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INTERFACE OF ARTIFICIAL INTELLIGENCE WITH PATENT LAWS IN INDIA

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INTRODUCTION

Patent Act, 1856[1]

In the 1300s, the first person to uncover resources in the Alps created property rights for mining, logging, and water. This discovery was particularly significant. Throughout the course of the competition, distinctive advantages were bestowed onto those who produced anything of value. In the year 1409, a German was awarded the first patent for the construction of a model industrial mill. The British were told that they could not have a monopoly on the sale of playing cards since it was evident. The first English patent for the production of stained glass was granted to John of Utynam, and it was valid for a term of twenty years. It was around this period that the French made improvements to the system by registering and testing it. An invention known as a "hopper boy" for a grain elevator was granted a patent in the United States to Oliver Evans.

The United Kingdom Act of 1852 served as the basis for the first piece of patent-related law in India, which was enacted in 1856 and was known as Act VI. This piece of legislation was enacted with the intention of encouraging the invention of novel and practical items, as well as convincing inventors to reveal the trade secrets concealed within their creations. The Act was ultimately repealed by Act IX of 1857 due to the fact that it had been enacted without the approval of the British Crown. In the year 1859, a new piece of law known as Act XV of 1859 was presented to the public in order to give "exclusive privileges." The previous legislation was amended by this act, which expanded the priority period from six months to twelve months and restricted the issuance of exclusive privileges to inventions that were of significant value. In order to fulfil the requirements of this Act, importers were not regarded to be inventors.

[1] *The Patent Act, 1856* (Act VI of 1856).

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The Patterns and Designs Protection Act, 1872[2]

The Act of 1859 was consolidated in 1872 to offer protection for designs. Act XIII of 1872 changed its name to "The Patterns and Designs Protection Act." The Act of 1872 was further revised in 1883 (XVI of 1883) to provide a provision to protect the uniqueness of inventions that were previously disclosed in the Exhibition of India and before making an application for their protection. After the date of the inauguration of the Exhibition, a grace period of six months was given for submitting such applications. This Act remained in effect for roughly 30 years without any changes, but in 1883, after changes were made to the patent law in the United Kingdom, it was decided that the Indian legislation should likewise incorporate those changes. Therefore, in order to align the law of invention and designs with the changes made to the U.K. law, an Act was introduced in 1888.

The Indian Patents and Designs Act, 1911[3]

When the Indian Patents and Designs Act, 1911 (Act II of 1911) was passed into law, all of the acts that had come before it was ruled invalid and unenforceable. In 1920, an additional amendment was made to this Act in order to form reciprocal agreements with the United Kingdom and other nations for the purpose of assuring priority protection. This was done in order to ensure that priority protection was provided. During the year 1930, additional modifications were implemented. These modifications included, among other things, clauses that dealt with secret patent grants, additional patents, the government's use of inventions, and the ability of the Controller to repair errors in the patent register, and an increase in the length of the patent from 14 to 16 years. A modification was made in 1945 that required the submission of the entire specification as well as the filing of the provisional specification within a period of nine months. This was a requirement that was necessitated by the revision.

After the country gained its independence, it was believed that the Indian Patents and Designs Act of 1911 was not fulfilling its intended purpose. It was determined that a comprehensive patent legislation would be desirable in light of the considerable changes that have occurred in the political and economic reality of the country. In 1949, the Government of India established a committee with Justice (Dr.) Bakshi Tek Chand, a former judge of the Lahore High Court, as

[2] *Patterns and Designs Protection Act, 1872*, Act 13 of 1872.
[3] *The Patents and Designs Act, 1911* (Act No. II of 1911).

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its head. The purpose of this group was to guarantee that the patent system is beneficial to the interests of the country. The conditions of reference were:[4]

- *"To conduct a survey and report on the functioning of the patent system in India; to investigate the existing patent legislation in India and to make suggestions for its improvement, particularly with regard to the provisions that are concerned with the prevention of abuse of patent rights;*
- *to consider whether any special restrictions should be imposed on patents pertaining to food and medicine; and to report on the findings of the survey and report.*
- *To make recommendations for the implementation of measures that will ensure effective publicity to the patent system and to patent literature, with a particular focus on patents obtained by Indian inventors;*
- *To investigate the necessity and practicability of establishing a National Patents Trust;*
- *To investigate whether or not it would be desirable to regulate the profession of patent agents."*

For the purpose of enabling the Indian Patent System to be more conducive to national interest by encouraging invention as well as the commercial development and use of inventions, the Committee will:

- *"To examine the functioning of the Patent Office and the services that it provides to the general public, and to make appropriate recommendations for improvement; and*
- *To report generally on any improvement that the Committee believes it is appropriate to recommend".*

The committee's interim report was released on August 4, 1949. It included ideas for changing sections 22, 23, and 23A of the Patents and Designs Act, 1911, in order to bring them in line with the UK Acts of 1919 and 1949. Additionally, the committee made recommendations for preventing the misuse or abuse of patent rights in India. A further point that was brought up by the committee was that the Patents Act ought to make it abundantly apparent that things like food, medication, and surgical and curative devices ought to be made accessible to the general people at the most affordable prices feasible, while at the same time giving the patentee with sufficient compensation.

[4] Office of the Controller General of Patents, Designs & Trade Marks, Government of India, *History of Indian Patent System*, available at https://ipindia.gov.in/history-of-indian-patent-system.htm, last seen on 24 April 2025.

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Based on the above recommendation of the Committee, the 1911 Act was amended in 1950 (Act XXXII of 1950) regarding the working of inventions and forced licensing/revocation based on the Committee's advice. Other clauses connected to the patent's endorsement with the phrase "licence of right" on a government application so that the Controller might issue licences, with the following amendments in 1952 and a measure was proposed in the Parliament in 1953 based on the Committee's recommendations (Bill No.59 of 1953). However, because the government did not push for the bill's consideration, it was allowed to expire.

The Government of India established the Justice N. Rajagopala Ayyangar Committee in 1957 to investigate the possibility of revising the Patent Law and provide recommendations. Two parts made up the Committee's report, which was delivered in September 1959.[5] The first section addressed general issues of the Patent Law, and the second section included in-depth notes on several provisions of the 1953 failed measures. The first section also discussed the drawbacks of the patent system and offered suggestions for improvement in terms of the law. Despite its flaws, the committee advised keeping the Patent System in place. This report called for significant legal reforms, which served as the inspiration for the Patents Bill of 1965. On September 21, 1965, this measure was introduced in the Lok Sabha, but it was never passed".

The Patents Act, 1970[6]

Following the presentation of a revised draught in 1967, the Joint Parliamentary Committee's final proposal was the impetus for the passage of the Patents Act of 1970 when it was presented. Specifically, this Act repealed and replaced the 1911 Act, which was a statute pertaining to patents. On the other hand, the 1911 Act continued to take into account designs. The majority of the provisions of the 1970 Act became operational on April 20, 1972, when the Patent Rules, 1972 were made available to the public. This Act remained in operation for more than twenty-four years, until December 1994, without any modifications being made to it. With the adoption of an ordinance on December 31, 1994, several changes were made to the Act; however, the ordinance was only in effect for a period of six months. Additionally, in the year 1999, a new ordinance was published. This ordinance was eventually superseded by the Patents (Amendment) Act, 1999, which went into effect retrospectively on January 1, 1995. In spite of the fact that such patents were not allowed, the updated Act made it possible for applications

[5] Rajagopal Ayyangar Committee, *Report on the Revision of the Patent Law*, Government of India, September 1959

[6] *The Patents Act, 1970*, Act 39 of 1970, available at https://legislative.gov.in/actsofparliamentfromtheyear/patents-act-1970, visited on 24 April 2025

to be submitted for product patents in the areas of pharmaceuticals, agrochemicals, and medications. However, following the 31st of December in 2004, these applications were nothing more than going to be evaluated.

The Patents (Amendment) Act, 2002[7]

The Patents (Revision) Act of 2002 made the second amendment to the 1970 Act (Act 38 0f 2002). The older Patents Rules, 1972 were replaced by the new Patent Rules, 2003, which went into effect on May 20, 2003.

The Patents (Amendment) Act, 2005

The Patents (Amendment) Ordinance, 2004 went into effect on January 1, 2005, and it introduced the third amendment to the Patents Act 1970. The Patents (Amendment) Act 2005 (Act 15 of 2005), which went into effect on January 1, 2005, later took the place of this Ordinance. It was passed on April 4, 2005.

TRIPS COMPLIANCE AND AMENDMENTS

The Uruguay Round of GATT trade negotiations ended on December 15, 1993. "Marrakech enforced the World Trade Organization ("WTO Agreement") on April 15, 1994. For the first time, GATT negotiations covered international trade intellectual property rights. An Annexure of the WTO Agreement contained the Trade-Related Aspects of Intellectual Property Rights Agreement" (the "TRIPS Agreement").

On January 1, 1995, the "WTO Agreement went into effect, together with the TRIPS Agreement (which is binding on all WTO Members).[8] The prior accord, the World Trade Organization, which went into effect on January 1, 1995, created a new organization. Prior to being required to implement the TRIPS Agreement, Member States of the WTO were given a predetermined amount of time following the enforcement of the agreement establishing the WTO. The most comprehensive and significant international agreement on intellectual property rights is known as Trade-Related Aspects of Intellectual Property Rights (TRIPS). The agreement is automatically enforceable against all WTO members. The agreement consists

[7] *The Patents Act, 1970* (Act 39 of 1970)
[8] *WIPO Copyright Treaty*, 1996, adopted by the Diplomatic Conference on 20 December 1996, World Intellectual Property Organization (WIPO), available at https://www.jus.uio.no/english/services/library/treaties/14/14_01/wipo.xml, last visited on 24 April 2025.

of most of the forms of intellectual property like patents, copyright, trademarks, trade secrets, geographical indications, industrial designs, and exclusionary rights over new plant varieties".

One of the key agreements for advancing intellectual property on a global scale has proven to be TRIPS. TRIPS provided a global minimum standard for the enforcement and protection of all types of IP, however it omitted to include a global minimum standard for patents. The major goal of intellectual property's trade-related element is to encourage effective and adequate protection of intellectual property rights and to ensure that the policies and practices used to uphold such rights do not inadvertently obstruct lawful trade.

Issues covered by the TRIPS[9]

The manner in which the fundamental laws of the trading system and other international agreements pertaining to intellectual property ought to be applied.

What are the most effective ways to defend intellectual property rights?

How governments should properly execute those rights on their own turf.

How to handle member-to-member intellectual property problems.

In the period that the new system is being deployed, there should be specific transitional measures in place.

Features of the TRIPS[10]

The TRIPS agreement encompasses three primary features, which are as follows:

1. The standard- The primary objective of the trade-related part of intellectual property is to safeguard the subject content.

2. Implementation and compliance- The second element pertains to the enforcement of domestic procedures and remedies, particularly in relation to provisional measures and border measures.

3. Resolution of disputes- The agreement stipulates that any disputes between members of the World Trade Organization over trade-related aspects of intellectual property obligations will be subject to the dispute settlement mechanism of the World Trade Organization.

[9] R K Dewan, 'Basmati Rice Patent Issue', *R K Dewan & Co.*, available at https://www.rkdewan.com/articles/basmati-rice-patent-issue/, last visited on 24 April 2025..
[10] Ibid.

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Obligations under TRIPS Agreement[11]

The TRIPS agreement outlines several important intellectual property principles that are relevant to business. Member States are required to adhere to the Paris Agreement, the Berne Convention, and other WTO agreements, as well as their own criteria for awarding temporary monopolies on intellectual property. The regulations encompass the essential prerequisites for bestowing monopolies on all forms of intellectual property (IP), together with limitations on duration, provisions for enforcement, and protocols for resolving disputes related to IP. Upon the implementation of the TRIPS agreement on January 1st, 1995, all developed countries were granted a one-year period to comply with its provisions. Until the year 2000, developing nations and changing economies were granted a five-year prolongation. As of 2006, the Least Developed Countries (LDCs) were given a period of 11 years to fulfil their obligations. Some nations believe that the long-term goal should be accomplished. The deadline for pharmaceutical patents in some Least Developed Countries (LDCs) has been extended until 2016.

At present, there are 30 Least Developed Countries (LDCs) that are under the governance of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and are also members of the World Trade Organisation (WTO). Additionally, another 10 LDCs are now in the process of becoming members. The principle of Most Favoured Nation (MFN) is now incorporated into the TRIPS Agreement, marking its inclusion in the global discourse on intellectual property rights. According to this ideology, any advantage, kindness, special right, or exemption granted to inhabitants of any other nation must be immediately and unconditionally offered to all other individuals (regardless of membership status), with one specified exclusion. The procedures described in the multilateral agreements signed under the auspices of WIPO regarding the obtaining or preservation of intellectual property rights are exempt from this regulation, similar to how they are for domestic remedies.

These agreements fulfilled both the purpose of the IPR and the goal of setting a minimum standard for its safeguarding. These agreements define a minimum threshold for enforcing intellectual property rights (IPR), allowing right holders to protect their legitimate interests through legal proceedings in civil court or administrative procedures.

New Dimensions and Issues for Resolution

[11] Ibid.

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In the upcoming decades, as technology continues to advance and explore new possibilities, intellectual property rights (IPR) will take on favorable forms to promote innovation and the exchange of knowledge in a highly competitive network. The complex matters in intellectual property rights (IPR), such as:

- The first topic concerns the legal ownership of internet domain names and trademarks, particularly in relation to copyright laws in the online environment.
- The second topic relates to the legal rights connected with traditional knowledge, previous art, material transfer agreements, and bio-prospecting.
- Software applications and patents.
- The convergence of biotechnological progress, ethical dilemmas, and patent issues.
- Compulsory licensing options, border limitations, parallel imports, and erosion of intellectual property rights.
- Regulation of technology exports by the government

PATENT LAW IN INDIA

Liberalization and globalization are characteristics of the modern world. As a result, several nations, including India, which must compete with other nations on the global market, have enacted economic reforms. A nation's development is greatly influenced by patent legislation. More so now that India must compete with wealthy nations like the United States in the World Trade Organization.[12]

A patent is a legally binding document granted by the government to the inventor, granting them the sole authority to sell, produce, utilize, and import the invention for a specified duration after the concept is published. Patents are legally mandated to protect innovators by imposing restrictions on the individuals authorized to market their products on their behalf. The origins of the term "patent" can be traced back to ancient French, Latin, and English. The term "patentem" and "patente" originated in the late 13th century, denoting the concept of an open letter. The phrase acquired its present connotation during the 1580s when it was elucidated as a governmental authorization for the production and commercialization of a certain commodity.

[12] P. Ganguli, 'Intellectual Property Rights: Imperatives for the Knowledge Industry' (2000) 22 *World Patent Information* 167.

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In business, a patent is used to create, market, and sell a product. Patents are used for many of the things that consumers buy. A patent is typically valid for 20 years from the application date once it has been granted by the government. The document that grants a person or company the exclusive right to sell a product is an official government letter patent. Once the patent application has been filed and approved, the patent applicant or vendor may begin collecting royalties for their products.

A royalty is a sum of money given to a product's creator in exchange for the right to use it; it is intended to pay them for their labour.39 A producer of a television advertisement might do this by paying a songwriter royalty for the use of their music in the ad. Patents and royalties are often kept private by businesses using strong agreements and trade secrets, at least until the product is introduced to the market.

Regardless of whether a provisional or complete specification is included in the patent application, the term of all Indian patents is twenty years, beginning on the date of filing. This means that the term begins on the date of filing. On the other hand, the twenty-year period commences on the date of the international filing (PCT) for applications that are submitted in accordance with the Patent Cooperation Treaty.

In principle, the owner of the patent has the sole right to prevent or hinder others from commercially exploiting the invention that has been patented. In other words, the protection afforded by a patent ensures that the invention cannot be manufactured, utilized, disseminated, imported, or sold by third parties without the permission of the registered owner of the patent. By giving innovators exclusive rights to profit from their ideas, the patent system hopes to inspire them to progress technology. Books, films, and works of art cannot be patented, but copyright law offers protection for these types of works.

Novelty and inventive step are fundamental concepts in patent law (or lack of obviousness). They grant the right to forbid anyone from using the innovation for the life of the patent from doing so, including independent creators of the same concept as well as copycats40. Therefore, a patent has the unique ability to be utilized to forbid others from using any kind of invention in their goods and services. Thus, a patent creates significant challenges for its rivals. This is why only industrial advances that are deemed to qualify as patentable inventions are granted patents, rather than all industrial improvements.

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There were several obstacles that the general population of India had to overcome in order to obtain the necessary drugs for human treatment. In the majority of cases, these pharmaceuticals were brought in from other countries. In light of the fact that there is a lack of natural drugs and a significant demand for them, prices are fairly high. External laws had an effect on the local laws that were in place. Some of the most expensive pharmaceuticals in the world were sold in India. The law governing patents is essential because it fosters the development of new technologies. It does this by protecting the rights of those who introduce new ideas, which in turn encourages scientific research and advancement. Patent law is responsible for providing regularization as well as assistance with all aspects of patent registration. Patent law was developed with the primary purpose of ensuring that creativity is unlimited and encouraging people to continue innovating by providing protection for their works. This was the major driver behind the formation of patent law. As a consequence of this, patent law is essential since it functions to protect the rights of innovators. There is widespread recognition of the importance of patents on a global scale. One of the primary objectives of patents was to encourage the development of new technologies, breakthrough scientific discoveries, and industrial advancements. The law about patents grants the inventor a monopoly on the use of their patented products, but it also allows others to use such products with the inventor's permission and for a price.

In the past, the purpose of patent protection was to encourage creative endeavors and the free disclosure of the particulars of ideas that were novel. A temporary monopoly on the use of an invention is granted by patent protection, which provides an incentive for the sharing of ideas. However, inventors may be reluctant to share their ideas because they are afraid that someone else will imitate their creation. Detailed information regarding the invention is included in the application that is available to the general public: 72

- By enforcing the patent to exclude competitors, monopolizing the market, and setting a high price, the inventor can recover the cost of inventing the idea during the period of time that the patent is for protection.
- In exchange for royalties, granting the invention to other individuals under the terms of a licence.
- If a person or company breaches the patent, you have the option of filing a lawsuit to seek damages.
- Making the offer to sell the invention to a third party

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The patent protection system is significantly more robust than other kinds of intellectual property protection, such as copyright. It is only the manner in which an idea is communicated that is protected by copyright; it does not prevent other people from expressing the same thought in different ways.

As an additional point of interest, patents are an efficient method of negotiation. It is possible for a Cooperation to negotiate a zero-sum contract or a lesser license payment if it wishes to make use of a patent that is owned by another company but also possesses patents that the other company may utilize.

The findings made by one scientist have an impact on and provide information to the discoveries made by other scientists. If discoveries were kept a secret, industries would come to a halt; hence, fostering distribution is beneficial for society as a whole as well as for business. A patent grants the person who invented the invention the right to manufacture, use, market, sell, and import the innovation for a period of time that has been established in advance. To put it another way, the person who has the patent has the exclusive ability to prohibit or prevent anyone from making use of the innovation that is protected for commercial purposes. In the absence of authorization from the patent holder, the innovation cannot be manufactured, utilized, distributed, imported, or sold for a profit. It provides protection against patent infringement, which means that the original creator has the ability to pursue legal action against any items that attempt to imitate their innovation or infringe on a patent that has already been issued.

If every single person kept their findings a secret, there is no question that scientific progress would be sluggish. Therefore, it would appear that encouraging people to publish their discoveries is a successful strategy for advancing scientific research and the arts that are beneficial. On the other hand, one of the most effective ways to accomplish this is to share your finding with other people so that they can profit from it.

Patentability and Non-Patentability[13]

The Indian Patent Act stipulates that in order for an invention to be patented, it must possess all of the necessary characteristics that are necessary for patentability.

[13] Effectual Services, 'Section 3 of Indian Patent Act: Importance and Interpretation', available at <https://www.effectualservices.com/section-3-of-indian-patent-act-importance-and-interpretation/#:~:text=Invention(s)%20not%20Patentable&text=The%20patentable%20criteria%20are%20%E2%80%9CNovelty,4%20related%20to%20atomic%20energy>, accessed on 24 April 2025.

According to the conditions for patent eligibility, "Novelty," "Inventive step," and "Industrial Application" are the prerequisites. In addition to satisfying the standards established above, the invention should not fall under Section 3 (which deals with non-patentable subject matter) or Section 4 (which deals with atomic energy).

The Indian Patent Act's Sections 3 and 4 provide definitions for innovations and discoveries that are not eligible for patent protection. A comprehensive comprehension of the extensive range of exclusions from patentability has significant importance for inventors and enterprises endeavoring to obtain intellectual property rights in India. The present study investigates the principal categories of innovations that have been identified as ineligible for patent protection in accordance with the stipulations outlined in the Indian Patent Act.

The focus is on the omissions of mathematical methodologies, computer algorithms, gradual medical progress, and traditional knowledge. This study examines pertinent legal precedents that have raised inquiries regarding the interpretation and limitations of these legislative exclusions. This study aims to elucidate the non-patentable subject matter in relation to the balanced objectives outlined in the Indian Patent Act.

One perspective suggests that the legislation aims to promote genuine innovation. Simultaneously, it endeavors to mitigate the occurrence of monopolies and instances of patent exploitation within domains such as computational methodologies, traditional wisdom, and minor cosmetic modifications. Section 4 is labelled as 'Excluded inventions as defined by this Act,' accordingly.[14] The purpose of these regulations is to prevent monopolies in areas that are considered non patentable according to India's policy objectives by specifying the subject matter that is not eligible for patents. Section 3 explicitly defines "What are not inventions" and clearly specifies that if something does not qualify as an invention, it is considered a non-patentable notion and fails to meet the criteria for patentability. Hence, if a patent application pertains to any of the subsections or groups mentioned in this section, it is not eligible for submission. From Section 3(a) to 3(p), there are a total of 15 subsections. According to Section 3 of the Patents Act, “plants and animals, excluding microorganisms, along with their parts, seeds, variations, and species, as well as essentially biological methods for their production or propagation, are not considered inventions”.[15] The portions that are listed below do not qualify

[14] Prashant Reddy, ‘Non-Patentable Inventions under the Indian Patent Act’, *Mondaq* (19 April 2025), available at https://www.mondaq.com/india/patent/1403916/non-patentable-inventions-under-the-indian-patent-act.
[15] G. Krishna Tulasi & B. Subba Rao, ‘A Detailed Study of Patent System for Protection of Inventions’ (2008) *Indian Journal of Pharmaceutical Sciences* 547–554.

as innovations according to the definitions provided by this Act, and as a result, they are not eligible for patent protection under the Indian Patent Act of 1970. However, the examples are provided solely for the purpose of illustration, and it is not appropriate to draw any inferences from them. Subjective evaluations might be made depending on the circumstances of a particular situation.[16]

CRITICAL ANALYSIS OF SECTION 3

Section 3 (a) ***"An invention which is frivolous or which claims anything obviously contrary to well established natural laws"***

The provision in section 3(a) discloses that any invention that appears to be frivolous, which means that it does not have a true purpose or significance, or that goes against the natural rules that have been carefully designed. Just one example:

- A device that gives the impression of producing movement that is continuous
- A machine that asserts that it is capable of producing output without receiving any input
- A machine that asserts to be absolutely efficient

Section 3 (b)[17] ***"An invention the primary or intended use or commercial exploitation of which could be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment"***

Here are some examples that could be used to clarify clause 3(b), including the following:

- Any piece of equipment that is utilised for committing theft or burglary
- A gadget or machinery apparatus that assists in the counterfeiting of money notes is considered to be a countermeasure.
- Inventions that are linked to gambling devices, machines, and accessories
- Inventories that pertain to any machine, device, or object, the use of which has the potential to cause humans, animals, or other species to suffer severe harm
- Inventions that are related to the cloning of humans
- Inventions that involve the adulteration of food products or pesticides
- Any invention that might be related to a gadget for breaking into houses

[16] *Manual for Patent Office Practice and Procedure* (2016), available at http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Manual_for_Patent_Office_Practice_and_Procedure_.pdf, accessed on 24 April 2025.
[17] *Indian Patent Act, 1970*, s. 3(b).

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Section 3(c)[18] ***"The mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substances occurring in nature"***

Discovery means *"an action or process of discovering or being discovered – this is discovery of something which was existing previously in nature & someone has simply found it".*

Among the few instances that could assist in explaining section 3(c) are the following:

- A claim that an invention is a "discovery of scientific principle" is not regarded to be an invention and is therefore not eligible for patent protection.
- An invention that is founded on "scientific theory" is not eligible for patent protection because hypotheses may not be called inventions. This is true regardless of how smart the idea may be to begin with. On the other hand, any practical consequence or application that depicts such a theory and makes use of the abstract theory can be eligible for patent protection.
- It is never possible to refer to the acquisition of a new material or microorganism that was already present in nature as an invention; rather, it is best described as a discovery.

Section 3 (d) *"The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.*

Explanation. -For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy."

Section 3(d)[19], it is made clear that "salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations, and other derivatives of known substances may be considered to be the same substance".

[18] *Indian Patent Act, 1970*, s. 3(c).
[19] *Indian Patent Act, 1970*, s. 3(d).

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However, in order for these substances to be patentable, they must have significant differences in properties with regard to their efficacy. In accordance with subsection (d) of section 3, the following are not inventions and cannot be patented:

- The simple finding of a new form of a substance that is already known to exist, which does not lead to an improvement in the effectiveness of the chemical that is already known to exist.
- The simple finding of any new property of a material that is already known
- Discovering a new application for a chemical that is already recognized
- The simple finding of a new application for a previously established method, machine, or device, unless the previously established method produces a new product or makes use of at least one new reactant.

Section 3 (e)[20] ***"A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance"***

As opposed to being merely an admixture, an ad-mixture that results in synergistic qualities is not regarded ordinary. Soap, detergent, and lubricants are examples of compounds that could potentially be eligible for patent protection. Section 3 (f)[21] *"The mere arrangement or re-arrangement or duplication of known devices each functioning independently of one another in a known way"*

It is not possible to obtain a patent for an invention that constitutes nothing more than a simple re assembly of previously existing devices, in which each component will function independently. Example,

- a flour mill that is constructed using sifting
- An innovation that claims to be able to provide both air flow and light, using a fan that is integrated with light.
- An apparatus that is capable of producing metallic bellows, the hydraulic machine, and the roll forming machine, all of which are claiming to work as separate machines that are independent of one another

The concepts described above are not eligible for patent protection since they involve nothing more than the arrangement and rearrangement of the components of the assembly, the absence

[20] *Indian Patent Act, 1970*, s. 3(e).
[21] *Indian Patent Act, 1970*, s. 3(f).

of any functional interrelationship between them, and the fact that each component of the assembly functions independently of the others.

Section 3 (k)[22] "A mathematical or business method or a computer programme per se or algorithms"

In accordance with the provisions of section 3(k), mathematical methods, business methods, computer programmes in and of themselves, and algorithms are not regarded to be patentable subject matter.

Section 3 (l)[23] ***"A literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions"***

Due to the fact that the following kind of work falls under the purview of the Copyright Act of 1957, it is not patentable. These include works of literature, computer programmes, music and sound recordings, paintings, drawings, architectural works, photographic works, and other artistic creations.

Section 3 (m)[24] ***"A mere scheme or rule or method of performing mental act or method of playing game"***

The mere existence of a scheme, rule, technique of executing mental acts, or method of playing games does not qualify for patent protection because these inventions are derived from the human mind. Example:

- For playing chess
- The way for teaching it.
- Any and all educational approaches

Section 3 (n)[25] ***"A presentation of information"***

Presenting modes, such as ways of presenting that make use of audio-visual aids, are not regarded to be inventions and are therefore not eligible for patent protection. For instance, railway time tables and calendars that are 100 years old, among other things.

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[22] *Indian Patent Act, 1970*, s. 3(k).
[23] *Indian Patent Act, 1970*, s. 3(j).
[24] *Indian Patent Act, 1970*, s. 3(m).
[25] *Indian Patent Act, 1970*, s. 3(n).

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Section 3 (o)[26] ***"Topography of integrated circuits"***

In light of the fact that there is a different subfield of intellectual property rights, namely the Semiconductor IC Lay Out Design Act, 2000, it follows that any inventions that are associated with IC circuit designs are not eligible for patent protection. In cases like these, the applicant is required to submit IC circuit designs in accordance with the IC Design Act of 2000. An example of something that cannot be patented is the three-dimensional configuration of the integrated circuits that are utilized in semiconductor chips and microchips.

Section 3 (p)[27] ***"An invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components"***

Traditional knowledge refers to pre-existing knowledge that has been passed down through generations or is commonly known. This knowledge has been in the possession of the public for a significant period of time and has been transmitted from one generation to another. For instance, the utilisation of Turmeric, also known as Haldi, as an antibacterial, specifically for the purpose of wound healing. Another instance involves the utilisation of Neem for pesticidal or insecticidal purposes.

The Patent examiner can perform an investigation using TKDL, or Traditional Knowledge Digital Library, which is a valuable database for verifying traditional knowledge and other relevant resources. This database assists the applicant in determining whether the claimed subject invention falls within the scope of Section 3(p) or not.

Consequently, any invention or innovative concept that fits within Sections 3(a) through 3(p) is ineligible for patent protection. Therefore, it is essential for applicants and inventors to verify if their original ideas fall into the aforementioned categories or not. In addition, Indian patent agents must verify that the inventions for which patent applications are to be filed do not fall within the aforementioned sub-sections of Section 3. However, due to the territorial nature of patents and the varying laws in each nation for interpreting sub-sections, especially Section 3, (i). For example, ideas pertaining to the "method of treatment" are considered acceptable and eligible for patent protection in the United States and Australia, but not in countries such as India, the European Patent Office (EP), Japan, Korea, and others.

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[26] *Indian Patent Act, 1970*, s. 3(o).
[27] *Indian Patent Act, 1970*, s. 3(p).

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In 2002, the Patent Act was amended to include Section 3(p), which criminalized the act of participating in biopiracy. This rule substantially exempts the patentability of biological techniques for the propagation or cultivation of plants and animals. This system ensures that the traditional medical knowledge of India is protected against sudden patent monopolies. India can combat biopiracy by enacting laws that explicitly prohibit patents on indigenous bioresources.

INDIA'S ROADMAP FOR ARTIFICIAL INTELLIGENCE TO PERSONHOOD OF ARTIFICIAL INTELLIGENCE

So far there hasn't been a formal roadmap in India explicitly addressing the personhood of Artificial Intelligence and its legal liability. However, India has shown an increasing interest in AI development and regulation, focusing on ethical considerations and the responsible use of AI technologies.

- National AI Strategy: India has been working on formulating a National AI Strategy. The strategy is expected to guide the development and deployment of AI technologies in the country, encompassing ethical considerations and regulatory frameworks. India has been exploring technologies like blockchain, which may have implications for AI applications. The government has expressed interest in leveraging blockchain for various sectors, including governance.
- Draft Personal Data Protection Bill: India has been working on a comprehensive data protection framework, and the Draft Personal Data Protection Bill has been a significant step in this direction. While it primarily focuses on data protection, it could have implications for AI applications that involve personal data.
- Liability Provisions in Draft E-Commerce Policy: The Draft E-Commerce Policy released by the Ministry of Commerce and Industry includes provisions related to liability in the context of e-commerce platforms. While not AI-specific, these provisions could be relevant to AI-related services.
- Public Consultations: The Indian government has sought public consultations on various draft policies, including those related to AI and data protection. This inclusive approach involves soliciting input from stakeholders and the public on regulatory frameworks.

- AI in Governance: There are discussions about leveraging AI in governance and public services. As AI applications in these domains grow, considerations of accountability and legal liability become increasingly important.
- Potential Future Steps: As AI applications expand in sectors like healthcare and finance, there may be a need for specific regulations addressing legal liability. The government might develop sector-specific guidelines or policies. India may collaborate with international organizations and bodies to align its approach to AI regulation with global standards. This could include discussions on ethical frameworks and legal liability. It is important to stay updated on developments beyond my last knowledge update, as the field of AI regulation is dynamic. The Indian government continues to engage with experts, industry stakeholders, and the public to shape policies that balance innovation with ethical considerations and legal accountability.

Ethics Guidelines and actions for AI by NITI Aayog, the policy think tank of the Indian government, has released draft AI ethics guidelines. These guidelines emphasize the responsible use of AI and address ethical considerations, transparency, and accountability.

Artificial Intelligence research is quite restricted in India although, India is the 5th largest producer of research papers, not just in quantity but also quality wise India has produced extremely well written scientific papers. However, if one sees the number of ethical field professionals with technical background, it is a rare combination in academic institutes. Although, private sector has been incredibly growing in this fast-paced world of industry 4.0 and automation with their multiple growing technology such as CODEX by OpenAI, incredible research and stats tools used by corporate offices, etc. NITI Aayog has adopted a three-pronged approach, involving the exploration of proof of concept in Artificial Intelligence projects across various fields.

The Government of India, through NITI Aayog, has taken a comprehensive three-pronged approach to advance the implementation of Artificial Intelligence across various sectors. This approach involves exploring proof of concept in AI projects, formulating a national strategy to build an AI ecosystem in the country, and fostering collaboration with global experts and stakeholders in the field. The central focus of these initiatives is to effectively leverage transformative technologies, such as AI, to align with the government's broader developmental philosophy and drive social development. A notable example of the government's active role

is evident in organizing the roadmap for AI implementation within the context of Industry Revolution 4.0.

In sectors crucial to India's economy, such as agriculture, the government plays a pivotal role in coordinating multi-layered technology integration and collaboration among stakeholders. Recognizing that private sector efforts alone may not be financially optimal or efficient, sustained government intervention is deemed necessary to address challenges and limitations effectively. The emphasis is on prioritizing the optimal maximization of social benefits over solely focusing on top-line growth.

NITI Aayog has identified key sectors where AI can significantly contribute to addressing societal needs, enhance education reach and quality, provide efficient connectivity in urban areas; and offer smarter and safer transportation solutions while addressing traffic and congestion issues. Recent developments by the Government of Karnataka, such as the establishment of a Centre for Excellence in AI in partnership with NASSCOM, underscore the commitment to advancing AI capabilities. The focus is on turbocharging both core and applied research in AI, with an emphasis on addressing societal needs through well-defined frameworks. Overall, the government's initiatives reflect a proactive stance in harnessing the potential of AI for the holistic development of the nation.

An example of the government's pivotal role is seen in organizing the roadmap for the implementation of Artificial Intelligence in the context of Industry Revolution 4.0. Take the agriculture sector, a cornerstone of India's economy, for instance. It requires multi-layered technology integration and coordination among various stakeholders. Private sector efforts, on a standalone basis, may not be financially optimal or efficient, necessitating sustained government intervention to address current challenges and limitations. Therefore, India's approach to implementing Artificial Intelligence should prioritize the optimal maximization of social benefits rather than focusing solely on top-line growth.

NITI Aayog has identified key sectors where AI can significantly contribute to addressing societal needs. These include Healthcare, enhancing access and affordability of quality healthcare; Agriculture, improving farmers' income, productivity, and reducing wastage; Education, enhancing overall education reach and quality; Smart Cities and Infrastructure, providing efficient connectivity for the growing urban population; and Smart Mobility and Transportation, offering smarter and safer modes of transportation while addressing traffic and congestion issues. These sectors are deemed to derive substantial societal benefits from AI

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implementation. Various challenges through collaborative, market-oriented approach was proposed.

Thus, the idea of legal personhood for AI is a multifaceted and evolving concept. Historical precedents of attributing legal personhood to non-human entities offer valuable insights, but AI's unique characteristics necessitate a comprehensive re-evaluation of the concept. Striking a balance between technological advancement, ethical considerations, and societal values is essential in shaping a responsible and inclusive legal framework for AI personhood. Collaborative efforts among stakeholders from diverse disciplines are crucial to navigate this complex terrain and guide AI's integration into society responsibly.