

# PCT International Patent Application Guide (India)

Step-by-step guide to filing a PCT application from India for international patent protection

## HOW TO USE THIS TEMPLATE

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| 1. | This is a working document for international ip documents — fill in all bracketed fields before use. |
| 2. | Review annually or whenever relevant laws, regulations, or business circumstances change.            |
| 3. | Keep a signed copy on file and ensure the IP Manager has the current version.                        |
| 4. | Template only — not legal advice. Consult a qualified IP advocate for your specific situation.       |

## 1. WHAT IS THE PCT AND WHY USE IT

**1.1 PCT Overview.** The Patent Cooperation Treaty (PCT) is an international treaty administered by WIPO that allows a single 'international application' to be filed in up to 157 member countries simultaneously. The PCT does not grant patents — patents are still granted by national patent offices. What the PCT provides is: (a) a single filing date that is recognised as the priority date in all designated countries; (b) an International Search Report (ISR) and Written Opinion that provide early indication of patentability; and (c) up to 30 months (from the priority date) to decide which national phases to enter, giving time to assess commercial value before incurring national phase costs.

**1.2 PCT vs Paris Convention.** Both PCT and Paris Convention provide routes to international patent protection. Paris Convention route: file nationally in each country within 12 months of priority date — each filing is independent and costs must be paid upfront. PCT route: file one international application within 12 months, enter national phases by 30 months — defers national costs and provides ISR before national phase decisions. PCT is preferred for broad international protection; Paris Convention is cost-effective for a small number of countries.

## 2. PCT FILING FROM INDIA — STEP BY STEP

**2.1 Filing at CGPDTM.** Indian residents file PCT applications at the Controller General of Patents, Designs and Trade Marks (CGPDTM) in New Delhi or directly through WIPO's ePCT system. The filing fee has two components: the international filing fee (paid to WIPO in CHF) and the transmittal fee (paid to CGPDTM). Indian startups pay the same DPIIT-reduced fees for the CGPDTM transmittal fee.

**2.2 Key PCT Deadlines.** PCT Month 1: File PCT application — includes request (Form PCT/RO/101), description, claims, abstract, drawings. PCT Month 12–16: International Search Report received. PCT Month 18: International Publication (application published worldwide). PCT Month 22–28: File a Demand for International Preliminary Examination (IPEA) to obtain a more detailed patentability assessment (optional). PCT Month 30: Enter national/regional phases in each desired country — pay national fees and provide translations where required. **CRITICAL:** The 30-month deadline is absolute — missing it means losing the right to patent in a country.

**2.3 National Phase Entry Costs.** Entering the national phase in each country requires: national filing fees (vary widely — US \$1,820, EU €1,775, China CNY 950 approx.); national attorney fees for prosecution; translation costs for non-English countries (Japan, China, Germany, France, Korea — significant cost). Budget Rs. 5,00,000–20,00,000 for entering national phases in 5–8 major markets. Prioritise markets where the technology has commercial value and where the Company plans to operate or license.

### 3. STRATEGY FOR STARTUP PCT FILINGS

**3.1 Selective National Phase Entry.** The PCT's main benefit for startups is time — 30 months to decide which markets justify the cost of national phase entry. Use the ISR to assess patentability before committing to national phase costs. Typical national phase strategy for Indian startups: India (mandatory), USA (largest technology market), possibly EU or specific European countries (Germany, France, UK), sometimes China (large market but enforcement challenges). Consider the actual markets where infringement would hurt you, not just aspirational markets.

**3.2 Using the ISR for Prosecution Strategy.** The International Search Report identifies prior art found by the international searching authority. A favourable ISR (finding few relevant prior art references) is a strong signal for patentability and can be used to accelerate national phase prosecution. An unfavourable ISR signals that claims may need amendment before national phase entry. Review the ISR with your patent attorney before entering national phases — it may indicate the need to narrow or refocus claims.

**3.3 DPIIT Benefits for PCT.** DPIIT-recognised startups receive 80% reduction on the CGPDTM transmittal fee for PCT applications. However, the WIPO international filing fee (the larger component) is payable at standard rates. For the Indian national phase, startup fee reductions apply. Apply your DPIIT recognition status wherever applicable to minimise costs.

## COST MANAGEMENT AND NATIONAL PHASE ENTRY STRATEGY

**4.1 Total Cost of a PCT Application.** The cost of a PCT application covers two phases: International Phase (WIPO fees): approximately CHF 1,800–2,500 for a standard application in the Indian Patent Office's competency; plus attorney fees for drafting the international application. National Phase (per country): USPTO (US) approximately USD 2,000–4,000 attorney + USD 1,820 filing fee; EPO (Europe) approximately EUR 4,000–8,000 attorney + EUR 1,775 filing fee; CNIPA (China) approximately CNY 10,000 attorney + CNY 950 filing fee; CGPDTM (India) Rs. 4,400 filing fee (startup rate) plus attorney fees. Total cost for 5-country national phase entry: approximately Rs. 25,00,000–50,00,000 depending on prosecution complexity.

**4.2 Prioritising National Phase Countries.** Not every invention warrants global patent protection. Use the following criteria to prioritise national phase entry: (a) Market size and commercial potential — does the Company plan to sell in this country or license to a company there? (b) Manufacturing risk — are competitors likely to manufacture infringing products in this country? (c) Enforcement track record — does this country have reliable patent enforcement? (d) ISR results — does the invention have a strong novelty and inventive step position in this technology area globally? For most Indian startups, the priority order is: India, USA, and possibly one of EU/UK/China/Japan depending on the specific business.

**4.3 Utilising the ISR for Prosecution Efficiency.** The International Search Report (ISR) from the international searching authority (typically the Indian Patent Office, EPO, or USPTO) identifies prior art found in a global patent search. A favourable ISR (finding only Category A references — prior art that is not novelty-destroying) significantly strengthens the patent's position in national phases and can be cited to examiner as prima facie support for the invention's patentability. An unfavourable ISR (Category X references — anticipating the main claim) indicates that claim amendments will be necessary in national phases — the PCT process provides an opportunity to make these amendments before entering national phases.

**4.4 Chapter II International Preliminary Examination.** The optional Chapter II procedure under the PCT (filing a Demand for International Preliminary Examination by month 22 from priority date) provides an International Preliminary Report on Patentability (IPRP Chapter II), which is a more detailed examination of the amended claims. This is most useful when: the ISR identified significant prior art and the applicant wants to test amended claims before committing to expensive national phase entry; or the applicant wants to start national phase prosecution with a favourable preliminary examination record.

## INDIA-SPECIFIC PCT PROCEDURAL GUIDANCE

**5.1 Receiving Office at CGPDTM.** Indian residents file PCT applications at the CGPDTM as the Indian Receiving Office. The CGPDTM checks formality requirements and transmits to WIPO and the International Searching Authority. Use the CGPDTM's e-filing portal for faster processing. Key formality requirements: the request must be in Form PCT/RO/101 (available on WIPO's website or ePCT); description, claims, abstract, and drawings must be submitted; a declaration of inventorship (Form PCT/GL/RO/101 Annex or national form) must be included; and powers of attorney for any agents must be attached. Maintain copies of all submitted documents for future reference.

**5.2 Sequence Listings and Biological Material Deposits.** PCT applications for biotechnology and pharmaceutical inventions may require sequence listings (for nucleotide or amino acid sequences) in WIPO ST.26 XML format, or deposits of biological material at recognised International Depository Authorities (IDAs). India has several recognised IDAs including the Microbial Type Culture Collection (MTCC) at IMTECH, Chandigarh. If your PCT application involves biological material that cannot be fully described in the specification, plan for IDA deposit before the filing date.

**5.3 Divisional PCT Applications.** A PCT application can only cover one invention (the unity of invention requirement). If the PCT application covers multiple inventions that the international searching authority considers non-unified, a supplemental search fee may be required. If the Company wishes to protect multiple separate inventions from a single PCT filing, divisional PCT applications can be filed — each divisional shares the original priority date. Plan divisional strategy with your patent attorney when the ISR is received.