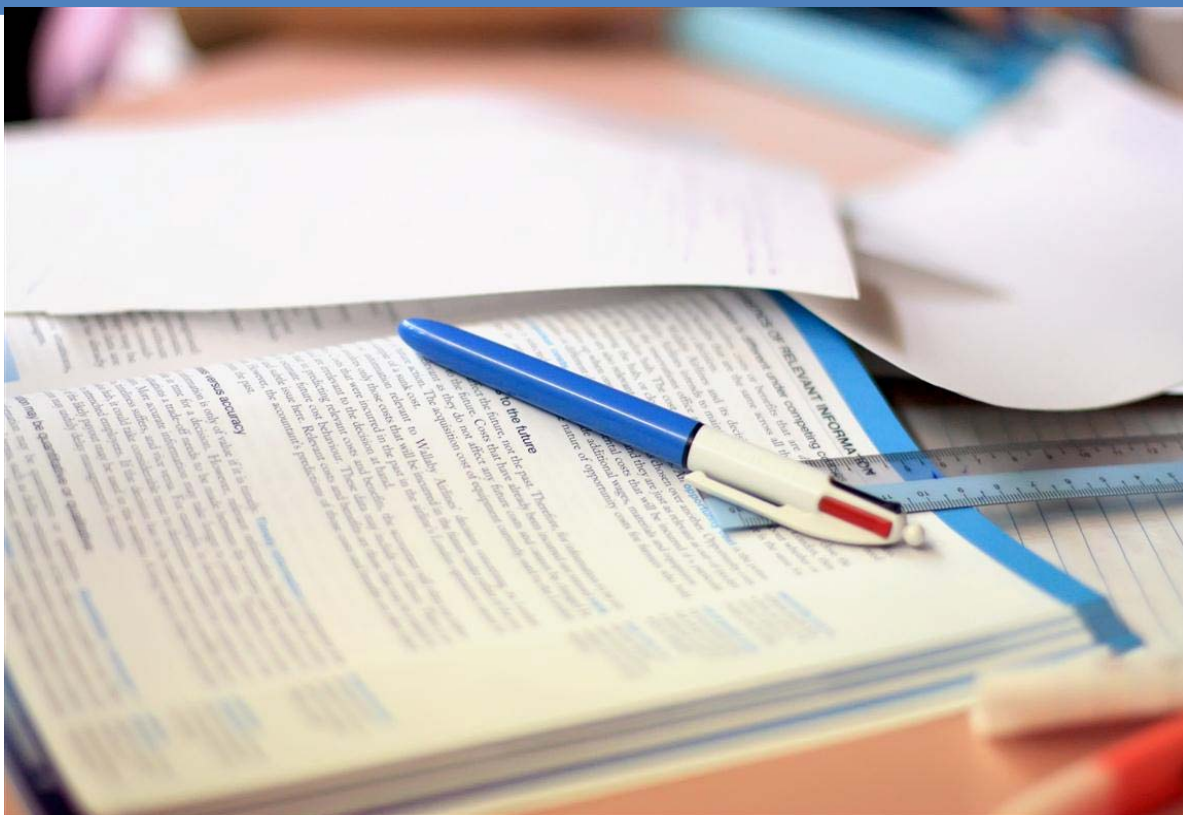


How to write Patent Agent Examination 2011



ANSWERS TO PATENT AGENT EXAMINATION PAPER 2 2010

ANSWERS TO PATENT AGENT EXAMINATION PAPER 1 2010

FAQS

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REGISTERED PATENT AGENT PA/IN 1596

IIPTA

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IIPATA, IPR department of Mabbit Research and Learning Private limited has launched [course on Patent Agent Examination](#) conducted by Government of India scheduled 15th and 16th of January 2011. This course can be taken as regular classroom at weekdays or weekends. Course is also available online.

[For the complete answers to Paper 1, Paper 2 and other study material visit the course home page here.](#)

ANSWERS TO PATENT AGENT EXAMINATION, 2010

(Under Section 126 of the Patents Act, 1970, as amended)

January 23, 2010

PAPER II

TOTAL MARKS: 100

PART A

QUESTION 1

A research team working with company CRO completed a very difficult R&D project. CRO has filed a provisional patent application on October 10, 2009 in its name. Since then. Its researchers have worked further on the invention and are now in a position to file a complete specification. The complete specification is expected to have 61 pages and 113 claims. There are 3 new inventors, of which 2 are foreigners from another institution "CRY" whose names have to be included in the patent application. There is an understanding between "CRO" and "CRY" that the patent application will be filed jointly in the names of the two institutions.

Suggest a plan of action for the filing of the relevant patent application including the timelines, the essential forms to be filled, fees to be paid and associated formalities to be completed to ensure that the application is in order.

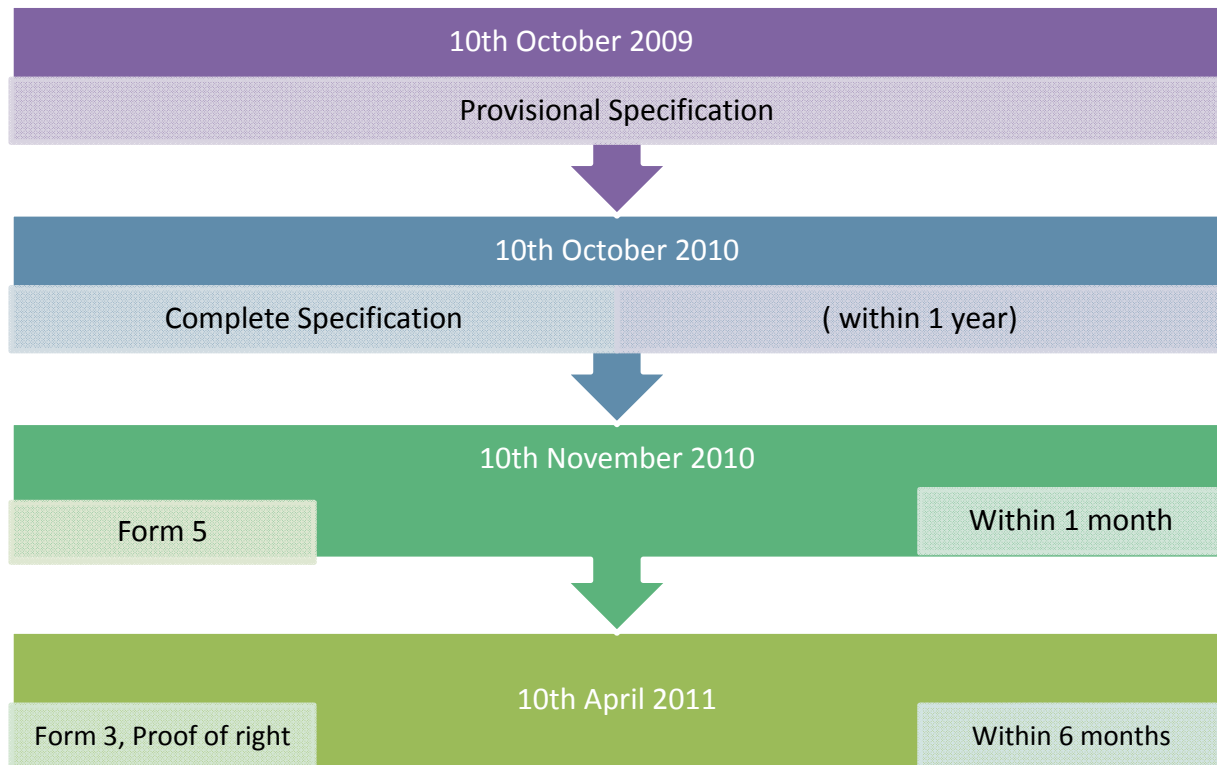
ANSWER 1

Most important – as provisional patent application is filed on October 10, 2009 so complete specification must be filed within one year i.e. by 10th October 2010.

Essential Forms with relevant sections is as follows-

FORM NO.	Form	Section and Rule
2	Complete Specification	Section 7 , Rule 13
3	Statement and Undertaking	Section 8, Rule 12
5	Declaration to Inventorship	Section 10(6), Rule 13(6)
13	To include name of CRY	Section 57, Rule 81(1)

Besides, proof of right has to be submitted as per section 7(2). Form 3 is filled setting in detail the countries where same invention/ patent is filed and declaration to inform the Controller of India from time to time about its status. Time line is as follows-



Fees Calculation Sheet- 61 pages and 113 claims

Fees for 30 pages and 10 claims is	` 4000/-
For each page extra over 30 , fees is Rs. 400	
Fees for 31 additional pages	400x31=12,400
For each claim extra over 10, one has to pay Rs. 800/-	
For 103 extra claims	800x103=82,400
TOTAL	` 98,800

QUESTION 2

You receive a letter dated November 25, 2009 from the TATAS asking you to represent them in respect of "Snano", their invention relating to a car which guarantees sound sleep to any person travelling within it, barring the driver:-

The letter informs you that the client first filed a US application in respect of the "Snano" on May, 1, 2007. They later filed a PCT application on December 1, 2007. Now they wish to file a national phase application in India:

- i) What information do you require from the client to assess whether the Snano can 'can be protected in India?
- ii) You receive the client's letter on November 29, 2009. It will take you at least 5 days to get documents ready and file the papers at the Patent office. What steps would you take to protect your clients interest?
- iii) Assume in (ii) above that the letter reaches you only on December 5, 2009. What would your advice be?

ANSWER 2

I. In order to protect Snano in India , I would require following information-

- a. PCT REQUEST FORM (documents – abstract, drawings, sequence listing)
- b. Transmittal Letter (Preferably PTO-1382)
- c. Fee Calculation Sheet
- d. Power of Attorney or General Power of Attorney
- e. PCT- EASY Validation Log

PCT/IPEA/401	Demand
PCT/IB/375	Supplementary Search Request
	Forms relating to the Power of Attorney
	ISA - Forms Relating to the International Searching Authority
	IPEA - Forms Relating to the International Preliminary Examining Authority
	IB - Forms Relating to the International Bureau

- II. As per rule 20 (4) (i) , time limit for entering national phase is 31 months so application has to be filed on or before 1st December 2009. Otherwise application will be deemed withdrawn.

Following documents will be filed at Indian Patent Office-

Name, address and Nationality of Applicants and inventors.

PCT Application number.

Priority application number, date of filing and country.

Original Patent specification, claims and drawings in English.

Amended claims, if any, filed under Art. 19 of PCT.

If IPER is requested, any amendment annexed to the IPER.

A copy of PCT Request, International Preliminary Search Report and International Preliminary Examination Report.

Declaration as to inventorship.

Power of Attorney

E-filing can be used. Priority documents can be filed within 3 months if they are now not available.

- III. In this case, as period of 31 months will expire application will be deemed cancelled.

QUESTION 3

Your client "X" writes to you as follows:

"Our Indian patent issued in December 2009 describes and claims a process of reacting A with B under certain specified conditions to obtain product C. It is also essential that catalyst Q be present in order that product C may possess the desirable characteristics outlined in our disclosure.

Unfortunately, none of the claims in the patent make any reference to catalyst Q at all, even though catalyst Q and the manner in which it is used in the process is clearly described in our disclosure. We would like to take action in the near future against a competitor of ours who has been using our process since the last one year. Do you think we will have difficulty enforcing our patent and, if so, is there anything you can do to improve our prospects for success against our competitor?"

- i) Assume that X's invention above has not yet been patented, but is merely the subject of a patent application before the Indian patent office. Would your advice be different? Consider

both situations where the application has been published in the official journal as well as situations where it has not been so published?

iii) Assume now that the letter above is worded differently. It indicates that X's addition of the catalyst is an improvement not included anywhere in the specification. What would your advice be?

ANSWER 3

As catalyst Q is only mentioned in disclosure not in claims so it would be difficult to enforce the patent against competitor. In absence of mention of catalyst Q in claims our process will be considered different and hence in prove infringement will be difficult.

1. Catalyst Q can be mentioned in claims under amendment by filing Form 13

FORM 13 Application for amendment of the application of patent / complete specification	`1000 / ` 4000	Section 57 , Rule 81(1)
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Section 59 states that-

(1) No amendment of an application for a patent or a complete specification shall be made except by way of disclaimer, correction or explanation, and no amendment thereof shall be allowed, except for the purpose of correcting an obvious mistake, and no amendment of a complete specification shall be allowed the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment, or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.

(2) Where after the date of advertisement of acceptance of a complete specification, any amendment of the specification is allowed by the Controller or by the High Court,

(a) the amendment shall for all purposes be deemed to form part of the specification;

(b) the fact that the specification has been amended shall be advertised in the Official Gazette; and

(c) the right of the applicant or patentee to make amendment shall not be called in question except on the ground of fraud.

2. If it is patent application, it will be amended under Section 57 by filing form no 13.

3. In this case, patent of addition will be filed under Section 54 and case of infringement can be filed if the competitor has not protected his process.

QUESTION 4

Motu wishes to license Chotu's patent relating to a slimming device. Chotu is already selling the product in India, by itself and through various other licensees. Motu hopes to manufacture the same device and sell in remote parts of India. He approaches you to find out if he should go ahead with the licensing deal. What are the aspects you would look into in order to protect your clients' interest, including ensuring that Chotu's patent is a good one and that he has complied with all the requirements under the Indian Patents Act? If a license is finally taken, what are the various requirements under the Patents Act that Motu must comply with?

ANSWER 4

We have to ensure following things-

1. Who is the assignee of the invention
2. Check the legal status of patent and status of renewal fees.
3. Whether patented is opposed by any party
4. Whether patent is challenged in Court
5. Check the prior art so ensure the technology is novel and promise good future in market.
6. Check whether patent is not revoked.

License Deal is made as per section 68 in written containing terms and conditions. Such agreement is only valid if it is registered in the register of patents.

Section 68-An assignment of a patent or of a share in a patent, a mortgage, licence or the creation of any other interest or of a share in a patent, a mortgage, licence or the creation of any other interest in a patent shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations and the application for registration of such document is filed in the prescribed manner with the Controller within six months from the commencement of this Act or the execution of the document, whichever is later or within such further period not exceeding six months in the aggregate as the Controller on application made in the prescribed manner allows:

PROVIDED that the document shall, when registered, have effect from the date of its execution.

Section 69- (3) Where an application is made under this section for the registration of the title of any person, the Controller shall, upon proof of title to his satisfaction,-

(a) where that person is entitled to a patent or a share in a patent, register him in the register as proprietor or co-proprietor of the patent, and enter in the register particulars of the instrument or event by which he derives title; or

(b) where that person is entitled to any other interest in the patent, enter in the register notice of his interest, with particulars of the instrument, if any, creating it:

PROVIDED that if there is any dispute between the parties whether the assignment, mortgage, licence, transmission, operation of law or any other such transaction has validly vested in such person a title to the patent or any share or interest therein, the Controller may refuse to take any action under clause (a), or, as the case may be, under clause (b), until the rights of the parties have been determined by a competent court.

(4) There shall be supplied to the Controller in the prescribed manner for being filed in the patent office copies of all agreements, licences and other documents affecting the title to any patent of any licence thereunder authenticated in the prescribed manner and also such other documents as may be prescribed relevant to the subject-matter:

PROVIDED that in the case of a licence granted under a patent, the Controller shall, if so requested by the patentee or licensee, take steps for securing that the terms of the licence are not disclosed to any person except under the order of a court.

PART B (60 MARKS) this part contains two questions.

QUESTION 1

After reading the below specification carefully, please:

- i) Draft at least 5 claims;
- ii) Provide an appropriate title to the specification.
- iii) Draft a suitable abstract

Field of the Invention

The present invention discloses a device capable of harvesting and planting of plantable materials, maintaining their integrity during harvesting and transplantation. Further the device has an optical holder and a protective case also capable of functioning as a handle.

Background of the Invention

"Root-by Root" follicular hair transplantation is an accepted hair replacement alternative for hair loss. It has also become popular as a cosmetic means. Traditional transplantation of large punches became unacceptable due to its poor cosmetic result. It also produced loss of valuable hair grafts during and after transplantation procedure. This led to the preparation of mini, micro and ultimate follicular hair grafts and transplanting them into desired area.

The process of hair transplantation demands meticulous harvesting of the plantable material from the donor site and plantation of several hundreds of grafts in short time without damaging the roots. Several methods and instruments have been developed based on steps that involve damage free, harvesting of the plantable material from the donor site, creation of appropriate recipient site, keeping the site open during the plantation process placing the graft into the site maintaining its integrity and ensuring closure of the site after the plantation process is completed. The plantation process generally involves steps that include creation of an ideal recipient site, keeping the site open and placement of the graft into the site maintaining its integrity.

Difficulties encountered in instruments involving plurality of grafts are (1) it is difficult to keep the multiple grafts separate as they have a tendency to stick to each other, (2) need to maintain all the grafts in moist and cool conditions, (3) possibilities of the graft floating out in the saline solution, (4) planting surface getting flooded with stored saline from the tube obstructing the view and delaying the plantation process, (5) grafts falling off the tube during the maneuvering, (6) longer tubes to store more grafts make the maneuvering of instrument and the grafts difficult.

Other planting instruments described in the prior art utilize suction, spring device or electricity. Loading of the planting material is done from the sharp piercing end with possibility of direct damage or degloving type injury if the planting material does not well fit into the cavity of piercing end. In instruments where the planting material is pushed by a rod or cylindrical material blindly inside the cavity, it may damage by crushing, folding, squeezing, distorting, bending or jamming. Some of the instruments are so configured that they cause obstruction to the view of the surgeon while pushing the plant able material in the planting site thereby causing backpressure due to air lock. Some of the planters are not workable with material of variable textures such as soft hair or artificial hair. Devices described in the prior art cannot as well be used for plantation of part of the follicle or soft connective tissues. Harvesting and plantation is not possible with a common instrument as described in prior art.

Summary of the invention

The main object of the invention is to provide a functionally cost effective manually opted of perform in harvesting, as well as plantation, of wide range of plant able materials into diverse substrates at enhanced plantation speeds— -maintaining follicular integrity resulting in better yield. Another object of the invention is to provide an instrument for silent non-traumatic hair transplantation that ensures feather touch non-traumatic method of picking up the hair follicle by its extra cuticle part of hair 'from the cool isotonic solution and inserting them in the loading slot of suitable size in a device avoiding the drawbacks of grabbing, holding, pinching, dragging, pushing and drying.

Detailed Description of the invention

The device comprises of a solid or hollow elongated structured transplanted of an appropriate length, width, wall thickness and shape longitudinally developing into a Slotted groove of an appropriate length, width and shape having a wider slot as loading/unloading area. This extends to a narrower slot as a retaining area further developing into a wedge shaped structure at its end portion. This wedge may be of appropriate length, width and shape having sharpened edges to enable piercing a substrate for harvesting and/or planting to appropriate depth determined. The penetration can be controlled by a "stopper" located at appropriate positions along the surface of the transplanter. This transplanter positions along the transplanter having optional attachment to maneuver the transplanter.

The transplanted may further an optional holder/hub so structured g its lower end to enable for attachment with the upper end of the transplanter and the upper end of the holder/hub appropriately structured to fit the optional handle/case.

Further the device is provided with an optional handle so structured at its lower end to enable housing the holder/hub and/or the transplanter when placed inside the handle to function as a case for storage during non-use.

The transplanter may have optional no. of openings of various sizes and shapes at appropriate positions along the transplanter to function as release for any "air lock" created during transplantation.

The shape of the loading area ensures smooth loading, unloading and movement of the planting material along the transplanter for subsequent operations. It is to be noted that the width of the groove at retaining area is such that it does not allow the planting substance to pop out from the groove at the same time allows easy passage of the sliding device with planting material to and from the loading area to the wedge. Further the edges of the wedge of transplanter are sharp and tapered in a manner to allow easy passage of planter into the substrate with rotation and further during harvesting it enables the creation of circumferential cut around the hair follicle and during plantation it enables the creation of an appropriate site for the transplanting operations by maintaining the opening of the cavity stretched and walls of the cavity dilated/separated to facilitate the easy insertion of the plantable, material into the created site with the help of a sliding device. Also the "stopper" arrangement is created as an integral part of the groove or along the common surface of the groove and/or the wedge of the transplanter.

MIND CRACKER

To write title and abstract read complete question in 15 minutes.

To write claims focus on summary and description.

The main object of the invention is to provide a functionally cost effective manually opted of perform in harvesting, as well as plantation, of wide range of plant able materials into diverse substrates at enhanced plantation speeds— -maintaining follicular integrity resulting in better yield. Another object of the invention is to provide an instrument for silent non-traumatic hair transplantation that ensures feather touch non-traumatic method of picking up the hair follicle by its extra cuticle part of hair 'from the cool isotonic solution and inserting them in the loading slot of suitable size in a device avoiding the drawbacks of grabbing, holding, pinching, dragging, pushing and drying.

Claim

Claim 2

The device comprises of a solid or hollow elongated structured transplanted of an appropriate length, width, wall thickness and shape longitudinally developing into a Slotted groove of an appropriate length, width and shape having a wider slot as loading/unloading area. This extends to a narrower slot as a retaining area further developing into a wedge shaped structure at its end portion. This wedge may be of appropriate length, width and shape having sharpened edges to enable piercing a substrate for harvesting and/or planting to appropriate depth determined. The penetration can be controlled by a "stopper" located at appropriate positions along the surface of the transplanter. This transplanter positions along the transplanter having optional attachment to maneuver the transplanter

Claim 3

Claim 4

Claim 5

ANSWER 2

I / We claim-

1. A device for harvesting and planting of wide range plantable materials into diverse substrates.
2. A device as claimed in claim 1 is used for non traumatic hair transplantation.
3. A device claimed in claim 1, comprises of solid or hollow elongated structured transplanter of appropriate length, width, wall thickness and shape.
4. A device as claimed in claim 3 , contains wedge to enable piercing a substrate for harvesting or planting at appropriate length.
5. As claimed in claim 4 , penetration is controlled by stopper at appropriate length.

TITLE-A device for hair transplantation.