
India: increase in Patent Office Fees

A new set of rules, revising India's patent fee structure and encouraging online filing, came into force on 28 February 2014. Although there is a general increase in fees, it is hoped that patent applicants will see compensating benefits. A special fee for 'small entities' has also been introduced and new forms released for the filing of pre-grant oppositions. Details of the amendments are set out below.

The Amendments

The *Patent Rules* 2003 have been amended following publication of draft *Patents Amendment Rules* in May last year.

1. Fees, for both filing and other proceedings before the Patent Office, have been increased for all categories of Applicant. In general, the fees and increases are as follows:
 - a. Natural persons (individuals) – an increase of approximately 60%.
 - b. Small entities – the fee for small entities, introduced for the first time, is approximately 2.5 times the fee for natural persons. The Rules make provision for a new category of 'small entity' and 'small entity' applicants will be required to fill out the prescribed form (Form 28).
 - c. Others (i.e. any organization other than a 'small entity' or natural person) – the fee is approximately five times the fee for natural persons and twice that for small entities.

In the case of joint applicants, the fee will be the highest of the fees that would have been payable had each Applicant applied separately.

For details of the new fee structure, please refer to Table 1 below.

2. The amended rules provide for an **additional 10% fee** if the patent application, or other document, is filed physically i.e., in hard copy format as opposed to electronically.
3. A separate form 7A has been introduced for the filing of Pre-Grant Oppositions. This meets a 'long felt need': in the absence of such a form, it was necessary to file a petition for a Pre-Grant opposition and petitions often differed in structure and presentation. The introduction of a standard Form should regularize the procedure. No fee has been introduced.

Comment

Although there has been a substantial increase in fees, we are hopeful that the amendments will lead to increased efficiencies in the patent system. An increase in online filing and submissions should help clear the current backlog at the Patent Office and expedite patent prosecution in India and, with the increase in revenue, the Patent Office should be able to hire more manpower.

The official notification and revised rules may be accessed on the Indian Patent Office Website at:

http://www.ipindia.nic.in/iponew/publicNotice_ii_28February2014.pdf

and

http://www.ipindia.nic.in/iponew/patent_Amendment_Rules_2014.pdf

Particulars	New Fee (For Online submissions only, offline submissions will attract an additional 10% surcharge)					
	Natural Person		Small entity		Others except small entity	
Fee Slabs-->	INR	USD	INR	USD	INR	USD
PATENT APPLICATIONS						
Filing an application with provisional/complete specification (with one priority)	1600	25	4000	65	8000	130
For every additional priority	1600	25	4000	65	8000	130
Charges for each additional claim in excess of 10 claims	320	5	800	13	1600	26
Charges for each additional sheet of complete specifications in excess of 30 sheets	160	3	400	6	800	13
PROSECUTION						
Filing a request for substantive examination under section 11(b) - non-expedited	4000	65	10000	161	20000	322
Filing a request for expedited examination	5600	90	14000	226	28000	452
Preparing and filing request for recordal of change of name, address, nationality or address for service	320	5	800	13	1600	26
Filing request for recordal of assignment for pending application	800	13	2000	32	4000	65
Filing request for recordal of assignment/merger/license agreement for granted patent	1600	25	4000	65	8000	130
Request for amendment before grant of patent	800	13	2000	32	4000	65
Request for amendment after grant of patent	1600	25	4000	65	8000	130
Request for permission for applying patent outside India under section 39 and rule 7(1)	1600	25	4000	65	8000	130
Filing a Petition	1600	25	4000	65	8000	130
ANNUITIES						
3rd to 6th year	800	13	2000	32	4000	65
7th to 10th year	2400	39	6000	97	12000	194
11th to 15th year	4800	78	12000	194	24000	388
16th to 20th year	8000	129	20000	322	40000	645

Vatika Towers
10th Floor Block-B
Sector-54
Gurgaon-122002
National Capital Region (Haryana)
India

Tel. +91 124 4655999
Fax. +91 124 4045047
Email info@indiaiprights.com

Copyright © Ranjan Narula Associates.