

Sections 6-8 of the Indian Patents Act: A Guide to Patent Applications

The Indian Patents Act, 1970 lays down a comprehensive framework for protecting inventions and ensuring that the rights of inventors are recognized. One of the most crucial aspects of the Act is determining **who is entitled to apply for a patent**. Sections 6 to 8 of the Act, under the heading “*Persons Entitled to Apply for Patents*”, specify the eligibility criteria for applicants, the concept of the **true and first inventor**, and how rights may be assigned or shared.

The infographic is titled "Sections 6-8: True and First Inventor, Assignment, Joint Applications in Patent Law". It features a blue background with various icons and text boxes. At the top left, there is an icon of a book labeled "LAW" and a gavel. At the top right, there is an illustration of three people (two men and one woman) looking at a document, with one man holding a glowing lightbulb. The infographic is divided into several sections:

- Who Can Apply?**
 - True & First Inventor
 - Assignee of the Inventor
 - Legal Representative of Deceased Inventor
- Foreign Filings Disclosure**
 - Mandatory Reporting of Overseas Applications
- Key Concepts:**
 - True & First Inventor: The Original Creator
 - Patent Assignment: Transfer of Rights
 - Joint Applications: Multiple Inventors
- Joint Inventorship:**
 - Equal Rights for Joint Inventors

At the bottom, there are social media hashtags: #PatentLaw #TrueAndFirstInventor #PatentAssignment #JointApplications. Below these are three bullet points: • V. Manicka Thevar v. Star Plough Works • Chemtura Corporation v. Union of India • Indian Patents Act, 1970.

Imagine a scientist develops a breakthrough formula, but the patent is filed by their employer. Who truly owns the invention? Sections 6 to 8 of the Patents Act resolve such dilemmas by defining inventorship, assignment, and joint ownership.

These provisions ensure that the person who genuinely contributes to an invention gets the rightful recognition and legal protection, while also accommodating practical situations such as assignments and joint inventions.

Section 6: Persons Entitled to Apply for Patents

Section 6 of the Patents Act defines who can apply for a patent in India. The following persons are eligible to file an application:

1. **The true and first inventor of the invention.**
2. **An assignee of the true and first inventor.**
3. **A legal representative of a deceased inventor or assignee.**

It's important to distinguish between inventorship and ownership. The 'true and first inventor' is the person who *conceives* the invention, while ownership can be transferred through assignment or employment contracts. The section ensures that the right to apply originates only from the person who has contributed intellectually to the creation of the invention. This prevents exploitation by individuals or organizations who had no role in the inventive process.

However, there is one clear limitation:

A person who merely discovers a scientific principle or an abstract theory cannot be considered the "true and first inventor."

This provision aligns with the objective of promoting genuine innovation while discouraging claims based on mere discovery or theoretical ideas.

Meaning of "True and First Inventor"

The term "true and first inventor" has not been precisely defined in the Act, but judicial interpretations and practice provide clarity. It generally refers to the **actual deviser of the invention**, i.e., the person who contributes to the inventive step.

Key characteristics of a true and first inventor:

- Must be the person who has **conceptualized and created** the invention.
- Cannot be someone who has merely imported the invention from another country.
- Should not be a person who only supervised or funded the work but did not contribute intellectually.

For example, if a research scientist in a company develops a new chemical compound, the scientist is the *true and first inventor*, not the company itself. However, the company may become the *assignee* through a legal transfer of rights.

Judicial Reference:

In **V. Manicka Thevar v. Star Plough Works (AIR 1965 Mad 327)**, the Madras High Court observed that the “true and first inventor” is the person who actually devises the invention and not one who merely follows instructions or replicates an already known process.

Section 7: Form and Content of the Patent Application

Section 7 lays down how a patent application should be made. While this section deals mainly with procedural aspects, it also relates closely to Sections 6 and 8 since it clarifies **who can file** and **what details must be included** in the application.

Key Requirements:

- Every application must be made in the **prescribed form (Form 1)** and **filed in the patent office**.
- The application must include the **name of the applicant, title of the invention, and declaration of the inventor’s identity**.
- If the applicant is **not the inventor**, a **proof of assignment** or a declaration of right must be submitted, showing how the applicant derived rights from the true and first inventor.

The prescribed form is **Form 1**, which includes a declaration of inventorship and, if applicable, details of assignment. This ensures that the applicant has a legitimate claim to file the patent. This provision ensures transparency and prevents false claims of ownership over an invention.

Example:

If an employee invents a product during the course of employment, the employer can apply for a patent as an *assignee*, but must include a **declaration of assignment** signed by the inventor.

Section 8: Information and Undertaking Regarding Foreign Applications

Section 8 ensures that the Indian Patent Office is kept informed about any corresponding patent applications filed outside India for the same or substantially the same invention.

This provision serves two important purposes:

1. **To prevent double patenting or conflicting rights** in different countries.
2. **To maintain transparency** between the applicant and the patent office.

Key Obligations under Section 8:

- The applicant must submit details of **any foreign patent applications** filed for the same invention.
- An **undertaking** must be given that the applicant will keep the Controller informed about the progress or status of such foreign applications.
- Failure to comply with Section 8 can result in **refusal or revocation of the patent**, as it is a statutory obligation.

Applicants typically fulfill this requirement by submitting **Form 3**, which must be updated periodically as foreign applications progress.

Case Law:

In **Chemtura Corporation v. Union of India (2009)**, the Delhi High Court held that non-disclosure of foreign patent details as required under Section 8 could be a valid ground for revocation of a patent. The court emphasized the importance of good faith and full disclosure by applicants.

Joint Applications

The Patents Act also recognizes that inventions may be made **jointly by two or more persons**.

In such cases:

- All the inventors can apply **jointly** for a patent.
- Their rights are considered **equal**, unless otherwise specified in an agreement.
- The patent can also be assigned jointly to multiple assignees.

This provision encourages collaborative research and ensures that all contributors receive due recognition.

Example:

If two scientists jointly develop a new medical device, both can be registered as joint inventors and enjoy equal patent rights. However, if one sells his share of the rights, the other continues to hold his portion unless otherwise agreed.

To avoid future disputes, joint inventors should execute an agreement outlining ownership shares, licensing rights, and decision-making authority.

Practical Significance

Sections 6–8 together create a **foundation for rightful patent ownership**. They ensure that:

- The actual creator of the invention is protected.
- Assignments and transfers are done transparently.
- The Indian Patent Office has full knowledge of foreign filings, preventing misuse of the system.

These sections uphold the **integrity of the patent system**, ensuring that innovation is rewarded while maintaining accountability.

| Section | Focus | Key Points |
|---------|--------------------|--|
| 6 | Who can apply | Inventor, assignee, legal representative |
| 7 | Application format | Form 1, inventor declaration, assignment proof |
| 8 | Foreign filings | Disclosure via Form 3, ongoing updates |

Conclusion

Sections 6 to 8 of the Indian Patents Act, 1970 are central to determining *who has the right to apply for a patent and how such rights are to be managed or transferred*. By defining the roles

of inventors, assignees, and joint applicants, these provisions ensure fairness, transparency, and protection for intellectual contributions.

As India's innovation ecosystem grows - especially in AI, biotech, and collaborative research - these provisions will play a vital role in ensuring fair recognition and legal clarity. The philosophy behind these sections reflects a balance between **individual creativity** and **institutional or collaborative innovation**, forming the ethical backbone of the Indian patent regime.

References

1. The Patents Act, 1970 (as amended up to 2023) – Sections 6, 7, and 8.
2. V. Manicka Thevar v. Star Plough Works, AIR 1965 Mad 327.
3. Chemtura Corporation v. Union of India, 2009 (41) PTC 260 (Del).
4. Indian Patent Office Manual of Patent Practice and Procedure, 2019.
5. WIPO Guide to Patent Law and Practice, World Intellectual Property Organization.

#PatentLaw #IndianPatentsAct #TrueAndFirstInventor #PatentAssignment #JointApplication
#IntellectualProperty #PatentRights #LegalBlog #InnovationProtection

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