

**PATENT AGENT EXAMINATION, 2018**

**[Under Section 126 of Patent Act, 1970]**

**Paper I**

**Total Marks: 100**

**Time: 10.30a.m. to 12.30p.m. (Two Hours)**

**Instructions:**

- 1. This paper consists of 3 parts –Part A (60 marks), Part B (10 marks) & Part C (30 Marks).**
- 2. All questions are compulsory.**
- 3. Candidates should read the questions very carefully before answering.**
- 4. No clarification will be provided during the course of the examination.**
- 5. There is no negative marking.**

**Part A**

**Part A comprises of 60 marks and consists of 30 multiple choice questions with one option correct of 2 marks each.**

**Q.1 The Central Government may, if satisfied that it is necessary that a Patent should be acquired from the Patentee for a public purpose within the provision of Patent Act, then a notification is published in:**

- a. All leading newspapers
- b. All leading newspapers and Journals
- c. Official Gazette
- d. All of the above

**Q.2 Choose the correct option from the following:**

**Every application for a Patent shall be published under section 11A of the Act except in cases where the application-**

- a. In which secrecy direction is imposed under section 35 of the Act
- b. Has been abandoned under sub-section (1) of section 9 of the Act
- c. Has been withdrawn three months prior to the period specified under sub section (1) of section 11A of the Act
- d. All of above

**Q.3 In case of request for permission of making Patent application outside India as per section 39 of the Act the time frame to dispose such request by Controller is:**

- a. Within 30 days from the request
- b. Within 6 months from the request
- c. Within 21 days from the request
- d. None of the above

**Q.4 A Patent awarded by the Patent Office of India is valid in:**

- a. All ASEAN countries territories
- b. All countries that adhere to TRIPS
- c. Indian territory
- d. All of the above

**Q.5 .One PCT application with US priority is filed on 19.09.2009 and for filing National phase application in India the applicant needs to file within:**

- a. 19.04.2012
- b. 19.09.2014
- c. 19.09.2013
- d. 19.04.2013

Q.6 A Patent applicant may file a Patent infringement suit within the provision of the Act only after:

- a. Publication of the Patent application
- b. Grant of the Patent application
- c. Priority date of the Patent application
- d. Date of filing of Complete Specification

Q.7 As per The Patent Act, 1970 the first compulsory licence granted in India to:

- a. Natco Pharma on 9<sup>th</sup> March, 2012
- b. Cipla on 9<sup>th</sup> March, 2009
- c. Glenmark on 27<sup>th</sup> January, 2009
- d. None of the above

Q.8 Method of committing theft is not Patentable in accordance to one of the Sections of the Patent Act, 1970. Find out the relevant section from the following:

- a. Section 3(c) of the Act
- b. Section 3(b) of the Act
- c. Section 3(a) of the Act
- d. Section 3(d) of the Act

Q.9 As per the Patent Act, the term of a Patent of addition filed on 13.04.2012 (granted on 15.01.2015) with regard to Complete Specification of an ordinary Patent application filed on 15.07.2008 (granted on 17.09.2011) is up to [ considering that neither one is revoked prior to term of validity]

- a. 13.04.2032
- b. 15.07.2028
- c. 17.09.2031
- d. 15.01.2035

Q.10 An appeal shall not lie to the Appellate Board as per the Patent Act for the following option:

- a. Refusal decision of a Patent application under section 15 of the Act
- b. An application is deemed to be abandoned under section 21 of the Act
- c. Decision of Controller with regard to compulsory licence under section 84 of the Act.
- d. The decision related to post grant opposition under section 25(4) of the Act

Q.11 The period for which an application for Patent shall not ordinarily be open to public in Patent Office Journal from the date of filing or date of priority of the application, whichever is earlier as per the provision of the Act (Assume that there is no request for early publication)

- a. 18 months
- b. 12 months
- c. 6 months
- d. 8 months

Q.12 An Indian applicant has filed an ordinary Patent application before Patent Office by filing Provisional Specification on 12.05.2011 (assuming no post dating of application). Find out the correct option from the following :

- a. The applicant filed the Complete Specification on 12.8.2012 after filing Form 4 on 11.05.2012 for three months extension
- b. The applicant filed Complete Specification on 12.05.2012
- c. The applicant filed a petition under 138 of the prevailing Rules and submitted the Complete Specification on 12.06.2012
- d. None of the above

Q.13 As per The Patent Act, the qualification required for a Registered Patent Agent to work as the Technical Member of the Appellate Board is :

- a. Master degree in Science with at least 8 years functioned as a Registered Patent Agent
- b. Degree in Engineering or technology or Master degree in Science with at least 10 years functioned as a Registered Patent Agent
- c. Bachelor degree in Engineering or technology or science with a law degree
- d. All of the above

Q.14 As per the Patent Act, Register of Patents shall contain:

- a. Names and addresses of grantees of Patents
- b. Revocations of Patents
- c. Notification of Assignments and of transmissions of Patents
- d. All of the above

Q.15 Any person interested may make an application to the Controller for granting compulsory licence on Patent as per The Patent Act, in the following grounds:

- a. That the Patented invention is not available to the public at reasonably affordable price
- b. That the Patented invention is reserved for noncommercial purpose
- c. That the Patented invention is imported with immediate effect
- d. None of the above

Q.16 A researcher finds an idea on recycling of biodegradable plastic. How does he proceed for patenting his idea?

- a. He needs to publish in the Scientific Journal and has to wait for invitation from Patent Office
- b. He needs to submit Provisional Specification and subsequently to file Complete Specification before Patent Office
- c. Both A and B
- d. None of the above

Q. 17. The “invention” as per Patent Act, 1970 incorporates:

- a. Capable of Industrial application
- b. An inventive step
- c. A new product or process
- d. All of the above

Q.18. Identify from the following patented products, for which compulsory licence are available for export which is entitled for manufacture and export to any country having insufficient / no manufacturing capacity to address public health problems as per The Patent Act:

- a. Disaster management related device
- b. Pharmaceutical products
- c. Food products
- d. All of the above

Q.19 When a Patent completes its full term of 20 years within the provision of The Patent Act, it:

- a. May be renewed for a further period of 10 years
- b. May be renewed only under special circumstances
- c. May be renewed for a period of 5 years
- d. Shall not be renewed

Q.20 A ceased Patent due to non-payment of renewal fees, may be restored by filing an application for restoration with prescribed fee as per The Patent Act:

- a. Within 12 months from the date on which Patent ceased to have effect
- b. Within 18 months from the date on which Patent ceased to have effect
- c. Within 48 months from the date on which Patent ceased to have effect
- d. None of the above

Q.21 The submission of proof of right to make an application for a Patent made by virtue of an assignment as per the Act shall be within a prescribed period of :

- a. With the application or within 3 months from date of application
- b. With the application or 9 months from date of application
- c. With the application or 6 months from date of application
- d. With the application or 12 months from date of application

Q.22 Find out from the following which is not the ground for opposition under Section 25(1) of Patent Act, 1970:

- a. That the request for examination pursuant to the filing of Complete Specification has not been filed by the applicant himself
- b. That the Complete Specification does not sufficiently and clearly describe the invention or the method by which it is to be performed
- c. That the applicant has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge
- d. That the Patentee or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims

Q.23 International application as per the Patent Act, 1970 means:

- a. An application filed in WTO
- b. An application filed under Hague agreement
- c. An application for Patent made in accordance with the Patent Cooperation Treaty
- d. An application for Patent made in accordance with the Budapest Treaty

Q.24 Discovery of a new galaxy is not Patentable:

- a. As per section 3(c) of The Patent Act, 1970
- b. As per section 3(k) of The Patent Act, 1970
- c. As per section 3(d) of The Patent Act, 1970
- d. As per section 3(b) of The Patent Act, 1970

Q.25 Definition of "Capable of industrial application", in relation to an invention as per The Patent Act means:

- a. That the invention is capable of being made or used in an industry
- b. That the invention is capable of being manufactured in an industry
- c. That the invention is capable of being sold by an industry
- d. None of the above

Q.26 An appeal may be filed against decision of Controller as per The Patent Act before:

- a. High Court
- b. IPAB
- c. District Court
- d. All of the above

Q.27 Three applicants applied for a Patent in India and Patent is granted to them and now there is doubt amongst them regarding their Patent Rights. As a Patent agent what will be your clarification to your clients? (Note: They are not bound by any contract)

- a. All are having equal undivided share in Patents
- b. First name holder in the Patent application shall get major share
- c. Sharing shall be based on the alphabetical order
- d. Sharing shall be based on the date of birth

Q.28 A Patent shall be deemed to be revoked in public interest by The Central Government:

- a. After appealing in the IPAB against the Patentee and notification in the newspaper
- b. After serving a notice to the Patentee and notification in the newspaper
- c. After hearing the Patentee and making a declaration to that effect in Official Gazette
- d. None of the above

Q.29 If an article is sold by a manufacturer with engraved with the word "Patent" falsely then he shall be punishable for such venture within the provision of the Patent Act by

- a. Imprisonment for 2 years
- b. Fine, which may extend to Rupees 1 lakh
- c. Imprisonment of one year and fine of Rupees 50 thousand
- d. All of the above

Q.30 An applicant has filed an International application on 05.07.2012 based on a Provisional application in India on 08.08.2011 and again filed National phase application in India on 10.09.2013 and if the said National phase application is granted on 24.06.2016 then the term of the said Patent application shall be up to: [considering that patent is not revoked prior to term of validity]

- a. 05.07.2032
- b. 08.08.2031
- c. 24.06.2036
- d. None of the above

## **PART B**

Part B is of 10 marks and consists of true/false type questions of 1 mark each. For each question, out of four options only one option is correct. Answer should be given as a, b, c or d as given here in below:

- a. Statement 1 is true, 2 is false
- b. Statement 1 is false, 2 is true
- c. Statement 1 and 2 both are false
- d. Statement 1 and 2 both are true

Q.31

Amendment of an application for a Patent or a complete specification or any document relating thereto, at any time either before or after grant of the Patent as per the provision of The Patent Act, 1970:

1. Shall be made by way of disclaimer, correction or explanation and incorporation of actual fact
2. Shall be allowed though it describes matter not in substance or shown in the specification before the amendment.

Q. 32

1. Mr. Rao is a researcher from a reputed institute of Bangalore and has filed one ordinary Patent application before Patent Office though he has published the same subject matter in an International Journal 5 years back before the filing date of the above mentioned Patent application, as he is confident regarding the fact that author of the Journal and the Patent applicant being same and his application shall not be refused within the provision of The Patent Act.

2. Mr. Rao is a researcher of reputed institute of Bangalore and has filed one ordinary Patent application before Patent Office though he has published the same subject matter in an International Journal after the filing date of the above mentioned Patent application, as he is confident regarding the fact that author of the Journal and Patent applicant being same and his application shall not be refused within the provision of The Patent Act.

Q.33

1. An application to the Controller for the review of his own decision as per The Patent Act, within the provision of prevailing Patent Rules shall be made in Form 24 within one month from date of communication of such decision to the applicant or within such further period not exceeding one month thereafter as the Controller may on a request made in Form 4 stating all the grounds on which review is sought.

2. An application to the Controller for the review of his own decision as per The Patent Act, within the provision of prevailing Patent Rules shall be made in Form 24 within six months from date of communication of such decision to the applicant or within such further period not exceeding one month thereafter as the Controller may on a request made in Form 4 stating all the grounds on which review is sought.

Q. 34 Company X is having place of business at US and filed initial application at USPTO and after six months from the US application, the Company has done some modification and filed another application at USPTO. Within 12 months from the date of first US filing, Company X filed an Indian application claiming priority from earlier two applications from US:

1. Company X is allowed only to claim pertaining to earlier priority and therefore Controller refused it.

2. Company X is allowed to claim both the priorities and priority date of the application is the date on which it was first disclosed.

Q. 35 As per Act claim or claims of a Complete Specification shall:

1. Relate to a single invention.

2. Relate to a group of inventions linked so as to form a single inventive concept.

Q.36 For any proceedings before the Controller as per The Patent Act, 1970, He shall have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect to following matters:

1. Summoning of any person and receiving evidence on affidavits.

2. Power for setting aside order passed *ex parte* on application made within the prescribed time and in the prescribed manner.

Q. 37

1. Applicant X and applicant Y file a Patent application jointly before Indian Patent Office. The application shall be examined on filing a "Request for Examination" within the prescribed time as per the provision of Act by either X or Y .

2. Applicant X and applicant Y file a Patent application jointly before Indian Patent Office. The application shall be examined on filing a "Request for Examination" within the prescribed time as per the provision of Act by any other interested person Z .

Q. 38

1. As per The Patent Act, 1970 if the applicant mentions a biological material in the specification and if such material is not available to the public then the application shall be completed by depositing the material to an International Depository Authority under the Budapest Treaty not later than the date of filing the Patent application in India and reference thereof shall be made in the specification within three months from date of filing of the application.

2. As per The Patent Act, 1970 if the applicant mentions a biological material in the specification and if it is not available to the public then he does not have to deposit the biological material to any International Depository Authority under the Budapest Treaty during the proceedings of the Patent application.

Q.39

1. As per the provision of The Patent Act, 1970 a Patentee may, at any time after grant, offer to surrender his Patents.
2. As per the provision of The Patent Act, 1970 a Patentee may offer to surrender his Patents, only after three years from the date of grant of Patents.

Q.40

1. As per the provision of The Patent Act, a Patent of addition shall be granted before the date of grant of the Patent for the main invention.
- 2 As per the provision of The Patent Act, the Patent of addition shall not be refused on the ground only that the invention claimed in complete specification does not involve any inventive step having regard to any publication or use of the main invention described in the complete specification relating thereto.

### Part C

Part C is of 30 marks and consists of 10 multiple choice questions of 3 marks each with more than one option correct (at least two options correct).

Q. 41 A National or Regional Patent Office grants a Patent. The following regional Patent Office operative at present is / are:

- a. ARIPO
- b. WIPO
- c. EPO
- d. EAPO

Q.42. If any non-registered Patent agent practices before Patent Office, he shall be punishable within provision of The Patent Act:

- a. With a fine of 3 lakh Rupees for first offence and 6 lakh Rupees in case of second offence
- b. With one lakh Rupees only for each offence
- c. With one lakh Rupees for first offence
- d. With five lakh Rupees for second offence or subsequent offence.

Q. 43 India is a member of the following International treaty:

- a. PCT
- b. Paris Convention
- c. Both A and B
- d. Not a member of any International Treaty

Q.44 An applicant has received a direction from the Controller under section 16 of the Patent Act. Find out the correct option(s) of further act by the applicant:

- a. He may file divisional application before grant.
- b. He may ask an oral hearing to convince the Controller that the invention comes under single inventive concept.
- c. He may forego second invention.
- d. He may file divisional application for the second invention after the grant of first one.

Q.45 An application for a Patent for an invention may be made by:

- a. True and first inventor
- b. Assignee of the true and first inventor
- c. Legal representative of true and first inventor
- d. None of the above

Q.46 Which of the following sections are appealable against the decision, order or direction of the Controller under the provision of Act:

- a. Sections 15 and Section 16 of the Act
- b. Sections 21 of the Act
- c. Sections 54, 57, and 60 of the Act.
- d. Sections 17, 18, and 19 of the Act

Q.47 Which of the followings is/are not Patentable as per the provision of The Patent Act:

- a. A surgical instrument
- b. A computer program per se
- c. Discovery of any living thing
- d. A clock having 10 hours and each hour divided into 100 minutes

Q.48 There are various modes for the revocation of Patent within the provision of The Patent Act. They are classified as follows. Find out the correct option(s):

- a. Revocation by the Appellate Board
- b. Revocation by District Court
- c. Revocation by Controller
- d. Revocation by Central Government

Q.49 Applicant 'A' has been granted a Patent as per The Patent Act. The exclusive rights would be conferred upon 'A' to prevent Third parties who do not have his consent:

- a. from making
- b. from selling
- c. from importing
- d. none of the above

Q.50 One Patent of a reputed Company D in Steel Industry has been ceased due to nonpayment of renewal fee and D has applied for restoration with prescribed fee as prescribed in Act & Rules with reasons thereof. Suddenly another Company of the same Industry opposes the request of restoration of D in the following grounds. Find out the appropriate grounds from the following:

- a. That the Patented invention is not worked in the territory of India
- b. That the failure to pay renewal fee was not unintentional
- c. That the Patented invention is not available to the public in reasonable price
- d. That there has been undue delay in the making the application

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