspects that affect the scope of patent protection:

### Section 3(d) and incremental innovations

Section 3(d) of the Indian Patents Act is a unique provision that prevents the patenting of new forms of known substances unless they demonstrate significantly enhanced efficacy. This provision, particularly relevant in pharmaceutical patents, aims to prevent "evergreening"—extending patent protection through minor modifications of existing compounds.

## Enforcement of patent rights

The scope of patent protection is only as strong as the patent holder's ability to enforce their rights. In India, patent infringement is a civil wrong, not a criminal offense, and enforcement typically involves:

### Infringement proceedings

Patent holders can file suit in District Courts or High Courts against alleged infringers. The courts examine whether the defendant's product or process falls within the scope of the patent claims.

### Remedies available

Upon proving infringement, patent holders may obtain:

- **Injunctions:** Court orders prohibiting further infringement
- **Damages:** Monetary compensation for losses suffered
- **Account of profits:** Recovery of profits earned by the infringer
- **Seizure or destruction:** Removal of infringing goods from the market

### Pre-grant and post-grant opposition

India's patent system allows third parties to challenge patents through pre-grant and post-grant opposition procedures. These mechanisms allow interested parties to argue that a patent's scope is overly broad or that the invention doesn't meet patentability criteria.

### Strategic implications for patent applicants

Understanding the scope of patent protection has important implications for crafting effective patent strategies:

#### Claiming strategies

Patents typically include multiple claims of varying scope. Broad independent claims provide wide protection but are more vulnerable to invalidation challenges. Narrower dependent claims offer more secure but limited protection. A well-crafted patent application includes a spectrum of claims to create layers of protection.

#### Disclosure strategies

While complete disclosure is required, applicants must balance providing sufficient information to support their claims with avoiding unnecessarily limiting the scope of protection or disclosing trade secrets not essential to the invention.

#### Patent portfolio management

Rather than relying on a single patent, many companies build portfolios of related patents that protect different aspects of their technology. This creates a more robust protection network that's harder for competitors to design around

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