

The Patents Act, 1970
Qualifying Examination under section 126 of the Patents Act
(As amended & updated)
PAPER- I (PROVISIONS OF PATENTS ACT & RULES)
SEPTEMBER 2005

Time: - 2 ½ Hrs

Total pages -3

Total Marks – 100

Instructions: 1. All questions are compulsory
 2. Marks of each question are indicated at the end of the question
 3. Answers should be precise and to the point supported by relevant provisions of the Act and Rules

Q. 1. Choose the correct option:

- (1) The provisional application may be filed in case of ;
 - (a) an ordinary application
 - (b) a Convention application
 - (c) a patent of Addition application
 - (d) national phase application
- (2) A divisional application may be filed:
 - (a) Any time but within one month after grant of Patent on main patent application
 - (b) Any time but within 31 months from the priority date of the main application
 - (c) Any time but before grant of Patent on main Patent application
 - (d) Within 18 months from the priority date but before the grant of patent
- (3) For a patent application filed on 01.10.2004 the request for examination U/S 11 may be filed:
 - (a) within 36 month from the date of priority or date of filing, whichever is earlier
 - (b) within 48 months from date of priority or 36 months from filing date
 - (c) within 36 months from filing date of the Patent application or priority date ,whichever is later
 - (d) within 48 months from the priority date or filing date in India, whichever is earlier
- (4) A request on Form – 9 may be made for;
 - (a) sealing of the Patent
 - (b) early publication U/S 11 A of the patent Application
 - (c) Revocation U/S 64 of the patent application
 - (d) Extension of time U/S 21
- (5) The national phase PCT application can be examined by the patent office only after:
 - (a) 30 months from the priority date
 - (b) 48 months from the priority date
 - (c) 31 months from the priority date
 - (d) any time on the request of the applicant

1x5=(5)

Q.2. Match Column A with Column B:

| SL | Column A | Column B |
|----|---|------------|
| 1. | (i) Every application for Patent shall be for One invention only | Sec 3 (c) |
| 2. | (ii) Mere discovery of the Scientific Principle is not Patentable | Sec 63 (1) |
| 3. | (iii) Every specification, whether provisional or Complete shall describe the invention and shall begin with the title sufficiently | Sec 55 (1) |

| | | |
|----|--|------------|
| | indicating the subject matter | |
| 4. | (iv) A patent of addition shall be granted for a equal term to that of Patent for the main invention... | Sec 7 (1) |
| 5. | (v) A Patentee may, at any time by giving notice in the prescribed manner to the Controller offer to surrender the Patent... | Sec 10 (1) |

(5)

Q. 3. State True / False:-

- A. The set of independent claims representing multiple inventions may be allowed in a single patent application.
- B. Methods of treatment of plants to keep them free of diseases are patentable.
- C. A subject matter to qualify, as patentable invention must not have been published in India in any kind of document before filing of the application.
- D. Patent of addition lapses if a renewal fee is not paid within the prescribed time limit.
- E. The priority under Paris convention may be claimed if application for patent for Substantially same invention is filed in India within 18 months after filing in Convention country.
- F. Term of Patent in respect of Patent application filed through PCT route is counted from the filing date of international application .
- G. All orders of the Controllers are appealable only in the High Court.
- H. The PCT international application by Indian inventor can be filed in the Receiving Offices at Patent Office, Kolkatta, Delhi, Mumbai or Chennai only.
- I. Unless you pay the fees as mentioned in the fee schedule immediately for submission of any document before the Controller of Patents, the document may not be taken on record.
- J. The appropriate jurisdiction for filing of a patent application by an applicant residing outside India depends on the address for service in India desired by him. [1x10=(10)]

Q.4. Fill in the blanks:-

1. is the International depository Authority in India under Budapest Treaty for the Indian applicant.
2. India joined Budapest Treaty for deposition of Microorganisms on
3. The number of Claims in a Patent application for which no additional charges are required to be paid , are.....
4. The opposition after grant of the Patent may be filed within a period of -----from the date ofof the grant of patent.
5. A request to withdraw the patent application must be made withinfrom Priority date.
6. The time for putting an application in order for grant, which has been examined before 1st day of January 2005, is -----
7. The fees for filing an express request for examination for legal entity is Rs
8. Third party representation for opposition U/S25(1) can be filed within a period not exceeding -----months from the date of publication U/S 11A.
9. A request for examination of the Patent application may be filed only after the
10. An opposition Board shall consist ofmembers andof them shall be a Chairman

1x10=(10)

Q.5. (A) State the fees or additional fees as the case may be paid by the legal entities to the Controller of Patents for the following:

- (a) If complete specification filed contains total of 15 claims but less than 30 sheets;
- (b) If the complete specification contains total of 40 pages including abstract & drawings but less than 10 claims
- (c) For a petition under rule 138
- (d) Transmittal fees for a PCT international application
- (e) For extension of time for two months U/S 21 (1x 5=5)

(B). State the time limits provided under Patents Act & Rules (as amended)

- (a) For putting application in order for grant;
- (b) Filing of a national phase applications under PCT in India
- (c) Filing of request for examination in respect of applications filed u/s 5(2)
- (d) Filing of a proof of right to make an application
- (e) Filing of an information regarding foreign filing U/S 8 1x5=(5)

Q.6. Write short notes on any (5):



- (a) Rights of the patentee
- (b) The opposition by way of representation U/S 25 (1)
- (c) Filing of Patent application abroad by an Indian applicant
- (d) Patentability of pharmaceutical products
- (e) Non- patentable inventions
- (f) Restoration of lapsed Patent

5x5=(25)

Q.7. Answer any 5 of the following :

- (a) What is the jurisdiction for filing the suit for infringement and reliefs for plaintiff.
- (b) What acts as mentioned in section 107-A of the Patents Act are not considered infringements of the patent Rights?
- (c) What is IPAB? What are it's functions? State the qualifications of technical member of the IPAB.
- (d) State the names of the international search & Examining Authorities recognized by the International Bureau. Also state the names of International Search & Examining authorities recognized by India for search & Examination of the Patent application originating from India.
- (e) State in brief the grounds for the grant of compulsory licence including the terms and conditions thereof
- (f) Explain briefly about the publication of unexamined Patent applications U/S 11 A. Also state effects of such publication. Is there any method available for the applicant to stop publication of his application under the Act, if yes please state the relevant provisions? 7x5=(35)

The Patents Act, 1970
Qualifying Examination under section 126 of the Patents Act
(As amended & updated)
Drafting and Interpretation of Patent Specification and other Documents
SEPTEMBER, 2005

PAPER – II

Time :- 2 ½ Hrs

Total pages –4+1

Total Marks – 100

- Instructions:** 1. All questions are compulsory.
2. Marks of each question are indicated at the end of the question.
3. Answers should be precise and to the point supported by relevant provisions of the Act and Rules.

Q.1. Answer any 5 of the following.

- (a) Your client PASCO LTD, which is a detergent manufacturing Company and having tough competition from rival company SAUSCO LTD, interested to get a Patent on its latest invention relating to detergent composition as soon as possible preferably within one year from the date of filing the application in India. Advise your client the possible procedure to obtain the Patent right within the expected minimum time to grab the monopoly in the field .
- (b) Your client Mr. AMRIT LAL invented a novel molecule for treatment of diabetes two years ago while doing his Ph.D and published the same in journal of medicinal chemistry. Now as a result of further extensive research work the molecule has been found to have potential therapeutic values for the treatment of Cancer. He now wants to have patent protect for the same molecule with anticancer properties in India and USA. Advise your client the provisions available in Indian Patents Act for protection of invention as mentioned by the client. What are his chances in USA?
- (c) Your client JOSOMAHA CORPORATION based in Tokyo, Japan filed a PCT international application in Japanese language in receiving office, Japanese Patent Office, on 1.1.2004 without claiming any priority. After receiving good search report from the International searching Authority on 30.10.2004 it is interested to enter the national phase in India to obtain a patent as early as possible. Advise your client the relevant provisions available in Indian patent law to file a national phase application in abovementioned circumstances. Also advise client about the provisions in the Indian Patents Act for getting early examination of the national phase Application.
- (d) Due to malnutrition, lots of people in LOBANG, a least developing country, are suffering from tuberculosis. LOBANG has no manufacturing capacity for the manufacturing of SIMTADIN, a PHARMACEUTICAL COMPOUND, very effective and cheap for the treatment of tuberculosis. However, it authorises by notification M/S CIPLA LTD in India to manufacture and export the said pharmaceutical compound to LOBANG. M/S CIPLA LTD informs that the pharmaceutical compound is patent protected in India by LIZA INC USA and therefore unable to manufacture and export due to fear of possible infringement. Advise your client M/S CIPLA LTD about various relevant provisions available

- under the Patents Act 1970 as amended in order to enable the said company to manufacture and export the said product to LOBANG without any infringement.
- (e) You have filed a patent application for your client ABC INC, USA on 12.06.2005 in Indian Patent office. Your client could not provide a proof of the assignment of the invention in the name ABC INC, US from the inventor at the time of filing the application. Advise your client about the provisions regarding filing a proof of right to make an application as per Indian Patents Act & Rules. Quote relevant rules and sections.
- (f) Your client ITC Company, Kolkata has filed an application through you on 1.05.2005. On 16.06.2005 the ITC Company assigns the rights of invention to another company CBZ Pvt. Ltd. Mumbai. CBZ Pvt. Ltd also wants to pursue the patent application through you. What will be the formalities to be done by you to record the abovementioned change in the Patent Office? Also draft a power of authority on behalf of CBZ Pvt.Ltd, Mumbai in your favour.

(5x10=50)

Q.2. Your Client M/S Aditya Pharmaceuticals, Bangalore, India, the patentee for the Indian Patent No.184203 dated 12.01.1999 wants to grant a license to M/S More Pan Labs. Pvt. Ltd., Kalka, India on the following terms & conditions:

- a) Patentee:- Aditya Pharmaceuticals, Bangalore, India
- b) Licensee: M/S More Pan Labs. Pvt. Ltd., Kalka, India
- c) Title: A novel process for preparation of anti malarial medicament composition
- d) Nature of License: Non Exclusive License
- e) Royalty to be paid by licensee: 3% on the net Ex-Factory Price
- f) Maintaining & Information of Accounts: Licensee shall maintain monthly account of the production and sale made by them and furnish quarterly statement of the account to the Patentee.
- g) Conditions for settlement of disputes as you deem fit

Draft a License agreement with all other conditions to protect the interest of the patentee.

Or

Draft petitions under rule 137 and rule 138 of the Patent Rules 2005 requesting condonation of the delay in filing and extension of time to submit the information regarding foreign applications made for the same or substantially same inventions U/S 8 stating the full particulars of the circumstances which resulted in the delay & which to your best knowledge were beyond your client's control.

(20)

Q.3. Your Client Riway Ayurvedic medicines Pvt. Ltd. Nagpur, furnishes the following information for preparing a complete specification for filing a Patent application in India:

We have developed an ayurvedic medicinal formulation for treatment of Parkinson disease along with process of preparing the same. The ayurvedic formulation consists of

powdered Mucuna seeds, Stabilizers, antioxidants and optionally other ingredients. At present there is no specific and proven Ayurvedic medicine available for the treatment of Parkinson's disease.

Currently, the Parkinson's diseases being treated with synthetic drugs which are effective but are very expensive and have inherent side effects, such as gastro intestinal irregularities along with nausea, anorexia, cardiac irregularities, orthostatic hypo tension, weight gain & psychiatric symptoms such as agitations, hallucinations, nightmares.

But our plant based Ayurvedic formulation for the treatment of Parkinson's disease is cheaper and therapeutically active and clinically efficacious and at the same time drastically reducing the side effects. It is a geriatric tonic also. This Ayurvedic formulation is readily soluble in water and is delicious and flavoured.

We followed the following steps for preparing:

Selected ripened seeds of *Mucuna pruriens* bak (Atmagupta) plant were Pulverized to fine powder and then mixing 80% to 90% of pulverized seed by weight of the total Ayurvedic formulation with 5% to 15% by weight of the total formulation the antioxidant and 5 to 10 % stabilizer.

The main skill involved in formulation of medicine is the selection of particular kind of ripened seeds of *mucuna pruriens* plants having at least three percent of alkaloid and the percentage of the ingredients mixed. The antioxidant such as Vitamin C & Vitamin E is used & gum as Stabilizers are used and other known ingredients such as flavors and taste enhancer may also be used upto 3%.

Draft a complete specification for the protection of Process and the Product in a single application.

Or

Your client M/s Banerjee Furnitures, 155, d block, Sector 53, Gurgaon, Haryana, India furnishes the following informations;

We have invented a folding chair that has an improved folding manner for easy transport and with less space of storage in the folded position.

Chairs are widely used in daily activities. A conventional type of chair will not able to provide comfort for user and often not stored after used. It is therefore the foldable chairs have the advantage of being folded and for easy transport and storage. The use of folding chairs is known in the prior art. Folding chairs are devised and utilized for the purpose of providing a seat that folds up for easy storage and transport. It is basically consisting of familiar, expected and obvious structural configurations. There are varieties of folded chairs have been made in the market. These folding chairs normally require big volume of space during transportation and storage. This leads to the increase in the storage space as well as the transportation fee and space. the present invention provides compact folding chair to facilitate transport and storage of the folding chair. It further provides locking element where the chair will lock automatically once the chair is in an unfolded or opened out position. The opened out position is extremely stable and eliminates the possibility of collapsing when the chair is being placed into such position of use.

The preferred embodiment of present invention essentially comprises of a sitting base being pivotally connected to the backrest by a plurality of connecting means and supported by a plurality of legs. The said legs consist of a pair of rear legs and a set of front legs, whereby the upper end of the front legs are connected to the said sitting base by connecting means. A pivoting bar is provided to connect the said backrest and said rear legs by a plurality of connecting means in order to the said backrest to be rested on the said rear legs. The opening and closing of the chair is governed by a tie bar which link the lower part of the said backrest and said front legs, wherein to prevent the said backrest from expanding to further unstable position. A set of blocks is placed between the said pivoting bar and the said tie bar in order to parallel the connecting of the said backrest to the said front legs. The said two pair of legs, sitting base, backrest, tie bars, pivoting bars and blocks can be brought together thereby producing an extremely compact folded position to the chair for less space during transport and storage. The said chair is locked automatically when in opened position by a locking mechanism comprises of a locking bar which is mounted on the underside of the said sitting base..

FIG. 1 is a side view of the folding chair according to the preferred embodiment of the present invention in its open condition.

FIG. 2 is a front view of the sitting base.

FIG. 3 illustrates the locking mechanism with the locking bar in its locking position.

FIG. 4 illustrates the locking mechanism with the locking bar in its release position.

Following are the elements:-

1 -backrest, 2- sitting base , 3-rear legs , 4- front legs , 5- A set of level blocks , 6- first connecting means , 7- A set of pivoting bars, 8- a second connecting means, 9- A set of tie bars , 10- connecting means which could be nuts and bolts assemblies, fastners, screws, snaps, clamps, clips, etc, 11- pivotal means ,

12-pivotal connected means, 13- arrow, 14- locking bar, 15-the recesses, 25- A notch formed on the top end of the inclined front leg (4). In the locked condition, the said locking bar (14) is caught into the notch (25)

Draft a complete specification for your client including statement of claims.

Drawing enclosed.

[End of the document]

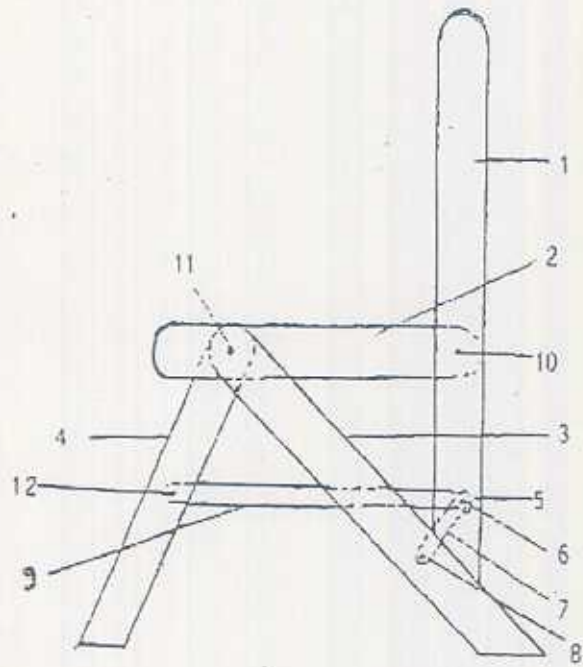


Figure 1

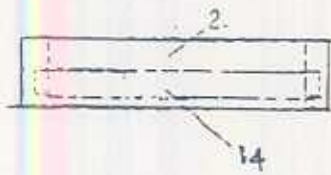


Figure 2

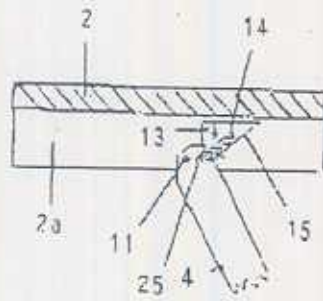


Figure 3

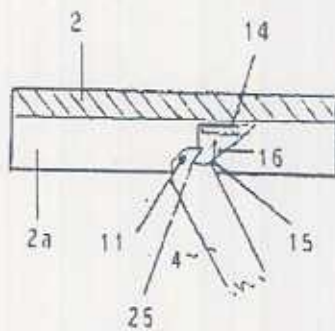


Figure 4