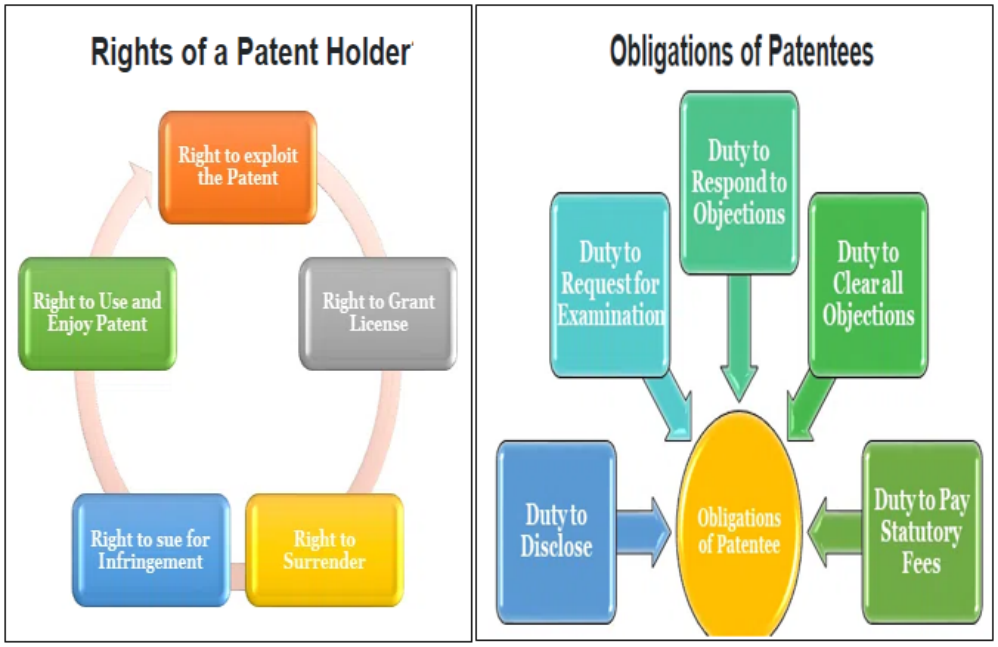
Patent Applications and Clearances in India

Why in News?

In FY24, domestic patent applications have outpaced foreign ones for the first time, an analysis of Indian patent data shows.

What is a patent?

- **Patent**- The word "patent," as used in the ***Indian Patent Act of 1970***, refers to a patent issued *for a novel technique or item* involving an innovative step and suitable for industrial use.
- **Coverage** – It covers either the *product or a process*.
- **Patent Rights** – It provides the *inventor exclusive rights* to the patented process, design, or invention for a certain period in exchange for a complete disclosure of the invention.



The Supreme Court of India in Novartis v. Union of India recognized the need to curb the "Evergreening" of patents while acknowledging the need to grant patent protection to incremental innovations.

- **Evolution of patent regime in India** - India inherited its patent regime from the British rule.
- At the time of independence, the ***Indian Patents and Designs Act of 1911***, was in force.

- It had created a system of patent administration in India under an administrative office the Controller of Patents and Designs.
- Post-independence, India enacted its first independent patent law in 1970.

Indian Patent Act of 1970 came in the backdrop of two committees namely the Bakshi Tekchand Committee in 1949 and, later, the Justice Rajagopal Ayyangar Committee.

- **International obligations and commitments**- The Patents Act 1970 was amended to fulfill the obligations of international agreements and treaties to which India became a party
  - *TRIPS Agreement* of WTO
  - *Paris Convention* for the Protection of Industrial Property
  - The *Patent Cooperation Treaty* (PCT)
  - The *Budapest Treaty* on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

To know about Patent Rule in India, Click here

What are recent trends of Patents in India?

- **Granting authority** - ***Indian Patent Office*** is responsible for the grant of patents in India.
- It is part of the office of the Controller General of Patents, Designs and Trademarks (CGPDTM) under the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.
- **Timeline** - Patents granted today often stem from applications filed 4-5 years prior.
- **Recent trends in India** – ***Controller General of Patents, Designs & Trade Marks (CGPDTM)*** data showed the recent trends of patent applications and approval granted in India.
- **Higher domestic patent applications** - In FY24, domestic patent applications have for the *first time outpaced foreign applicants*.
- It is driven by increased applications in sectors such as chemicals, pharma, computer science and information technology.
- Domestic patent applications have been *steadily increasing since FY19,* bridging the wide gap between domestic and foreign applicants.
- **Skewed patent approvals** – Patents *approved for non-resident Indians and entities stood at 74.46% in 2022*, which is among the highest in any major economy globally.
  - Patent approvals, continue to be skewed in favour of foreign entities like Qualcomm Inc., Samsung, Huawei Technologies and Apple taking top spots, edging out Indian companies.

In 2022 India was 6th worldwide in terms of patent grants wherein a total of 30,490 patents were granted.

- **Dominance of foreign entities** – There is a *wide gap between domestic and foreign patent holders* reflects the inefficiencies in India's R&D capabilities.
- Foreign entities maintain a dominant share of patents granted in India, at *nearly two-thirds of the overall applications cleared*.

Why Indian patent approval is lower?

- **Lower R&D activity in India** – India's poor patent approvals stems from lower R&D activities in India which results from *weak private investments* and *stagnant government spending*.
- R&D spending as a percentage of GDP is lower than the levels of 0.83% seen in 2008, the highest in the last two decades.
    - China spends 2.43% of its GDP on R&D, South Korea 4.93% and the United States 3.46%.
- It has resulted in Indian manufacturing depending on imported machinery, parts, and foreign technicians to fulfil export orders.

World Intellectual Property Organisation data showed that the countries with high spending on R&D had a lower share of foreign patent approvals.

- **Lower number of patent examiners** - The number of *full-time equivalent (FTE) examiners* in India as per WIPO stands at 597 who approved over 1 lakh patents last year.
    - Whereas, the EU has deployed 3,982 examiners, Germany 821 and the US over 8,000 examiners.
- **Foreign dependence**- Indian manufacturers are dependent on imported machinery, parts, and foreign technicians to fulfil export orders.

What lies ahead?

- Establish Patent facilitation centers (PFCs) to assist innovators in filing patents.
- Promote Startup India initiative that offers rebates and fast-tracking of patent applications for startups.
- Conduct IPR awareness campaigns to educate stakeholders about IPR, aiming to increase the filing of domestic patents.
- Encouraging public-private partnerships to leverage resources and expertise, facilitating joint research projects and innovation initiatives.
- Provide financial and technical support to Micro, Small, and Medium Enterprises (MSMEs) for patent filing, implementing schemes that reduce the cost burden of obtaining patents.

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