

# Confidentiality and Patentability



## Confidentiality and Patentability

Since the [Indian Patent Forum](#) may be visited by inventors wanting to patent their inventions, I am setting out there as well as here in non-legal terms, how important confidentiality is to getting a patent for your invention. While for patent practitioners most of what is set out here would be elementary, this article is directed towards people who are not well-versed with patenting.

To start, it is important to understand **what exactly is a Patent.**

A patent is a 'negative' right granted to you (the inventor or someone the inventor has 'assigned' the invention to) to enable you **PREVENT** others from using your invention without your consent, during the term of the patent (yes, patents DO have a tenure!! ). It is granted for inventions, not for somethings that already exist. Those that already exist are termed as 'prior art'. Prior art does not mean only a working product, or a granted patent but can also include, for example , an article on a website ! A whole field in patenting is devoted to finding this 'prior art' for a claimed invention, for various purposes.

So, as is often said, a patent is a negative right , not a positive one as it does not permit one to do something but instead prevents one from doing somethings that may lead to, what is technically known as 'infringement' of a patent.

This right is granted by Patent Office of a country in return for a 'full disclosure'. You disclose to the patent office what your invention is and how it works. In return, if granted a patent, you have some time to gain advantage from that protection. After which the patent is open to the public to make free use of.

However, the important aspect here is that such 'full disclosure' has to be to the Patent Office per their laws and rules. Do it to anyone else, and you risk not getting a patent on your invention to begin with !

**That is, your disclosure of your invention will be considered as 'prior art' and held against you only!! Your prior art 'anticipates' your invention and you may be refused a patent !**

For instance, all these may be considered as 'prior art' :

- Putting a description of your invention on a Website
- Sharing it with a friend, who may, with all good intentions, disclose it to the press !
- Sharing with an 'expert' to get his suggestions on how to improve upon it.
- Discussing it in a social gathering.

This is also the reason why you would sign a ' Non-Disclosure Agreement' even with your Patent Attorney as a first step. There are other precautions/efforts a patent practitioner may suggest to you to help you achieve your goals, depending upon what they are. This includes, for instance, filing a 'provisional' application.

As is mostly the case in law, there are exceptions  .

As for Indian Patent Act, these exceptions are mainly covered in various sections of Chapter VI : Anticipation ( Section 29 to Section 34). Read about them here:

\* [S. 29 – Anticipation by previous publication](#)

\* [S. 30 – Anticipation by previous communication to Government](#)

\* [S. 31 – Anticipation by public display etc.](#)

\* [S. 32 – Anticipation by public working](#)

\* [S. 33 – Anticipation by use and publication after provisional specification](#)

\* [S. 34 – No anticipation if circumstances only as described in sections 29, 30, 31 and 32](#)

Do read in, and continue the discussions at / via :

**<https://lawforall.in/ipforum/Thread-Confidentiality-and-Patentability>**