

**MINISTRY OF COMMERCE AND INDUSTRY**  
**(Department of Industrial Policy and Promotion)**  
**NOTIFICATION**

New Delhi, the 18th August, 2010

**G.S.R. 690(E).**—WHEREAS the Central Government in exercise of the powers conferred by section 159 of the Patents Act, 1970 (39 of 1970) proposes to make the Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2010;

AND WHEREAS, the draft of the Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2010, is hereby published as required by sub-section (3) of section 159 of the Patents Act, 1970 for information of all persons likely to be affected thereby, and notice is hereby given that the said draft shall be taken into consideration after the expiry of a period of forty five days from the date on which the copies of the Gazette of India containing this notification are made available to the public;

Any person desiring to make any objections or suggestions in respect of the said draft may forward the same for consideration within the period specified above to the Secretary, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion (IPR. 1 Section) Udyog Bhawan, New Delhi – 110 011 before the draft is taken into consideration by the Central Government;

The objections or suggestions which may be received from any person in respect of the said draft rules before the period specified will be taken into consideration specified.

**DRAFT RULES**

1. Short title and commencement. – (1) These rules may be called the Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2010.  
(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 application 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 the 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 for 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.

**THE FIRST SCHEDULE**

(See rules 2 and 3)

**FORMS**

S. No.	Rules of the Patent (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2009	Title	Form Number
1	2	3	4
1.	Rule 2	An appeal under section 117 A from any decision 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 filing

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 Appellate 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 117A(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.

**VERIFICATION**

I ..... (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 ADVOCATE/AGENT

on behalf of the Applicant

SIGNATURE OF THE  
APPELLANT

(Full name and designation of the  
signatory)

To

The Deputy Registrar  
Intellectual Property Appellate Board

**BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD****FORM 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 alongwith 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

**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**

List of documents filed with the appeal:

<b>S.No</b>	<b>Details of Documents Relied upon</b>	<b>Page No</b>
1.		
2.		
3.		
4.		

Note: For fee see second schedule to these rules

<b>Signature of Advocate/Agent</b>	<b>Signature of Applicant</b>
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**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 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 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. State 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 ADVOCATE/AGENT

on behalf of the Applicant

SIGNATURE OF THE  
 APPLICANT

(Full name and designation of the  
 signatory)

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 hereby 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/affirmed by the deponent)

All communications relating to this petition may be sent to the following address in India.

.....  
 .....

SIGNATURE OF THE ADVOCATE/AGENT

on behalf of the Applicant

SIGNATURE OF THE  
APPELLANT

(Full name and designation of the  
signatory)

To

The Deputy Registrar  
Intellectual Property Appellate Board

Note: For fee see second schedule

### THE SECOND SCHEDULE

(See rule 4)

#### FEES

Entry No.	On what payable	Amount in Rupees		Relevant Form
		For Natural Person	for other than natural person either along or jointly with natural persons	
(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

[ F. No. 7(9)/2007-IPR-1 (IPAB)]

V. BHASKAR, Jt. Secy.