

# Patent Cease and Desist Letter Template (India)

Formal notice demanding cessation of patent infringement under the Patents Act 1970

## HOW TO USE THIS TEMPLATE

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| 1. | This document: Patent Cease and Desist Letter Template (India). |
| 2. | Fill all bracketed fields before use.                           |
| 3. | Template only — not a substitute for qualified legal advice.    |

## 1. STRATEGIC CONSIDERATIONS BEFORE SENDING

**Should You Send a C&D; First?** A patent C&D; is not always the optimal first move. Consider: (a) Patent strength — a C&D; invites a post-grant opposition; only send if your patent can withstand an invalidity challenge; (b) Licensing preference — if you want a licensing relationship, a softer 'licensing enquiry' letter may be more commercially productive than a threatening C&D; (c) Urgency — if the infringement is causing immediate and severe commercial harm, file the infringement suit and IA application simultaneously rather than waiting for a C&D; response; (d) Evidence — collect all infringement evidence before sending the C&D;, as the infringer may modify or destroy evidence once alerted.

**Have the Letter Attorney-Reviewed.** A poorly drafted C&D; can: create admissions about your own patent's scope; trigger an immediate invalidity challenge; make unrealistic demands that undermine your negotiating position; or contain procedural errors that weaken your infringement case. Have every patent C&D; reviewed by your patent advocate before sending.

**Delivery Protocol.** Send simultaneously by: registered post with acknowledgement due (RPAD) to the infringer's registered office address — creates legal proof of delivery; AND email to the infringer's legal counsel or CEO with read receipt. Both delivery records must be retained. For companies, address to both the registered office and to the CEO or Managing Director personally.

## 2. LETTER CONTENT FRAMEWORK

**Opening.** State that you write as counsel for [Patent Owner Company Name] and that this letter concerns infringement of Indian Patent No. [INXXXXXX] titled '[Title]', granted on [Date] by the Controller General of Patents, Designs and Trade Marks.

**Patent Description.** Describe the patent in 2–3 sentences: 'The Patent protects [brief description of the invention]. The key claims include [brief description of Claims 1 and 2].' Attach the Patent Grant Certificate as Exhibit A.

**Infringement Identification.** Identify the infringing product or process specifically: 'Your product [Product Name / Model No.], available at [URL / retail location], infringes one or more claims of the Patent. A claim chart demonstrating this infringement is attached as Exhibit B.' Do not be vague — specificity shows you have done the analysis and strengthens your position.

**Relief Demanded.** State each demand clearly with a specific deadline: (1) Immediate cessation of all manufacture, import, export, sale, and distribution of the infringing product; (2) Removal of all infringing products from sale online and offline within 7 days; (3) Written undertaking to cease and desist from further infringement within 14 days; (4) Full account of all profits earned from infringing activity; and (5) Payment of damages to be quantified. Total

deadline: 21 days from the date of this letter.

**Consequences.** State: 'If we do not receive satisfactory assurances within 21 days, [Company Name] will commence proceedings in the appropriate High Court for, inter alia: a permanent injunction; interim injunction; damages; account of profits; delivery up and destruction of infringing goods; and costs. We may also apply urgently for an interim injunction without further notice.'

### 3. AFTER SENDING — MANAGING RESPONSES

**If Positive Response.** The recipient may agree to cease, seek a licence, or propose settlement. For cessation: obtain a written undertaking (a signed deed, not just email) specifying what will stop and by when, confirmed by an advocate. For licensing: engage your patent attorney for term sheet negotiations — start from fair market rates, not a discounted 'nuisance settlement'.

**If No Response.** After the deadline expires without response: send a final reminder with a 7-day extension; then file the infringement suit with the interim injunction application at the appropriate High Court. The court will consider the C&D; correspondence as evidence of notice and continued willful infringement.

**If Invalidity Challenge Threatened.** The recipient may threaten a post-grant opposition as a defensive strategy. Assess: how strong is their invalidity argument? Involve your patent attorney immediately. An invalidity challenge does not stop infringement proceedings — both run simultaneously. Continue pursuing the infringement suit while instructing your attorney to prepare for the opposition.

**Documentation of the C&D; Process.** Maintain a complete file: the C&D; letter and all exhibits; proof of delivery (RPAD acknowledgement and email receipt); all responses and correspondence; and the ultimate outcome. This file is critical evidence in the infringement suit and for any subsequent insurance claim.

### 4. FIELDS TO COMPLETE — CHECKLIST

- Patent No. [INXXXXXX] — confirmed in force and owned by Company
- Title of patent — as it appears in the IPO grant certificate
- Grant date — from the patent grant certificate
- Infringing product name and model number — specific and identifiable
- URL or retail location of infringing product
- Exhibit A — Patent Grant Certificate — attached
- Exhibit B — Claim Chart — completed and attached
- Exhibit C — Evidence of infringement — purchase receipts / screenshots
- Infringer's registered office address — confirmed from MCA21 / DGFT
- Infringer's CEO / MD name — for personal addressee
- Response deadline date — 21 days from dispatch
- Letter reviewed by patent advocate before sending

#### IMPORTANT NOTE

Working template for Patent Cease and Desist Letter Template (India). Verify requirements with a qualified IP advocate before use.

## MANAGING THE C&D; PROCESS AND FOLLOW-ON STRATEGY

**Parallel Track: Civil Suit Preparation.** From the moment you send the C&D; letter, your litigation team should be simultaneously preparing the infringement suit. Preparing the suit while waiting for a C&D; response ensures that: if the infringer does not respond, you can file within days of the deadline expiring; if the infringer responds with bad faith (denials or threats), you are ready to act immediately; and the period of infringement between the C&D; and the suit filing is minimised. Courts consider delay in filing after a C&D; letter when assessing equitable remedies.

**Multiple Infringers.** If the infringing product is distributed or sold by multiple parties (manufacturer, importer, distributors, retailers), you may send C&D; letters to all of them simultaneously. This approach: puts all parties in the distribution chain on formal notice; may cause downstream distributors to stop stocking the infringing product voluntarily; and establishes notice for damages purposes for all parties. Prioritise the manufacturer or importer who is at the root of the infringement.

**Cross-Border Infringement.** If the infringer is overseas or imports infringing products: send the C&D; to the Indian importer and distributor (within Indian jurisdiction); simultaneously record your patent with Indian Customs for border enforcement; and if the manufacturer is in a foreign country, consider whether to engage local counsel for a parallel C&D; under the laws of that country. A coordinated multi-jurisdiction C&D; campaign is appropriate for large-scale cross-border infringement.

**Preserving Settlement Options.** A C&D; letter should leave the door open for commercial resolution. Include language such as: 'We remain open to discussing a mutually satisfactory resolution, including a licence under the Patent, and invite you to contact us within the response period if you wish to explore such options.' This preserves your commercial flexibility while maintaining the firmness of the legal demand. Some infringers who would dig in against a pure threat become cooperative when licensing is explicitly offered.

## INDIAN PATENT OFFICE — OPERATIONS AND BEST PRACTICES

The Indian Patent Office processes approximately 50,000 applications annually, with technology and pharmaceutical applications dominating filings. Understanding the IPO's examination guidelines and the specific examiners assigned to your technology area can meaningfully improve prosecution outcomes. Examination is conducted by technical examiners with engineering or science backgrounds — drafting

claims with technical precision and providing detailed technical rebuttals to objections is more effective than purely legal arguments. Each First Examination Report (FER) must be responded to within 6 months from issuance, extendable to 9 months on request with a fee. Extensions must be applied for before the original deadline expires. A failure to respond within the extended period results in th

e application being deemed to have been abandoned. On receiving a FER: read every objection carefully; prepare a technical rebuttal addressing each objection specifically; consider whether claim amendments are appropriate to distinguish the prior art cited; and brief your patent advocate fully on the technical distinctions between your invention and the cited prior art. The prosecution history of

a patent — all FERs and responses — is part of the public record and becomes relevant in infringement and invalidity proceedings (prosecution history estoppel). Avoid making admissions in FER responses that unnecessarily limit claim scope. For international applications filed through PCT and entering the Indian national phase, be aware that the PCT international search report and written opinion a

re considered during Indian examination. A positive PCT search report (where the ISA found no relevant prior art) facilitates Indian examination. A negative PCT search report does not prevent grant in India but requires specific technical arguments distinguishing the cited references.