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# Patent of Drugs

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## ABSTRACT

*This article deals with Patents of Drugs. In this article, the author has briefed on the patent of Drugs, the meaning and characteristics of the Patents and The Patent Act's objective. The author has dealt with the Development of patent law in India and has given a brief on the Pharmaceutical Patent type in India, awarding of a Patent to the inventor. The author has also discussed the transfer of Patent rights and Patent licensees.*

## I. INTRODUCTION

The word "patent" is originally from the Latin term "patent", which means "to lay open", that is, to make it possible for public inspection. A monopoly or exclusive right that is allowed over an invention to the patent owner. Patents are a type of contract that the inventor executes with the government of the country in which he agrees to disclose the entire invention, and in return, the government approval allows the inventor an exclusive right to stop others from using or making that invention.

However, not all inventions are patentable. The term "invention" is defined under section 2(1)(j) of the Patents Act, 1970, as "any new product or process involving an inventive step and capable of industrial application." Such an invention is protected under patent law. A patent is a kind of Intellectual Property Right (IPR) that secure the rights of the inventor from others who do not use or make the invention. The view of patent rights is territorial rights. The Patent Law of 1856, The Patent and Design Act of 1911, The Patent Act of 1970 and Rules of 1972, and The Patent Amendment Act of 2005 compose all the major legislation about patents. India being a sponsor of the TRIPS agreement was under contractual accountability to amend its Patents law to make it compliant with the catering of the agreement.

## II. THE PATENT ACT'S OBJECTIVES

-To grant a statutory right of the patent owner for a set period to prevent others from using, selling, or developing his invention and economically exploiting it.

– To disclose the invention and practise that invention and make it work, thus promising scientific research and new machinery.

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– To stimulate new inventions of commercial utility and to pass inventions into the public domain after the demise of the fixed period of the monopoly.

– To have sole holdership of the invention

– To ensure commercial rebound to the inventor for the time and cash spent on developing a new product.

## III. DEVELOPMENT OF PATENT LAW IN INDIA

Pharmaceutical associations spend billions of dollars on development and research every year on new drugs. It is predicted that only 3-5 potential drugs reach clinical trials out of a thousand drugs, and only one gets approval for the market and marketing. The pharmaceutical association patent the drugs they innovate and gather exclusive marketing rights for 20 years. The cost of the evaluation and research of the drug is recovered through the pricing of the drug, which is acquired by the general public.

Under the early 1970's Indian Patent Act, only development patents were identified not product patents. This granted Indian drug companies to produce the same drug-using different processes which are also called reverse engineering. However, only after the 2005 amendment act, product patenting be granted in India for pharmaceutical inventions.

## IV. PHARMACEUTICAL PATENT TYPES IN INDIA

The pharmaceutical industry is an intense "knowledge-driven" sector, where the inventors in this sector must be cognizant of patenting their coinage

The different types of pharmaceutical patents are as follows:

Drug compound patents- The patents which claim a drug composite as per its chemical structure and are proposed to require the broadest protection, so they prevent other associations from preparing related drugs.

Patents on formulations or compositions – A imposed technology used to arrange a founding or a number of its key ingredients.

Synergistic combination patents- The patent law of India states that the creator can earn protection for the new synergistic explication of his drugs.

Technology Patent- It is similar to the techniques used to resolve exact technology-based problems, which include an increase in solubility, stabilization, etc., and even the creator can stop others from using the same path as they can claim the taste-masked formulation.

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Polymorph Patents: The word "polymorph" refers to the different gravel structures of an already known compound, and these types of patents allow innovative organisations to protect the improved variant of their original drugs.

Biotechnology patents- It involves the use of living organisms or biological components in the preparation of pharmaceutical products.

## V. AWARDING OF A PATENT TO THE INVENTOR

Section 21 of the Indian Patent Act, 1970, constitutes the patent that is allowed to an individual after they file a patent application. The creator must ask the government by describing the invention in writing to get a patent, also known as a patent application. Only if there is no pre-granted opposition to the patent application will the patent be granted After being granted, the patent application can get a royalty from such inventions.

## VI. TRANSFER OF PATENT RIGHTS

A transferable property can be transferred from the authentic patentee to any other person by assignment or by the operation of law. It can be licenced or assigned only by the holder of the patent, in which case co-owners or joint-owners can assign or licence the patent only with the consent of the other holder. The distinction between the two is that in a license, the person allowing permission (i.e., the licensor) retains an interest in the property being licensed, while in an assignment, the assignor transfers his rights to the property is allowed. A duty is a transfer of ownership and title while a licence is a contractual right to do something that would always be an infringement of patent rights.

## VII. PATENT LICENSEES

According to section 70 of the act, the Patents Act allows a patentee to grant a licence by way of agreement. A patentee by way of offering a licence may allowance a licence to make, use, or exercise the invention. A licence allotment is not valid unless it is in writing. A licence is a contract signed by the licensor and the licensee in writing and the terms agreed upon by them include the payment of authority at a rate specified for all articles made under the patent.

Licenses are of the following types:

1. License allowed voluntarily
2. A Statutory License, also known as a required License, is a type of licence that is required by law.
3. License, or exclusive or limited

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4. License, or express or implied

## VIII. Conclusion

Indian patent law is an essential piece of patent legislation that objects to the stability of the interests of both the customer and the founder, and it is regarded as an archetypal piece of patent legislation. In the present era, the holders can file patent appliances for a wide field of pharmaceutical amounts and processes. There are many different types of pharmaceutical patents, depending on the drug they are defending. The exclusivity of both patents can be extended by different lengths as well since drug detection, marketing etc. Before filing, the researchers must believe the criteria of patentability and after that the types of patents that best suit their pharmaceutical amounts or processes.

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