

Patent Cooperation Treaty (PCT)

The PCT is an international agreement that helps to simplify the process of filing patent applications in several countries. PCT has been administered by WIPO (World Intellectual Property Organization). As on 1 May 2011, the WIPO recorded a total of 143 contracting states to the Patent Cooperation Treaty (PCT).

The PCT application has two phases: International and National. The National Phase follows the International Phase and consists of processing the application in the Patent Office of specific countries following the same procedure as processing a national application in India.

National Phase of PCT Application in India:

Within 31 months from the priority date, the application enters the National Phase.

The National Phase of a PCT Application resembles a national filing in a respective country. The decision to grant patent protection in a particular country ultimately rests on the Patent Office of that country. However, filing of PCT application is much simpler than filing of normal national application since most of the formal requirements are resolved in the international phase itself. Also, the national examiners most often follow the Search Report conducted in the International Phase.

Before entering the National phase, the applicant must furnish the following documents:

- Furnishing of a translation (in English). **Required contents of Translation are:** Description, claims (if amended, both as originally filed and as amended, together with any statement under PCT Article 19), any text matter of drawings, abstract
- A copy of the international application is required only if the applicant has not received Form PCT/IB/308 and the Patent Office have not received a copy of the international application from the International Bureau under PCT Article 20.

Other Documents required by the Office:

- Name, address and nationality of the inventor if they have not been furnished in the "Request" part of the international application
- Instrument of assignment or transfer where the applicant is not the inventor
- Document evidencing a change of name of the applicant if the change occurred after the international filing date and has not been reflected in a notification from the International Bureau (Form PCT/IB/306)
- Declaration of inventorship by the applicant
- Address for service in India (but no representation by an agent is required)



- Power of attorney if an agent is appointed
- Verification of translation. Verification consists of a simple statement by the Applicant or his agent that the translation is correct and complete.
- International application or translation to be furnished in two copies
- Furnishing, where applicable, of a nucleotide and/or amino acid sequence listing in electronic form
- In case there are corresponding applications in other countries, the applicant must file within six months from the date of entry into the national phase, a statement concerning any corresponding applications filed in other countries. The statement must be made on Form 3.

Where to file a National Phase PCT Application in India:

The application can be filed at any of the four Patent Offices located at Delhi, Kolkata, Chennai or Mumbai, depending on the domicile, business or place of the Applicant. If the applicant for the patent has no business, place or domicile in India, the appropriate Patent office will be the address of service in India. For example, patents can be filed at the Chennai Patent Office where the address for service would be Intepat IP, Bangalore.

Patent Procedure in National Phase:

Publication: Every patent application is published after 18 months from the date of filing. A request for earlier publication can be made in Form 9 along with a fee of Rs. 10,000. Once published, the application is deemed to have entered the public domain.

Request for Examination: An Applicant should file Request For Examination (RFE) within 48 months from filing. The Controller forwards the documents to the Examiner within a month from the date of publication or one month from RFE, whichever is later. Within a period of 3 months from the time of receiving the documents from the Controller, the Examiner establishes the patentability report. The Controller forwards the Report (also known as First Examination Report, FER) to the applicant or his agent within 6 months from the date of publication or from the date of RFE, whichever is later. An applicant has to comply with the requirements imposed on him within a period of 12 months from the date on which the FER is forwarded to him, else the application is deemed to have been abandoned.

Grant of Patent: After the instructions/ objections of the Controller are complied with, the application along with the complete specification will be published in the Patent Journal. The application is open to opposition for a period of 4 months or for such further period as prescribed. If no oppositions are filed or if the opposition is successfully overcome, the application will proceed for grant of patent.

Fees:

The official fee for filing a PCT Application is US\$350 – 500 approximately. [Intepat IP Services](#) provides a host of IP related services, including the filing of PCT Application in India.



Please feel free to contact us at contact@intepat.com, in case any queries.