

Patent Licensing Audit Checklist (India)

Annual audit checklist for patent licence compliance as licensor and licensee

HOW TO USE THIS TEMPLATE

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

1. AUDIT SCOPE AND TIMING

Coverage. This checklist covers all active patent licensing arrangements: outbound licences (Company as licensor); inbound licences (Company as licensee); and cross-licences. Conduct annually at financial year-end. The audit verifies: royalty payment accuracy; licence scope compliance; patent validity maintenance; and ongoing commercial relevance of each arrangement.

Materiality Tiers. Tier 1 (more than Rs. 50 lakhs annual royalty): full audit with independent financial verification. Tier 2 (Rs. 10 to 50 lakhs): documentary review and management representation. Tier 3 (less than Rs. 10 lakhs): written management confirmation of compliance. All licences regardless of value: annual patent status check and scope compliance review.

Audit Team. IP Manager leads. Support from: Finance (royalty verification); Engineering (technical scope compliance); Legal counsel (material compliance issues). Document the audit team and responsibilities for each licence reviewed.

2. OUTBOUND LICENCE AUDIT

Royalty Verification. For each licensee: obtain quarterly royalty reports for the full audit period; cross-reference reported revenues against available third-party data; request a sample of underlying invoices; verify all contractually permitted deductions; recalculate royalties independently and compare. A variance of more than 5% warrants a formal royalty audit letter.

Scope Compliance. Verify: field of use (licensed products within agreed field?); territory (products sold only in authorised markets?); sublicensing (sublicences granted without required approval?); and product marking (licensed products marked with patent number where required?).

Minimum Royalty Enforcement. If the licence includes minimum annual royalties: confirm minimums were met; if not, assess whether this is a contractual breach; issue a formal payment demand within the cure period. Repeated failures to meet minimums may justify termination.

Improvement IP Review. Check whether the licensee has made improvements to the licensed technology: have improvements been reported as required?; do improvements fall within an improvement licence-back provision?; has the Company considered whether licensee improvements should be pursued as new Company IP?

3. INBOUND LICENCE AUDIT

Scope Compliance. Review each inbound patent licence: is the Company using the patent only within the authorised field and territory?; are products used for authorised purposes only?; have any sublicences been granted inadvertently?; and are royalty payments accurate and timely?

Patent Status Verification. For each inbound licence: confirm the licensed patent is granted and in force; confirm renewal fees have been paid by the licensor; and check for any post-grant opposition or revocation proceedings against the licensed patent.

Change-of-Control Triggers. Review each inbound licence for change-of-control provisions: identify licences requiring notification or consent on fundraising, acquisition, or restructuring; brief CEO, CFO, and M&A; counsel on any such licences well before any transaction; negotiate consent or waiver proactively.

4. FINDINGS AND REMEDIATION

Findings Classification. Critical (immediate action): royalty underpayment more than 10%; scope violation; patent lapse risk; unlicensed sublicense. Important (action within 30 days): underpayment 5 to 10%; documentation gaps; missing minimum royalty. Minor (action within 90 days): administrative issues; record-keeping improvements.

Remediation Actions. Critical findings: formal demand letters; IP counsel engaged; termination rights assessed; CEO and Board escalation. Important findings: cure notices with clear deadlines; process improvements documented. Minor findings: next licence review agenda; internal process updates.

Audit Report. Prepare a written Audit Report for each licence reviewed. File with IP Manager. Share Tier 1 findings with CFO and CEO. Retain audit reports for 7 years.

Commercialisation Opportunities. Review all patents not currently licensed for licensing potential. Identify top 3 new licensing targets for the coming year and brief the business development team.

IMPORTANT NOTE

Working template for Patent Licensing Audit Checklist (India). Verify requirements with a qualified IP advocate.

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.

LICENSING REVENUE FORECASTING AND PORTFOLIO VALUATION

Patent licensing is one of the most reliable ways to monetise an IP portfolio without operational investment. For Indian startups, outbound patent licensing revenue can meaningfully supplement product revenue and is particularly attractive to investors as a signal of patent quality and enforceability. To build a licensing revenue forecast: identify all granted patents in the portfolio and assess e

ach for licensing potential based on the technology, its adoption in the market, and the availability of potential licensees; research comparable royalty rates in the relevant industry sector using published benchmarks from academic databases such as IPvalue, ktMINE, or Royaltystat; estimate the number of potential licensees and the average royalty per licensee; and build a 3-year licensing revenue

e model to present to the IP Committee and Board. Patent valuation is required for IP-backed financing, M&A; transactions, and investor reporting. The three standard valuation methodologies are: the income approach (net present value of future royalty streams — most appropriate for licensed or licensable patents); the market approach (comparable transactions involving similar patents — requires acc

ess to comparable transaction data); and the cost approach (cost of creating an equivalent IP portfolio — used for insurance and accounting purposes). Engage a qualified IP valuation professional (a Registered Valuer with IP expertise under the Companies Act 2013) for any formal valuation. The IP Manager should maintain an internal estimate of the portfolio's approximate value using the income app

roach as a minimum, updated annually. This internal estimate informs licensing negotiation positions, insurance coverage limits, and IP-backed financing applications. Track licensing KPIs quarterly: number of active licences; total annual royalty income; royalty income as a percentage of total revenue; average royalty rate by technology area; and new licences signed in the period. These KPIs are i

ncreasingly reported in startup investor updates as evidence of IP portfolio health and commercial momentum.

ROYALTY AUDIT RIGHTS AND CROSS-LICENCE MANAGEMENT

ROYALTY AUDIT RIGHTS AND DISPUTE RESOLUTION. Most well-drafted patent licence agreements include an audit rights clause entitling the licensor to inspect the licensee's financial records to verify royalty calculations. The standard audit right: allows the licensor to appoint a reputable firm of chartered accountants to audit the licensee's records once per calendar year on reasonable notice (typically 30 days); requires the licensee to cooperate and provide access to all relevant records includi

ng sales invoices, manufacturing records, import and export documentation, and ERP system data; requires the licensee to pay the cost of the audit if the audit reveals an underpayment of more than 5 percent; and covers records going back 3 years (the typical limitation period for contractual claims in India). When conducting an audit: engage a Big 4 or reputable mid-tier accountancy firm with commercial contract audit experience; brief the auditors on the royalty calculation mechanics specific t

o this agreement; provide the auditors with your own royalty estimates based on external market data; accompany the auditors if permitted under the agreement; and review the draft audit report carefully before it is finalised. If the audit reveals an underpayment: send a formal demand letter specifying the shortfall amount, interest accrued (at the contract rate or at the applicable statutory rate under the Indian Contract Act if no rate is specified), and the audit costs to be reimbursed; give

a 30-day cure period; and if payment is not received, escalate to arbitration or litigation as specified in the dispute resolution clause. Interest on late or underpaid royalties compounds quickly and is often larger than the principal underpayment in long-running disputes. Enforce promptly rather than allowing arrears to accumulate. **CROSS-LICENCE MANAGEMENT.** Cross-licences are a specific type of patent licence arrangement in which each party grants the other a licence to its respective patents

in exchange for a licence back. Cross-licences are common outcomes of patent disputes, freedom-to-operate negotiations, and technology partnership discussions. Managing a cross-licence in the annual audit requires: confirming that both parties are complying with the scope of the licences granted in both directions; assessing whether the technology balance has shifted (one party may have filed new patents that increase the value they are providing under the cross-licence while the other's portfol

io has declined in relevance — this may trigger renegotiation); and monitoring for change-of-control events that may affect the cross-licence's continuance.