

# **The Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011**

UNION OF INDIA

India

## **The Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011**

### **Rule**

### **THE-PATENTS-APPEALS-AND-APPLICATIONS-TO-THE-INTELLECTUAL of 2011**

- Published on 11 March 2011
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The Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011 Published vide Notification New Delhi, the 11th March, 2011 Ministry of Commerce And Industry (Department of Industrial Policy and Promotion) G.S.R. 209(E). - Whereas the draft of the Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2010 were published as required by sub-section (3) of Section 159 of the Patents Act, 1970 in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 20th August, 2010, vide notification of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) number G.S.R. 690 (E), dated 18th August, 2010, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of forty-five days from the date on which copies of the Gazette containing the notification were made available to the public; And whereas the copies of the Gazette containing the notification were made available to the public by the Central Government; And whereas the objections and suggestions received from the public have been considered by the Central Government; Now, therefore, in exercise of the powers conferred by Section 159 of the Patents Act, 1970 (39 of 1970), the Central Government hereby makes the following rules namely :- Rules

#### **1. Short title and commencement.**

(1) These rules may be called the Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011. (2) They shall come into force on the date of their final publication in the Official Gazette.

## 2. Appeals and applications.

- The manner of making appeals and applications and the forms of appeals and applications to the Appellate Board and the manner of verification thereof shall be as provided in the First Schedule.

## 3. Condonation of delay in filing appeal.

- Subject to the rules, if any, made in that behalf by Appellate Board any appeal under Section 117A of the Patents Act, 1970 may be admitted after the prescribed period, if the Appellate Board is satisfied on a petition made to it in Form 3 that there is sufficient cause for not preferring the appeal within the prescribed time.

## 4. Fees.

- The fees filling appeal, application petition for condonation of delay before the Appellate Board shall be as provided in the Second Schedule which shall be paid by way of bank draft drawn in favour of the Deputy Registrar, Intellectual Property Appellate Board, payable at Chennai. First Schedule (See Rules 2 and 3) Forms

S.No.	Rules of the Patent (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011	Title	Form Number
1	2	3	4
1.	Rule 2	An appeal under Section 117 A from any decision or order or direction of the Controller or Central Government	Form 1
2.	Rule 2	Application under Section 64 for revocation of a patent or application for rectification of the register under Section 71 or both	Form 2
3.	Rule 3	Application for condoning the delay in filing appeal	Form 3

Before The Intellectual Property Appellate Board Form 1 (See rule 2) Appeal under section 117 A of the Patents Act, 1970 (To be filed in duplicate) In the matter of O.A. No.....A.B. (add description such as full name, nationality, address, registered office ..... ) represented by its Partner/ Principal Officer power of attorney holder. Appellant Vs. C.D. (add description such as full name, nationality, address, registered office and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order). Respondent List of documents filed with the appeal :

S.No. Details of documents relied upon Page No.

- 1.
- 2.

3.

4.

Note : For fee see second schedule to these rules  
Signature of Advocate/Agent  
Signature of Appellant  
For Use In The Board Office  
Date of filling or Date of receipt by post  
Registration No.  
Signature for Deputy Registrar Before The Intellectual Property Appellate Board  
In the matter of O.A. No.....A.B. (add description such as full name, nationality, address, registered office ..... ) represented by its Partner/Principal Officer/power of attorney holder.  
Appellant Vs. C.D. (add description such as full name, nationality, address, registered office and the residential or official address on which the service of notices is to be effected on the respondent. The details of each respondent are to be given in a chronological order).  
Respondent  
Details of Appeal :

## **1. Particulars of the order against which the appeal is made:**

(Particulars of the order giving the details like the number, date and authority which has passed the order against which the appeal is made.)

## **2. Jurisdiction of the Board:**

The appellant declares that this appeal is filed under section..... of the Patents Act, 1970 and that the subject matter of the order against which he wants redressal is within the jurisdiction, of the Appellant Board.

## **3. Limitation :**

The date of the decision, order or direction appealed against is ..... The said order was received by the Appellant on .....  
\*The appellant further declares that the appeal is within the limitation period prescribed in Section 117 A (4) of the Patents Act 1970.  
\*There is a delay of ..... days in filing this appeal. Accordingly, a petition for condonation of the said delay is filed along with this appeal.

## **4. Facts of the case :**

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact.)

## **5. Grounds for relief with legal provisions :**

## **6. Matters not previously filed or pending with any other court :**

The appellant further declares that he had not previously filed any appeal, writ petition or suit before any court or any other authority regarding the matter in respect of which this appeal has been made. (In case the appellant had previously filed any such appeal, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof.)

## 7. Reliefs sought :

In view of the facts mentioned above the appellant prays for the following relief (s) :-(Specify the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any relied upon).

## 8. Particulars of Bank Draft.

## 9. List of enclosures :

1.

2.

3.

4.

## 10. All communications relating to these proceedings may be sent to the following address in India :-

.....\*Strike out that which is not  
Applicable.VerificationI..... (name of the appellant) age .....  
of..... nationality, resident of ..... do hereby verify that the contents of paras  
..... to ..... are true to my personal knowledge and paras ..... to ..... are .....  
believed to be true on legal advice and that I have not suppressed any material fact.Dated, this  
..... day of.....Place :Signature of the Appellant(Full name and designation of the  
signatory)Signature of the Advocate/AgentOn behalf of the applicantToThe Deputy  
RegistrarIntellectual Property Appellate BoardBefore The Intellectual Property Appellate  
BoardForm 2(See rule 2)Application for Revocation of Patent under Section 64 or Rectification of  
the Register of Patents under Section 71 of the Patents Act, 1970(To be filed in duplicate along with  
the statement of case in duplicate stating the facts on which rectification is sought)In the matter of  
O.R.A. No.....A.B. (add description such as full name, nationality, address, registered office  
.....) represented by its Partner/Principal Officer/power of attorney holder.ApplicantVs.C.D. (add  
description such as full name, nationality, address, registered office and the residential or official  
address on which the service of notices is to be effected on the respondent or respondents. The  
details of each respondent are to be given in a chronological order).RespondentList of documents  
filed with the appeal :

S.No. Details of documents relied upon Page No.

1.

2.

3.

4.

Note: For fee see second schedule to these rules. Signature of Advocate/Agent Signature of Applicant For use in the Board Office Date of filing or Date of receipt by post Registration No. Signature for Deputy Registrar Before The Intellectual Property Appellate Board In the matter of O.R.A. No. A.B. (add description such as full name, nationality, address, registered office.....) represented by its Partner/Principal Officer/power of attorney holder. Applicant Vs. C.D. (add description such as full name, nationality, address, registered office and the residential or official address on which the service of notice is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order). Respondent In the matter of a Patent No. .... granted in the name of .... against Patent Application No. .... on ..... by IPO.I/We ..... hereby apply that the entry in the Register of Patents in respect of the above mentioned Patent may be revoked/rectified in the following manner. (1) ..... (2) ..... (3) ..... The grounds or facts on which my/our application for revocation/rectification is based is as follows :- ..... No action concerning the Patent in question is pending in any Court or before the Controller of Patents. All communications relating to this application may be sent to the following address in India :- .....

**1. Start full name, address and nationality. An address for service in Indian should be stated if the applicant has no place of business or of residence in India.**

**2. \*Strike out that which is not applicable.**

Verification I ..... (Name of the applicant) being the Applicant/being the Principal Officer and having been authorised by the Applicant to file the present Application, age ..... of ..... nationality, resident of ..... do hereby verify that the contents of paras ..... to ..... are true to my personal knowledge and paras ..... to ..... are believed to be true on legal advice and that I have not suppressed any material fact. Dated this ..... Day of ..... Place ..... Signature of the Applicant (Full name and designation of the signatory) Signature of the Advocate/Agent On behalf of the Applicant To The Deputy Registrar Intellectual Property Appellate Board. Before The Intellectual Property Appellate Board Form 3 (See rule 3) In the matter of COD No ..... In O.A. No. .... Petition to condone the delay in filing appeal under Section 117 A of the Patents Act, 1970 (to be filled in duplicate together with statement of case in duplicate) A.B. (add description such as full name, nationality, address, registered office .....). Applicant vs. C.D. (add description such as full name, nationality, address, registered office and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order). Respondent In the matter of decision order or direction of the Controller of patents in Patent application No ..... I/We here by apply for leave to condone the delay (specify the period of delay) in filing the appeal. The grounds for making this petition are set forth in the accompanying affidavit. (To be enclosed on separate affidavit duly sworn/affidavit by the

deponent)All communications relating to this petition may be sent to the following address in India.....Signature of the Appellant(Full name and designation of the signatory)Signature of the Advocate/agentOn behalf of the ApplicantToThe Deputy RegistrarIntellectual Property Appellate BoardNote : For fee see second scheduleSecond Schedule(See rule 4)Fees

Amount in Rupees				
Entry No.	On what payable	For Natural Person	for other than natural person either along or jointly with natural parsons	Relevant Form
(1)	(2)	(3)	(4)	(5)
1.	Application for appeal from order or decisions of Controller	5000/-	10000/-	1
2.	Application for revocation	5000/-	10000/-	2
3.	Application for rectification	5000/-	10000/-	2
4.	Application for condonation of delay	2500/- per month or part thereof	5000/- per month or part thereof	3