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## Alert 399 - India - PCT national phase filing procedure simplified

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The Indian Patent Office recently issued a public notice in relation to simplification of the process of filing a PCT national phase application in India. It should be noted that the time period for entering national phase in India is 31 months (not 30 months as in most other countries) from the earliest priority date.

Even though specifications and other documents relating to PCT applications are available on the official International Bureau (IB) website, Indian patent *practice* currently requires an application for national phase entry to include a copy of the specification and claims along with drawings as published with the IB.

In simplifying the process for filing national phase applications, the Patent Office has removed the requirement to file copies of the specification, claims and abstract. The Notice states that for national phase PCT applications not claiming priority from an earlier national phase PCT application, these documents will now be obtained by the Indian Patent Office from the IB website itself. The only documents required to be filed by the applicant at the time of filing a national phase application will be the prescribed forms along with last page of the claims duly signed by the agent for the applicant and supporting documents such as copies of the 'Notification for transmittal of priority document' i.e. PCT/IB/304 and 'Notification for recording of a change' i.e. PCT/IB/306 for notifying submission of priority document or recordal of any change with the IB.

There is, however, no simplification of the current requirement in relation to applications published in a language other than English: a translation of the specification, along with verification from the Applicant, or a person duly authorized by the Applicant, that the contents thereof are correct and complete is still required to be filed at the time of national phase entry.

One of the important clarifications made by this Notification is that a PCT application can no longer be amended at the time of national phase entry. The Patent Office has clarified that even if an amended description, claims and abstract are filed, the Patent Office will consider only the documents available on the IB website. The specification and claims can be amended only after the application has entered the national phase in India.

Previously, in the absence of any clear guidelines in the Act, amended specifications and claims were filed by way of voluntary amendments at the time of national phase entry. The Patent Office has made it clear that this practice is not correct and that as of 6 July 2012 no such amendments will be accepted.

### **Our Comment**

Because the Patent Office will now be accessing relevant documents directly from the IB website, both the amount of paperwork involved, and the likelihood of error, should be considerably reduced.

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