

PATENT AGENT EXAMINATION, 2016

[Under Section 126 of the Patents Act, 1970]

Paper I

Max. Marks: 100
TIME: 10.30 a.m. to 12.30 p.m.
Two Hours

Instructions:

1. This paper consists of 3 parts-Part A (60 marks), Part B (10marks) & 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 "International application" means

- Sec 2(1a)*
- a. An application filed in WTO
 - b. An application filed under CBD
 - 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.2 Under section 2(1)(ja) of Indian Patents Act, 1970, inventive step means an invention that involves

- a. Technical advancement as compared to existing knowledge
- b. Economic significance
- c. Technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art
- d. None of the above

Q.3 Discovery of a new galaxy is

- a. A patentable subject matter subject to fulfilment of novelty and inventive step
- b. Not patentable under Section 3(a) of the Patents Act 1970
- c. Not patentable under Section 3(b) of the Patents Act 1970
- d. Not patentable under Section 3(c) of the Patents Act 1970

Q.4 Under which section of the Patents Act the examiner, to whom the application is referred, conducts the examination?

- a. Section 11
- b. Section 12
- c. Section 13
- d. Section 14

Q.5 A granted patent gives the patentee the right to claim damages

- a. From the priority date of the patent
- b. From the date of grant of the patent
- c. From the date of filing of the complete specification
- d. From the date of publication of the patent application in the official journal

Q.6 Which section of Patents Act refers to the mention of inventors as such in Patent certificate

- a. Section 27
- b. Section 28
- c. Section 29
- d. Section 30

Q.7 Opposition Board is constituted *Rule-56*

- a. On the receipt of Notice of Opposition
- b. On the receipt of Written statement of opposition
- c. On the receipt of Reply statement of opposition
- d. On the receipt of Reply Evidence of opposition

Q.8 The display of an invention with the consent of the true and first inventor at an industrial or other exhibition which has been notified by the Central Government in conformity with section 31 of the Patents Act shall not to be treated as an anticipation ,if: *Sec 31*

- a. The application for the patent is made by him not later than twelve months after the display
- b. The application for the patent is made by him later than twelve months after the display
- c. The application for the patent is made by him after eighteen months after the display
- d. The application for the patent is made by him not later than eighteen months after the display

Q.9 Date of recordal is same as the date of

- a. Filing of the patent application *Sec 45*
- b. Grant of the application *Sec 142*
- c. Recording the date of grant in the register of patent
- d. Date of the publication of grant of patent

Q. 10 Time limit to oppose the application for amendment of patent made after the grant of patent is

- a. 2 months from the publication *Rule-81*
- b. 3 months from the publication
- c. 4 months from the publication
- d. None of the above

Q.11 An application for termination of a compulsory licence can be filed under provisions of:

- a. Section 94
- b. Section 92
- c. Section 91
- d. Section 93

Q.12 As per the Indian Patents Act, a resident in India:

- a. Is free to file an application for patent in a foreign country without first filing an application for patent for the same invention in India.
- b. Can file an application for patent in a foreign country without first filing an application for patent for the same invention in India, only under certain special circumstances
- c. Can file an application for patent in a foreign country only after filing a PCT application on same subject matter.
- d. None of the above

Q.13 A patentee may offer to surrender his patent within a period of:

- a. One year from the grant of patent
 b. Any time from the grant of patent
 c. Before paying renewal fees of the patent
 d. After paying renewal fees of the patent

sec 63

Q.14 As per Indian Patents Act, 1970, "patentee" means

- a. The person for the time being entered on the register as the grantee or proprietor of the patent
 b. The applicant(s) of patent
 c. The inventor(s)
 d. Both the applicant(s) and the inventor(s) as named in Form-1 of second schedule

sec 2(P)

Q.15 Prior Art does not include

- a. Knowledge disclosed in publications
 b. Knowledge disclosed only to closed group of members bound by non-disclosure agreement
 c. Knowledge disclosed only in patents
 d. Knowledge available in the public domain

sec 13

Q.16 Which section of the Patents Act refers to powers of the Controller to make orders regarding substitution of applicants

- a. Section 19
 b. Section 20
 c. Section 21
 d. Section 22

Q.17 The condoning of delay or irregularity in procedure within the powers of the Controller can be requested by way of filing:

- a. Form 30
 b. Petition
 c. Affidavit
 d. Form 4

rule 6(5)

Q.18 Application for revision of terms and conditions of compulsory licence can be filed under the provisions of

- a. Section 88
 b. Section 86
 c. Section 94
 d. Section 85

Form 20

Q.19 An applicant residing in UK, files a patent application in India claiming priority from the first application in UK. The term of patent granted in India will be

- a. 20 years from the date of filing of the priority application
 b. 20 years from the date of filing the application in India
 c. 20 years from the date of grant of application in India
 d. 20 years from the date of publication of the grant u/s 43(2)

sec 53

Q.20 Ground for opposition to the restoration of a Patent can be

- a. Non-working of a Patent
 b. Invention is already in public domain
 c. Failure to pay the renewal fee was intentional
 d. None of the above

sec 61

Q.21 The time period for paying the renewal fee, without extension as per section 142 (4) after the recordal of patent is

- a. 6 months
- b. 3 months
- c. 9 months
- d. 12 months

Q.22 A new ester of a known medicine with a carboxylic acid chain is patentable if

- a. It shows significantly improved therapeutic efficacy than the said acid
- b. It shows higher melting point
- c. It has a better solubility
- d. None of the above

*Novartis vs Union of India
Sec 3(d)*

Q.23 Which form is required to be filed for expedited examination of patent application u/s 11B and Rule 24 C

- a. Form 18 A
- b. Form 18
- c. Form 18 C
- d. Form 19

Q.24 Which of the following decisions or orders or directions are appealable before IPAB?

- a. Section 15 and Section 16
- b. Section 65
- c. Section 116 and Section 117
- d. Section 92A

Q.25 The Controller neither shall refuse to grant a patent nor a patent shall be revoked by reason only of any circumstances under:

- a. Sections 29 and 31
- b. Sections 30 and 32
- c. Sections 35 and 37
- d. Either (a) or (b) or both

Sec 34.

Q.26 Grant of compulsory licence for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector to address public health problems falls under the following provision of the Patents Act:

- a. Section 92(A)
- b. Section 91(1)
- c. Section 100
- d. Section 102(1)

Q.27 The information that a Patentee is required to submit regarding the extent to which the patented invention has been commercially used in India, under:

- a. Section 146(2) and Rule 131(1)
- b. Section 87(2) and Rule 130(1)
- c. Section 89 and Rule 113
- d. Section 145(3) and Rule 113(1)

Form 27

Q.28 If the Central Government is of the opinion that the patent is against the public interest, then

- a. The Central Government has to pursue the patentee to withdraw the patent *sec 66*
- b. The Central Government, after giving the patentee an opportunity of being heard, make a declaration to that effect in the Official Gazette and thereupon the patent shall be deemed to be revoked
- c. The Central Government has no power to revoke the patent
- d. The Central Government has to approach the IPAB

Q.29 How the patent application can be withdrawn once request is filed under Rule 7(4A) and 26 ?

- a. By submitting Form 25
- b. By submitting Form 27
- c. By submitting Form 29
- d. By submitting Form 24

Q.30 On a successful opposition to the patent under Section 25(2) on the ground of wrongful obtaining, the opponent has to file the application for changing the name of the patentee in his favour in:

- a. Form 10
- b. Form 11
- c. Form 12
- d. Form 19

Part B

Part B is of 10 marks and consists of 10 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:

- Statement 1 is true, 2 is false
- Statement 1 is false, 2 is true
- Statement 1 and 2 both are false
- Statement 1 and 2 both are true

Q.31

- An application for a patent for an invention may be made by any person claiming to be the true and first inventor of the invention ✓
- An application for a patent for an invention may be made by any person being the assignee of the person claiming to be the true and first applicant ✓ **Ans: d sec-6**

Q.32

- For the grant of compulsory licensing the reasonable requirements of public shall be deemed not to have been met, if by the reason of refusal of the patentee to grant a licence on a reasonable terms the establishment or development of commercial activities in India is prejudiced ✓
- For the grant of compulsory licensing the reasonable requirements of public shall be deemed not to have been met, if by the reason to refusal of the patentee to grant a licence on a reasonable terms the demand for the patented article has not been met to an adequate extent ✓ **ANS: d sec 84(7)(a)**

Q.33

- An applicant is entitled to file a divisional application only after issuance of FER. ✗
- An applicant is entitled to file a divisional application at any time before the grant of patent, if he so desires, or on the direction of the Controller ✓ **Ans: b sec-16.**

Q.34

- Application for Patent of addition shall be made before the grant of Patent for the main invention ✓
- Patent for main invention is granted after the grant of Patent of addition ✗ **ANS: a sec-54**

Q.35

- Request for examination for patent application can be filed by any interested person ✓
- Request for examination for patent application can be filed only by the applicant, inventor or his assignee and no other person ✗ **Ans: a sec 11B**

Q.36

- Declaration of inventorship should be filed on the day of filing of the provisional specification ✗
- Declaration of inventorship should be filed for convention application ✓ **ANS: b Rule 13(b).**

Q.37

- An applicant filed a provisional specification and filed a request for early publication before filing the complete specification, his application will be published within one month from the date of such request notwithstanding his failure to file a complete specification till that time ✗
- His application can be published only after filing complete specification ✓ **ANS: b sec: 9(1), 11A(2), 11A(3)**

Q.38

- Any person can make a request to Controller for mention as inventor in patent any time during the life of a patent ✗
- The mention of any person as inventor under section 28 shall not confer or derogate from any rights under the patent ✗ **ANS: d sec-28(3).**

Q.39

1. If the nature of the biological material is not clearly understood from the description or if it is not available publically available 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 a reference thereof shall be made in the specification within the prescribed period ✓
2. There is no need for deposition of biological material mentioned in the application and specification*

Ans: a Sec 10(4)(ii)

Q.40

1. A convention application can be filed within 12 months from the earliest priority application ✓
2. A convention application can be filed beyond 12 months from the earliest priority application by taking extension*

Ans: a Sec 135, 136(3).

Part C

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

Q.41 A ordinary patent application has been filed on 1.1.2010, request u/s 11 B and Rule 24B can be filed

- a. After 60 months from date of priority Rule 24B (iii)
- b. Within 48 months from date of filing of application
- c. 6 months from date of revocation of the secrecy direction, whichever is later
- d. All of above

Q.42 Under section 40 if a person contravenes any directions u/s 35 or 39

- a. The application for patent shall be deemed to have been abandoned. Sec 40.
- b. The patent granted, if any, shall be revoked under section 64.
- c. Only option a is correct and option b is false
- d. Both option a and option b are false

Q.43 Patent of Mr. X was ceased due to non-payment of renewal fees. His rival Mr. Y comes to know that Mr. X has applied for restoration. On which grounds Mr. Y can oppose the application for restoration of Mr. X.

- a. The price of the patented product is exorbitant Sec 61
- b. Failure to pay renewal fee is not unintentional
- c. The claimed invention is non-patentable under section 3
- d. There has been undue delay in the making of the application for restoration after 18 months

Q.44 X and Y make a patent application in Indian patent office naming A as the true and first inventor. The application should be examined when

- a. X files request for examination Sec 11B
- b. Y files request for examination Sec 2(t).
- c. A files request for examination
- d. Another interested person Z files a request for examination

Q.45 X decides to oppose the amendment after grant to the description of a Patent obtained by his rival Y. The options before him is

- a. File form-7 Rule 81(3).
- b. File form-14
- c. Apply for compulsory license
- d. Request for hearing after filing form 14

Q.46 An application for review of the controller's decision and an application for setting aside an order passed ex parte can be filed under the provisions of the Patents Act under:

- a. Sec 77(1) (d)
- b. Sec 77(1) (f)
- c. Sec 77 (1) (c)
- d. Sec 77(1) (g)

Q.47 If any person uses on his place of business, the words "Patent Office" he is punishable with :

- a. Imprisonment for a term which may be extendable up to six months *Sec 121*
- b. Imprisonment or fine
- c. Imprisonment and fine
- d. Warning by the Controller

Q.48 A provisional application X was filed in India on 01.01.2010. Another provisional application Y was filed on 01.03.2010. There after due to the request of the applicant the controller allowed to cognate both the applications and allowed to file a single complete specification. Which of the followings are valid dates in regard to submission of the complete specification: *sec 9(2)*

- a. 01.02.2011
- b. 01.01.2011
- c. 31.12.2010
- d. 27.02.2011

Q.49 Definition of "Startup" includes an entity with following attribute: *rule 2(fb)*

- a. More than five years have not lapsed from the date of its incorporation or registration
- b. The turnover for any of the financial years, within five years of its incorporation or registration, did not exceed rupees twenty-five crores
- c. It is working towards innovation, development, deployment or commercialization of new Products, processes or services driven by technology or intellectual property
- d. Even after expiration of five years turnover is less than 5 crores

Q.50 The expedited examination request can be filed by an Applicant when the applicant is

- a. A startup company certified in India *rule 24c*
- b. An international applicant who has chosen India as ISA
- c. An applicant who has requested for early publication
- d. Any applicant who has entered National Phase in 31 months