 **Sakshi Sharda** | Updated: 05 Jun, 2020 | Category: [Patent](#)

## Rights and Obligations of Patentee in India



Reading Time: 8 minutes

In India, the owner of an invention is required to get his/her invention patented under the *Patent Act, 1970*. The [Registration of Patent](#) provides certain Rights to the Patentee, which is mandatory to be followed by the Patentee. With the Rights also come certain restrictions or obligations which are required to be followed by the Patentee. Hence, the Patent Act, 1970, provides certain Rights and Obligations of Patentee that he/she is required to follow. Additionally, the Controller of Patent also awards some Rights and Obligations of Patentee to be followed by the Patentee in order to comply with the provisions of the Patent Act, 1970. In this article, we will discuss in complete detail the Rights and Obligations of Patentee under the *Patents Act, 1970*.

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Hey there! I am Nikita  
👋, let's talk.



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## Who is a Patent Holder?

A Patent holder invents a procedure or product whose exclusive Rights and Obligations of Patentee are given to the Patent holder as an inspiring force for investment in creative or inventive exercises and for the spread of such exercises in public at large for learning. However, these exclusive Rights and Obligations of Patentee are not unending and can revocation of such rights can be done in certain exceptional circumstances where is need to balance the interest of the Patent holders and with others.

*There are a number of limitations and exceptions to these Rights and Obligations of Patentee which are as follows:*

- ✓ Research or experimental utilization;
- ✓ usage on outdoor vessels;
- ✓ receiving administrative authorization from various professionals;
- ✓ reduction of Patent rights and similar imports;
- ✓ Compulsory relating and acquisition or use of inventions by the Governments.

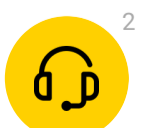
Even if there are limitations or exceptions, yet term to hold a Patent remains unaltered. Thus, a Patent is a set of exclusive Rights and Obligations that is granted by a state to an inventor of the invention or his/her assignee for a fixed time period in exchange for the disclosure of the invention of the inventor. It refers to a grant of some advantage, property, or expert made by the government or the sovereign of the country to as a minimum of one person. The way or procedure according to which it is done is known as Patent. An invention of the inventor is the creation of intelligence applied to labor and capital and for the production of something useful and new. Such creation or invention turns into the restrictive property of the inventor on the grant of Patent.

## What are the benefits conferred upon the Patentee of a Patent?

- ✓ In India, the Patent law identifies the exclusive Rights and Obligations of Patentee to gain certain commercial advantages out of the invention invented by him/her. Such Rights and Obligations of Patentee are provided to boost the inventor to invest in the new innovative offices, and should also realize that the developments done by them will be ensured and protected by the law and hence no other person has the capacity to make a duplicate of their inventions or creations.
- ✓ Such protection is provided for a certain time period (for the most part, 20 years) amongst which the inventor will have certain selective Rights and Obligations of Patentee as per the **Patent Act, 1970**. When a patent comes in all reality, certain exploitative Rights and Obligations of Patentee are presented as an incentive for the revelation of the creation or invention of the Patentee to people at large.
- ✓ These controlling Rights and Obligations of Patentee are, generally, for a time period of 20 years and are also assignable, thus enabling the Patentee of the Patent to get a license for the invention and maximize the profit associated with such an invention.

***As per Article 284 of the TRIPS (Trade-Related Aspects of Intellectual Property Rights), Agreement provides the following Rights and Obligations of Patentee:***

- ✓ A registered Patent should confer the following exclusive Rights on its owner:



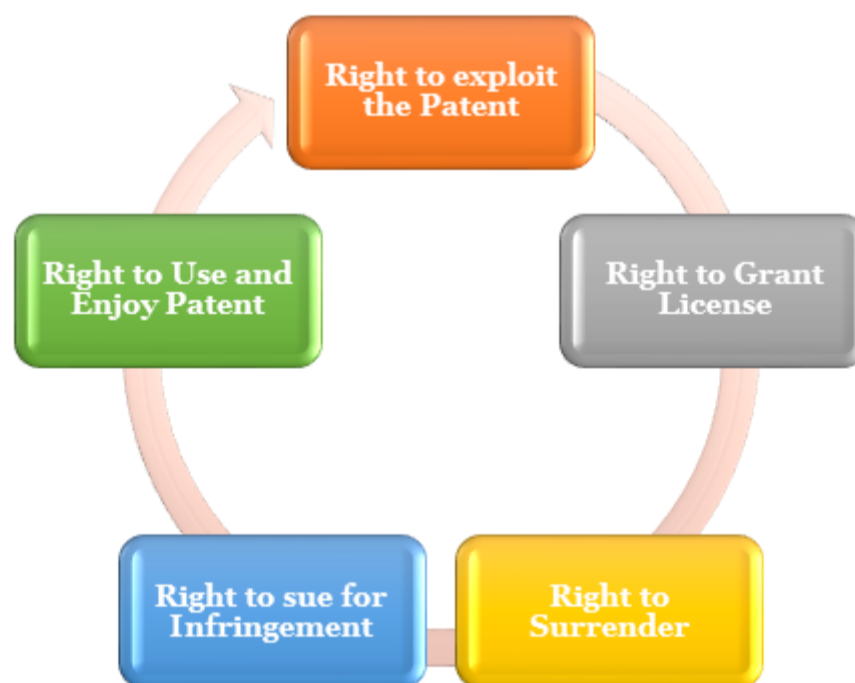
1. where the Patent's subject matter is a product, to prevent any third parties, which is also not having the consent of the owner, from the following acts of using, making, offering for selling, sale, or importing for these purposes such product of the owner;
  2. where the Patent's subject matter is a process, to prevent any third parties, which is also not having the consent of the owner, from the following acts of using, making, offering for selling, sale, or importing for these purposes at least the product that is obtained directly by such a process.
- ✓ The owner of the Patent should also have the right to transfer by succession or assign the Patent and to conclude the licensing contracts.

## What are the Rights of Patentee as per the Patent Act, 1970?

*A grant of Patent in India gives the Patentee the exclusive model to utilize or make the patented invention or utilize the patented procedure related to the invention. Certain Rights and Obligations of Patentee are enshrined under the Patent Act, 1970. The various kinds of Rights of Patentee are as follows:*

- ✓ Where the grant of Patent is done for a product, the exclusive right to prevent any third party, who is no having his/her consent, from any act of offering, using, making for sale, importing or exporting for such products in the territory of India;
- ✓ Where the subject matter associated with the Patent is a process, the exclusive right to prevent any third party, who is no having his/her consent, from any act of offering, using, making for sale, importing or exporting for such products that are directly obtained from the process in the territory of India;
- ✓ Moreover, the product produced by the Patentee should not be such that it cannot be patented in India as per **Section 48 of the Patent Act, 1970**.

*The elaborated Rights of Patentee in India are as follows:*



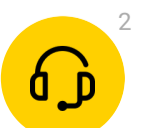
### Right to exploit the Patent

When the new invention is a product, the Patentee has the exclusive rights to use, make, import, or sell for these purposes related to an invention in India. On the other hand, when the invention of the inventor is a procedure or process of manufacturing of any article or substance, the right to exploit means the exclusive right exercise or use the procedure or method in the territory of India.

### Right to Grant License

The Patentee of a Patent is given the right to grant license or transfer rights or enter into some arrangement for some consideration. The assignment or license to be valid and legitimate it is required to be in writing and should be registered with the Controller of Patent. Unless a document of assignment of a Patent is not registered, it is not admitted as evidence of title of the Patent, and such a rule is applicable to the assignee, not the assignor. **(As per Section 69(5) of the Patent Act, 1970)**

### Right to Surrender



By giving notice in the prescribed manner, the Patentee of a Patent has the right to surrender a Patent at any time and at his/her own discretion. The advertisement for such an offer of surrender is required to be done in the Journal. The publication is done to give an opportunity to the people to oppose the offer of surrender of the Patentee. This is done when the Patentee apprehends his/her non-performance of the Patent in the future and upon which he/she decides to surrender the Patent.

### Right to sue for Infringement

The Patentee has the right to sue for Infringement of Patent in District Court has the jurisdiction to try the suit.

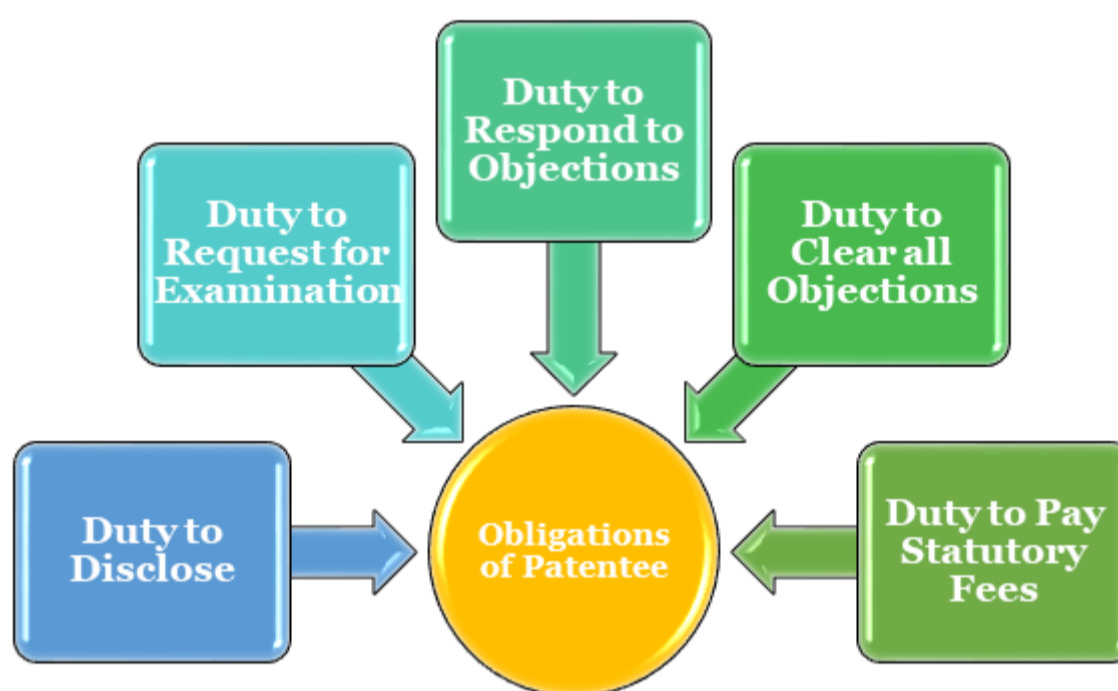
### Right to Use and Enjoy Patent

The Patentee of the Patent has the exclusive right to exercise, make, utilize, convey or offer or the patented substance or article in India or to practice or utilize or the process or techniques associated with the invention. Such rights can be exercised either by the Patentee himself/herself or by his/her licensees or agents.

Read our article: [Specification of Patent in India: A Complete Outlook](#)

## What are the Obligations of Patentee as per the Patent Act, 1970?

Once a Patent is granted to a Patentee, there are certain Rights and Obligations of Patentee. The Obligations of Patentee are as follows:



### Duty to Disclose

**Sec 8 of the Patent Act, 1970<sup>[1]</sup>**, accomplishes the obligation to disclose of the Patentee. **Section 8(1) of the Patent Act, 1970**, tells that the Patentee has an obligation to disclose all required data related to the remote uses of comparative or same invention documented by him/her or through him/her or through someone by him/her at the time of applying or within 6 months of applying.

The Patentee of a Patent is required to record an announcement of all the listed particulars viewing the applications and, in addition to the above, an endeavor to disclose all the points of interest of any subsequent applications that might be documented at the future stages.

**Section 8(2) of the Patent Act, 1970**, puts an obligation on the Patentee to provide all the data required by the Controller of Patent with regards to the relating of any remote applications at whatever point demand is made by the Controller of Patents within a time period of 6 months of such a demand by the Controller of Patent. The first part of the obligation of Patentee begins when a man records an application of Patent. On the other hand, the second part begins after a demand is made by the Controller of Patents under the **Patents Act, 1970**.

### Duty to Request for Examination

Not like other **Intellectual Property Rights**, the Registration process of Registration of Patent does not accommodate any kind of programmed examination of the grant of Patent application. In the procedure above mentioned, as indicated by **Section 11(B) of the Patents Act, 1970**, the obligation is thrown on the Patentee himself/herself to ask for the Controller of Patents to look at the growth or development connected for Patent.

### Duty to Respond to Objections



The Controller of Patent before accepting the examination request passes it to the analyst who looks at the growth and gives a report to the Controller of Patent known as the First Examination Report (FER). On certain cases there may be some protests which will be brought up in the **First Examination Report**, it is the right of Patentee to reply to such opposition complaints and consent to the corresponding within a time period of a year of the issuance of the First Examination Report (FER) falling which the application of the Patentee will be considered to be surrendered by the Controller of Patent.

### Duty to clear all Objections

It is the obligation of the owner of the Patent to respond to the raised objections as well as to clear and remove each one of the raised objections and, in addition, certain oppositions raised against his/her invention. In the event that the Controller of Patent has not fulfilled he/she, it may also require a meeting also. Furthermore, it is the obligation of the owner of Patent to go for a consultation and clear all the objections and, in addition, oppositions, if are raised any, against the invention of the inventor.

### Duty to Pay Statutory Fees

The Patentee has an obligation to pay all the statutory expenses required to get a grant of a Patent in the process of Registration without failure generally, his/her application for the grant of Patent won't be managed. **Sec 142 of the Patent Act, 1970**, accomplishes the provisions recognized with payment of charges and, in addition, the consequences for non-payment of such prescribed fees.

After this process is imitated to and the Patentee of Patent clears every one of the restrictions and protests raised against his/her invention, if the Controller of Patent is fulfilled, he/she will grant a Patent to the invention and publishes it in the Journal, or generally, the Controller rejects such a Patent.

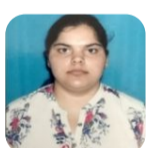
### Conclusion

The **Patent Act, 1970**, provides for provisions related to the Rights and Obligations of Patentee of a Patent. The Controller of Patent is required to take care of all the Rights and Obligations of Patentee as prescribed by the **Patent Act, 1970**. The Patentee is required to comply with all the Rights and Obligations. The procedure of the Patent Registration in India is long-lasting and time-taking. We at **Corpbiz** have professionals to assist you throughout the process of getting your Patent registered with the Patent Office in India. Our professionals will assist you and guide you throughout the process of Patent Registration. Our professionals will ensure efficient and timely completion of your work.

Read our article: [General Powers of Controller of Patent in India](#)

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**Sakshi Sharda**

Sakshi Sharda has done BBALLB(HONS) and holds a strong knowledge on the matters pertaining to finance and law. From the past one year she is working as a legal advisor and in her leisure time she works on improvising her knowledge. Sakshi is spreading her knowledge by writing for Corpbiz.

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