

PATENTS RULES, 1972

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and commencement
2. Definitions
3. Prescribed particulars
4. Appropriate office
5. Address for service
6. Leaving and serving documents
7. Fees
8. Forms
9. Size etc., of documents
10. Signature and verification of documents

CHAPTER 2 :- APPLICATIONS FOR PATENTS

11. Period within which proof of the right to make the application shall be furnished.
12. Order of recording applications
13. Statement and undertaking regarding foreign applications
14. Specifications
15. Amendments to specifications
16. Drawings
17. Size of paper, etc. on which drawings shall be furnished
18. Particulars of drawings
19. Further particulars about drawings
20. Models

CHAPTER 2A :- INTERNATIONAL APPLICATIONS UNDER PATENT COOPERATION TREATY

- 20A. Definitions
- 20B. Appropriate office in relation to international application
- 20C. International applications filed with [appropriate office"] as receiving office
- 20D. International applications designating or designating and electing India
- 20E. Filing of priority documents
- 20F. Effect of non-compliance with certain requirements
- 20G. The requirements under this Chapter to be supplemental to the Regulations, etc., under the Treaty

CHAPTER 3 :- EXAMINATION OF APPLICATIONS

21. Procedure in case of anticipation by prior publication
22. Procedure in case of anticipation by prior claiming
23. Amendment of the complete specification in case of anticipation
24. Extension of the period specified in rules 22 and 23
25. Form of reference to another specification
26. Procedure in case of potential infringement
27. Form of reference to another patent
28. Form of application under sub-section (2) of section 19
29. Manner in which a claim under section 20(1) shall be made
30. Manner in which a request may be made
31. Manner of application under section 20(5)
32. Numbering of applications on acceptance of the complete specification
33. Inspection of application, specification, etc

CHAPTER 3A :- Exclusive Marketing Rights

- 33A. Filing of application
- 33B. The application for grant of exclusive marketing right
- 33C. Controller to refer application
- 33D. Report of examiner
- 33E. Notifying of grant or refusal of exclusive marketing rights
- 33F. Personal documents, etc. in relation to inventions
- 33G. Appropriate tests
- 33H. Form for grant of exclusive marketing rights
- 33I. Application for compulsory license to sell or distribute or for revocation of exclusive marketing rights
- 33J. When a prima facie case is not made out
- 33K. Notice of opposition against grant of compulsory license or revocation of exclusive marketing rights
- 33L. Manner of advertisement of the order for revocation of exclusive marketing rights
- 33M. Application for the revision of the terms and conditions of a license
- 33N. Procedure to be followed in case of application under Rule 33-M
- 33O. References to public interest
- 33P. Register of exclusive marketing rights

CHAPTER 4 :- OPPOSITION TO GRANT OF PATENT

34. Manner of application for extension of time under section 25(1)

35. Filing of notice of opposition
36. Written statement of opposition
37. Time for filing reply statement
38. Time for leaving evidence of opponent
39. Time for leaving applicants evidence
40. Reply evidence by opponent
41. Further evidence to be left with the leave of the Controller
42. Number of copies to be supplied of documents
43. Extension of time
44. Hearing
45. Determination of costs
46. Time within which complete specification is to be amended under section 27
47. Procedure to be followed
48. Extension of time
49. Manner of request under section 28(2)
50. Manner of making a claim under section 28(3)
51. Form of application to be made under sub-section (7) of section 28
52. Procedure for the hearing of claim or an application under section 28
53. Mention of inventor

CHAPTER 5 :- SECRECY DIRECTIONS

54. Communication of result of reconsideration under section 36(2)
55. Extension of time on revocation of secrecy directions under section 38

CHAPTER 6 :- SEALING OF PATENTS

56. Sealing of patents
57. Form of patent
58. Amendment of patent under section 44
59. Manner of applying for directions under section 51(1)
60. Manner of application under section 51(2)
61. Procedure for the hearing of proceedings under section 51
62. Manner of request under section 52(2)
63. Renewal fees
64. Form of request under section 55(1)

CHAPTER 7 :- AMENDMENT OF APPLICATIONS AND SPECIFICATIONS

65. Amendment of application or specification
66. Preparation of amended specifications, etc
67. Advertisement of the amendments allowed

CHAPTER 8 :- RESTORATION OF PATENTS

68. Restoration of patents
69. Opposition to restoration
70. Payment of unpaid renewal fees

CHAPTER 9 :- SURRENDER OF PATENTS

71. Surrender of patents

CHAPTER 10 :- REGISTER OF PATENTS

72. Register of patents
73. Registration of documents under section 68
74. Registration of title and interest in patents
75. Presentation of assignment, etc., of patent to Controller
76. Registration of title or interest in a patent
77. Entry of renewal fee
78. Alteration of address
79. Inspection of register of patents and fees payable therefor

CHAPTER 11 :- COMPULSORY LICENCES ENDORSEMENT OF PATENTS WITH THE WORDS "LICENCES OF RIGHT" AND REVOCATION

80. Application for compulsory licence etc
81. When a prima facie case is not made out
82. Notice of opposition under section 92(2)
83. Manner of application under section 88(2)
84. Manner of applying under section 88(4)
85. Manner of advertisement of the revocation order
86. Application under section 93(5)
87. Procedure to be followed in case of applications under section 93(5)

CHAPTER 12 :- SCIENTIFIC ADVISERS

88. .
89. Manner of application for inclusion in the roll of scientific advisers
90. Inclusion of the name of any other person in the roll of scientific advisers
91. Power to relax
92. Removal of names from the roll of scientific advisers

CHAPTER 13 :- PATENT AGENTS

93. Particulars to be contained in the register of patent agents
94. Application for registration of patent agents
95. Particulars of the qualifying examination for patent agents
96. Registration of patent agents
97. Details to be included in an application for the registration of a patent agent
98. Registration of patent agents under section 126(2)
99. Disqualifications for registration as a patent agent
100. Payment of fees
101. Deletion of a name from the register of patent agents
102. Restoration of names of persons removed from the register of patent agents
103. Alteration of names etc. in the register of patent agents
104. Refusal to recognise as patent agent
105. Publication of the names of patent agents, registered under the Act

CHAPTER 14 :- MISCELLANEOUS

106. Address of all communications
107. Correction of clerical errors
108. Manner of advertisement of the proposed correction of any error
109. Manner and time of opposition to the making of corrections
110. Notification of corrections
111. Form, etc., of affidavits
112. Exhibits
113. Directions not otherwise prescribed
114. Exercise of discretionary power by the Controller
115. Application for review of decisions or setting aside of orders of the Controller
116. Manner of payment of compensation
117. Form and manner in which statements required under section 146 (2) to be furnished
118. Form of application for the issue of a duplicate patent
119. Supply of certified copies and certificates
120. Request for information under section 153
121. Agency
122. Scale of costs
123. Powers of Controller generally
124. Power to extend time prescribed
125. Hearing before the Controller to be in Public in certain cases
126. Repeal and amendment of the Indian Patents and Designs Rules, 1933

SCHEDULE 1 :- THE FIRST SCHEDULE

SCHEDULE 2 :- THE SECOND SCHEDULE

SCHEDULE 3 :- FORM OF PATENT

SCHEDULE 4 :- THE FOURTH SCHEDULE

SCHEDULE 5 :- AMENDMENTS TO THE INDIAN PATENTS AND DESIGNS RULES, 1933

PATENTS RULES, 1972

In exercise of the powers conferred by sub-section (3) of section 1 of the Patents Act, 1970 (39 of 1970), the Central Government hereby appoints the 20th April, 1972 as the date on which the said Act, other than sub-section (2) of section 12, sub-section (2) of section 13, section 28, section 68 and section 125 to Rule 132 thereof, shall come into force. SO 301(E) dated 20-4-1972.-Whereas a draft of the Patents Rules were published as required by sub-section (3) of section 159 of the Patents Act, 1970 (39 of 1970), by the notification of the Government of India, in the Ministry of Industrial Development No. S.O.5246, dated the 25th November, 1971, at pages 3167 to 3226/1 of the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii), dated the 25th November, 1971; And whereas objections and suggestions were invited till the 25th January, 1972, from all persons likely to be affected thereby; And whereas the draft of the Patents Rules was made available to the public through the said Gazette dated the 25th November, 1971; And whereas the date specified above for the purpose of inviting objections and suggestions on the said draft was extended to the 14th February, 1972, by the notification of the Government of India, in the Ministry of Industrial Development No. S.O.89(E), dated the 2nd February, 1972, published at page 299 of the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii), dated the 2nd February, 1972; And whereas the notification was made available to the public through the said Gazette dated the 2nd February, 1972; And whereas the objections and suggestions received from the public of the said draft Rules 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:- SO 799 dated 10-3-1978.-In exercise of the powers conferred by sub-section (3) of section 1 of the Patents Act, 1970 (39 of 1970) the Central Government hereby appoints the 1st day of April, 1978, as the date on which sub-section (2) of section 12, sub-section (2) of section 13, section 28, section 68 and section 125 to Rule 132 of the said Act shall come into force.

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

(1) These rules may be called the Patents Rules, 1972.

(2) Save as otherwise provided in these rules, these rules shall come into force on the twentieth day of April, 1972 :

Provided that rule 21, rule 49 to Rule 53, rule 73 and rule 93 to Rule 105, which relate to sub-section (2) of section 12, sub-section (2) of section 13, section 28, section 68 and section 125 to Rule 132 of the Act respectively shall come into force on the date on which the said sections are brought into force.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Patents Act, 1970 (39 of 1970);

(b) "appropriate office" means the appropriate office of the Patent Office as specified in rule 4;

(c) "article" includes any substance or material, and any plant, machinery or apparatus, whether affixed to land or not;

(d) "Form" means a Form specified in the Second Schedule;

(e) "Schedule" means Schedule to these rules;

(f) "Section" means a section of the Act;

(g) words and expressions used, but not defined in these rules, shall have the meanings respectively assigned to them in the Act.

3. Prescribed particulars :-

Save as otherwise provided in these rules, the particulars contained in a Form are hereby prescribed as the particulars, if any required under the relevant provision or provisions of the Act.

4. Appropriate office :-

(1) The appropriate office of the Patent Office shall-

(i) for all the proceedings under the Act, other than those ["under Sections 24-A, 24-B, 24-C, 43, 44, 51, 52, 60, 65, 68, 69, 125, 153 and 154"], be the Head Office of the Patent Office or the branch office, as the case may be, within whose territorial limits-

(a) the applicant or first mentioned applicant in case of joint applicants for a patent normally resides or has his domicile or has a place of business or the place from where the invention actually originated; or

(b) if the applicant for a patent or party in a proceeding has no place of business or domicile in India, the address for service in India given by the applicant or party is situated, and;

(ii) for proceedings ["under Section 24-A, 24-B, 24-C, 43, 44, 51, 52, 60, 65, 68, 69, 125, 153 and 154"]; be the head office of the Patent Office.

(2) Notwithstanding anything contained in sub-rule (1), until branch offices are established in accordance with the provisions of sub-section (3) of section 74, the appropriate office for all proceedings under the Act shall be the head office of the Patent Office at Calcutta.

(3) The appropriate office decided in respect of any proceedings under the Act shall not ordinarily be changed.

5. Address for service :-

Every person, concerned in any proceedings to which the Act or these rules relate and every patentee, shall furnish to the Controller and address for service in India and that address may be treated for all purposes connected with such proceedings or patent as the address of the person concerned in the proceedings or of the patentee. Unless such an address is given, the Controller shall be under no obligation either to proceed or deal with any proceeding, or patent or to send any notice that may be required to be given under the Act or these rules.

6. Leaving and serving documents :-

(1) Any application, notice or other document authorised or required to be filed, left, made or given at the Patent Office, or to the Controller or to any other person under the Act or these rules, may be sent by hand or by a letter addressed to the Controller at the appropriate office or to the person through post or registered post or speed post or courier service and if it is sent by post, or registered post or speed post or courier service it shall be deemed to have been filed, left, made or given at the time when the letter containing the same would have been delivered in the ordinary course of post or registered post or speed post or courier service, as the case may be. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and mailed. If the documents sent through Tele-Fax, are clear and fully legible, they shall also be accepted provided that the original document corresponding to the one sent by Tele-Fax is submitted to the appropriate office within fifteen days from the date of receipt of the document so faxed.

(2) Any written communication addressed to a patentee at his address as it appears on the register of patents or at his address for service given under rule 5, or to any applicant or opponent in any proceedings under the Act or these rules, at the address appearing on the application or notice of opposition or given for service, shall be deemed to be properly addressed.

¹ [(3) All notices and all written communications addressed to a patentee, or to any applicant or opponent in any proceedings under the Act or these rules, and all documents forwarded to the patentee or to the said applicant or opponent shall, except when they are sent by special messenger, be sent by registered post acknowledgement due.]

(4) The date of a notice or a written communication addressed to a patentee or to any applicant or opponent in any proceedings under the Act and these rules shall be the date of dispatch of the said notice or written communication, as the case may be, unless otherwise specified under the Act or these rules.

(5) In case of postal delay in receipt of a document or a communication sent by the patent office to a party to any proceedings under the Act or these rules, the delay in transmitting or resubmitting a document to the patent office or doing any act by the party may be condoned by the Controller if a petition for such condonation of delay is made by the party to the Controller immediately after the receipt of the document or a communication along with a statement stating the circumstances of the fact and evidence in support of the statement, provided that the delay thus condoned by the Controller shall not exceed the period between the date on which the party was supposed to have received the document or communication by ordinary course of mail and the actual date of receipt of the same.

1. Inserted by the Patents (Amendment) Rules, 1976, w.e.f. 14-8-1976.

7. Fees :-

(1) The fees payable in respect of the grant of patents and applications therefor and in respect of other matters for which fees are required to be payable under the Act shall be as specified in the First Schedule.

(2)

(a) The fees payable under the Act may either be paid in cash or may be sent by bank draft or cheque payable to the Controller and drawn on a scheduled bank at a place where the appropriate office is situated. If the draft or cheque is sent by post, the fees shall be deemed to have been paid on the date on which the draft or cheque reached the Controller in the ordinary course of the mail.

(b) Cheques or drafts not including the correct amount of commission and cheques on which the full value specified therein cannot be collected in cash within the time allowed for payment of the fees, shall be accepted only at the discretion of the Controller.

(c) Stamps shall not be received in the payment of any fees payable under the Act.

(d) Where a fee is payable in respect of a document, the entire fee shall accompany the document: Provided that the Controller may accept the fee in part or allow whole of the fee to be paid at any time within fifteen days from the date of filing of the document and in that event the document shall be deemed to have been filed on the date on which the full fee has been paid.

(e) [***]

(3) In case an application processed by an individual is fully or partly transferred to a legal entity other than an individual, the difference, if any, in the scale of fee(s) between the fee(s) charged from the individual and the fee(s) chargeable from the legal entity other than the individual in the same matter shall be paid by the new applicant with the request for transfer.

(4) Fees once paid in respect of any proceeding shall not be returned irrespective of whether the proceeding has taken place or not.

(5) Subject to the approval of the competent authority any applicant or a registered patent agent may deposit money in advance once in a financial year and request the Controller to realise any fee payable by him from the said deposit and in such case the date of the receipt of the request to realise the fee or the date on which the request to realise the fee is deemed to have been received, whichever is earlier, shall be taken as the date of payment of the fee: Provided that the requisite amount of money is available at the credit of the person making the request.

8. Forms :-

(1) The forms set forth in the Second Schedule with such variations as the circumstances of each case may require shall be used for the purposes mentioned therein.

(2) Where no Form is so specified for any purpose, the applicant may adopt any Form specified in the Second Schedule with such modifications and variations as the Controller may permit.

9. Size etc., of documents :-

(1) All documents and copies of documents, except affidavits and drawings, sent to or left at the Patent Office or otherwise furnished to the Controller shall be written, typewritten, lithographed, or printed ¹[either in the Hindi or in the English language] (unless otherwise directed or allowed by the Controller) in large and legible characters with deep indelible ink with lines widely spaced upon one side only of strong white paper of a size of approximately 33.00 centimetres by 20.50 centimetres (13 inches by 8 inches) or 29.7 centimetres by 21 centimetres (11 3/4 inches by 8 1/4 inches) with a margin of at least four centimetres (one and a half inches) on the left-hand part

thereof. ² [Any signature which is not legible or which is written in a script other than Hindi or English shall be accompanied by a transcription of the name either in Hindi or in English in block letters.]

(2) Additional copies of all documents shall be filed at the appropriate Office, if required by the Controller.

(3) Names and addresses of applicants and other persons shall be given in full together with their nationality and such other particulars, if any, as are necessary for identification.

1. Substituted for "in the English language" by the Patents (Amendment) Rules, 1977, w.e.f. 26-11-1977.

2. Substituted for the portion beginning with the words "Any signature which is not legible" and ending with the words "name in English in block letters", the Patents (Amendment) Rules, 1977.

10. Signature and verification of documents :-

The documents specified in sub-section (2) of section 128 of the Act shall be dated and signed at the foot and shall contain a statement that the facts and matters stated therein are true to the best of the knowledge, information and belief of the person signing the said documents.

CHAPTER 2

APPLICATIONS FOR PATENTS

11. Period within which proof of the right to make the application shall be furnished. :-

Where in an application for a patent made by virtue of an assignment of the right to apply for the patent for the invention, if the proof of the right to make the application is not furnished with the application, the applicant shall within a period of three months after the filing of such application furnish such proof.

12. Order of recording applications :-

The applications filed in a year shall constitute a series identified by the year of such filing.

13. Statement and undertaking regarding foreign applications :-

(1) The statement and undertaking required to be filed by an applicant for a patent under sub-section (1) of section 8 shall be made in ["Form 3"]

(2) The time within which the applicant for a patent shall keep the Controller informed of the details in respect of other applications filed in any country outside India in the undertaking to be given by him under clause (b) of sub-section (1) of section 8 shall be three months from the date of such filing.

(3) When so directed by the Controller under sub-section (2) of Section 8, the applicant shall furnish the required information within the normal period or by the last date of putting the application in order for acceptance as specified under sub-sections (1) and (2) of Section 21.

14. Specifications :-

(1) Every specification, whether provisional or complete, shall commence with the title of the invention, the name, nationality and address of the applicant as given in the application and shall be signed and dated at the end by the applicant or his agent.

(2) A specification in respect of a patent of addition shall contain a specific reference to the number of the main patent, or the application for the main patent, as the case may be, and a definite statement that the invention comprises an improvement in, or a modification of, the invention claimed in the specification of the main patent granted or applied for.

(3) Where the invention is capable of representation by drawings, such drawings shall be prepared in accordance with the provisions of rule 16 to rule 19 and shall be supplied with, and referred to in detail, in the specification:

Provided that in the case of a complete specification if the applicant desires to adopt the drawings filed with his provisional specification as the drawings or part of the drawings for the complete specification, it shall be sufficient to refer to them in the complete specification as those left with the provisional specification.

(4) Irrelevant or other matter, not necessary, in the opinion of the Controller, for elucidation of the invention, shall be excluded from the title, description, claims and drawings.

(5) Except in the case of an application (other than a convention application) which is accompanied by a complete specification, a declaration as to the inventorship of the invention shall be filed in ["Form 5"] with the complete specification or at any time before the expiration of three months from the date of filing of the complete specification, as the Controller may allow on an application made in ["Form 4"].

15. Amendments to specifications :-

(1) When a provisional or complete specification or any drawing accompanying it has been received by the applicant or his agent for amendment, the necessary alterations shall be made thereon as far as possible. Additional matter may be interpolated if necessary, by rewriting such pages as are required to form a continuous document. Amendments shall not be made by slips pasted on, or as foot notes or by writing in the margin of any of the said documents.

(2) The amended documents shall be returned to the Controller together with the superseded pages or drawings, if any, duly marked cancelled and initialled by the applicant or his agent. Copies of any pages that have been retyped or added and of any drawing that has been added or substantially amended shall be sent in triplicate. Amendments,

alterations or additions shall be initialled in the margin by the applicant or his agent.

16. Drawings :-

(1) Drawings, when furnished by the applicant otherwise than on a requisition made by the Controller shall accompany the specifications to which they relate.

(2) [***]

(3) Drawings shall be delivered flat or so rolled as to be free from crease.

(4) At least one copy of the drawing shall be suitable for reproduction, and for that purpose, shall be prepared on tracing cloth or transparent or semi-transparent sheet, or film made of plastics or fibre glass ["or thick and durable paper"].

(5) Mounted drawings shall not be used.

17. Size of paper, etc. on which drawings shall be furnished :-

Drawings shall be on standard A-4 size sheets. A clear margin of 2.5 centimetres shall be left from the edges of every sheet. If there are more figures than can be shown on one sheet, two or more of such sheets shall be used. When an exceptionally large figure is required to be drawn, it shall be continued on subsequent sheet(s). The figures shall be numbered consecutively throughout. Sufficient space shall be kept between the figures so that they shall be distinct.

18. Particulars of drawings :-

Drawings shall be prepared in accordance with the following requirements, namely:-

(a) Drawings shall be executed with indelible black ink.

(b) Each line shall be firmly and evenly drawn, sharply defined and shall be of the same strength throughout.

(c) Section Lines, lines for effect and shading lines, shall be as few as possible and shall not be closely drawn.

(d) Shading lines shall not contrast too much in thickness with general lines of the drawings.

(e) Sections and shading shall not be represented by solid black or washes.

(f) Drawings shall be on a scale sufficiently large to show the inventions clearly and only so much of the apparatus, machine or other matter shall appear to achieve this object. If the scale is given, it shall be drawn and not denoted by words. No dimensions shall be marked on the drawings.

(g) The figures shall be drawn preferably in an upright position with regard to the top and bottom of the sheet.

(h) Reference letters and numerals, and index letters, symbols and numerals used in conjunction therewith, shall be bold, distinct and not less than 0.3 centimetre (one-eighth of an inch) in height. The same letters or numerals shall be used to indicate the same parts in different views where the reference letters or numerals are shown outside the figure, they shall be connected by fine lines with the parts to which they refer.

19. Further particulars about drawings :-

(1) Drawings shall bear-

(i) in the left hand top corner, the name of the applicant;

(ii) in the right hand top corner, the number of the sheets of drawings, and the consecutive number of each sheet; and

(iii) in the right hand bottom corner, the signature of the applicant or his agent.

(2) Neither the title of the invention nor any descriptive matter shall appear on the drawings.

(3) No descriptive matter shall appear on constructional drawings, but drawings in the nature of flow sheets may bear descriptive matter to show the materials used and the chemical or other reactions or treatments effected in carrying out the invention.

(4) Drawings showing the number of instruments or units of apparatus and their interconnections, either mechanical or electrical, where each such instrument or unit is shown only symbolically, may bear such descriptive matter as is necessary to identify the instruments or units or their interconnections.

(5)[***]

20. Models :-

(1) Models or samples shall be furnished only when required by the Controller.

(2) Except as permitted by the Controller, no model shall exceed twelve inches on its longest side.

(3) Samples shall be enclosed in convenient containers.

(4) Dangerous substances shall be supplied only in accordance with the directions of the Controller.

(5) Every model or sample shall be clearly and securely labelled or marked so as to identify the application to which it relates.

CHAPTER 2A

INTERNATIONAL APPLICATIONS UNDER PATENT COOPERATION TREATY

20A. Definitions :-

In this Chapter, unless the context otherwise requires,-

(a) "Article" means an article of the Treaty;

(b) "Treaty" or "PCT" means the Patent Cooperation Treaty done at Washington on the 19th June, 1970 as amended and modified from time to time in terms of Articles 47 and 61 of the Treaty;

(c) all other words and expressions used herein and not defined but defined in the PCT shall have the same meaning as assigned to them in that Treaty.

20B. Appropriate office in relation to international application :-

1 .-

(1) The receiving office, designated office and elected office for the purposes of international applications filed under the Treaty shall be the appropriate office in accordance with Rule 4.

(2) The Head Office of the Patent Office shall be the appropriate office for dealing with the International Bureau of the World Intellectual Property Organisation, International Searching Authorities and International Preliminary Examining Authorities.

(3) An International application under the Treaty shall be filed and processed by the appropriate office in accordance with the provisions of this Chapter, the Treaty and the Regulations established under the PCT.

(4) On receipt of an international application, the appropriate office shall furnish complete details of such applications to the Head Office of the Patent Office.

1. Substituted for " 20B . Appropriate office in relation to international applications .- (1) The Head Office of the Patent Office (hereinafter referred to as "Patent Office") shall function as receiving office, designated office and elected office for the purposes of international applications filed under the Treaty. (2) An international application shall be- (a) filed in and processed by the Patent Office as a receiving office; (b) processed by the Patent Office as a designated office and as elected office, in accordance with the provisions of this Chapter, the Treaty and the Regulations established under the PCT. ", vide " PATENTS RULES, 1972" Dt.19.11.99 Published in [Noti. No. 12/39/99-PP and C, S.O. 1148(E)dt. 19.11.99-Gaz. of India, Exty., Pt. II-Sec. 3(ii). No. 695, dt.19.11.99, p. 2.]

20C. International applications filed with [appropriate office"] as receiving office :-

1.-

(1) An international application shall be filed with the ¹[appropriate office"] in triplicate, either in English or in Hindi language.

(2) The fees payable in respect of an international application filed with the ¹[appropriate office"] shall be, in addition to the fees as specified in the Regulations under the Treaty, the fees as specified in the First Schedule.

(3) Where an international application filed with the ¹[appropriate office"] has not been filed in triplicate and the applicant desires that the ¹[appropriate office"] should prepare the additional copies required, the fee for making such copies shall be paid by the applicant.

(4) On receipt of a request from the applicant and on payment of the prescribed fee by him, the ¹[appropriate office"] shall prepare a certified copy of the priority document and transmit the same to the International Bureau of the purpose of an international application filed with the ¹ [appropriate office"] with an intimation to the applicant.

1. Substituted for "Patent Office ", vide " PATENTS RULES, 1972" Dt.19.11.99 Published in [Noti. No. 12/39/99-PP and C, S.O. 1148(E)dt. 19.11.99-Gaz. of India, Exty., Pt. II-Sec. 3(ii). No. 695, dt.19.11.99, p. 2.]

20D. International applications designating or designating and electing India :-

(1) An international application designating India shall be treated as an application for patent under the Act.

(2) For the purpose of an international application designating India, the title, description, drawings and claims filed in the international application shall be taken as the complete specification for the purpose of the Act.

(3) The filing date of an application for patent and its complete specification processed by the ¹[appropriate office"] as designated office shall be the international filing date accorded under the Treaty.

(4) The ¹[appropriate office"] shall not commence processing of an international application designating India before the expiration of the time-limit prescribed under sub-rule (6) except when the applicant complies with the requirements of that sub-rule and files at the ¹[appropriate office"] an express request for early commencement of such processing.

(5) An applicant in respect of an international application designating India shall, before the time-limit prescribed in sub-rule (6),-

(a) pay the prescribed national fee and other fees to the ¹[appropriate office] in the manner prescribed under these rules and under the Regulations made under the Treaty;

(b) file with the ¹[appropriate office] a translation of the application in English duly verified by the applicant stating the correctness and completeness of the contents thereof, if the international application was either not filed or has not been published in English.

(6) The time-limit referred to in sub-rule (5) shall be-

⁶"(a) Where the applicant has not before the expiration of nineteen months from the priority date referred to in Article 2(xi), elected India for the purpose of the use of the result of international preliminary examination, thirty one months from the priority date; and"

(b) where the applicant has, before the expiration of nineteen months from the priority date referred to in Article 2(xi), elected India for the purpose of the use of the result of international preliminary examination, thirty-one months from the priority date.

(7) The translation of the international application referred to in sub-rule (5) shall include a translation in English of,-

(i) the description;

(ii) the claims as filed;

(iii) any text matter of the drawings;

(iv) the abstract; and

(v) in the case referred to in clause (a) of sub-rule (6) and if the claims have been amended under Article 19. then the amended claims together with any statement filed under the said Article;

(vi) in the case referred to in clause (b) of sub-rule (6) and any amendments to the description, the claims and text matter of the drawings that are annexed to the international preliminary examination report.

(8) If the applicant fails to file a translation of the amended claims and annexures referred to in sub-rule (7), even after invitation from the ¹[appropriate office] to do so within a time limit as may be fixed by that Office having regard to the time left for meeting the requirements, the amended claims and annexures shall be disregarded in the course of further processing the application by the Patent Office.

(9) The applicant in respect of an international application designating India shall, when complying with sub-rule (5), preferably use forms set out in the Second Schedule before the ¹ [appropriate office] as designated office.

1. Substituted for "Patent Office ", vide " PATENTS RULES, 1972" Dt.19.11.99 Published in [Noti. No. 12/39/99-PP and C, S.O. 1148(E)dt. 19.11.99-Gaz. of India, Exty., Pt. II-Sec. 3(ii). No. 695, dt.19.11.99, p. 2.]

6. In Chapter IIA, Rule 20D, Sub-rule (6), Clause (a) shall be substituted by Patents (Amendment) Rules, 2002, Gaz. of India, Exty., Part II-Sec. 3(ii), No. 420, dt. 7.5.2002. p. 2

20E. Filing of priority documents :-

(1) Where the applicant in respect of an international application designating India has not complied with the requirements of paragraph (a) or paragraph (b) of Rule 17.1 of the Regulations under the Treaty, the applicant shall file with the ¹[appropriate office] the priority document referred to in that rule before the expiration of the time-limit referred to in sub-rule (6) of Rule 20-D.

(2) Where priority document referred to in sub-rule (1) is not in the English language, a duly verified English translation thereof shall be filed within the time-limit specified in sub-rule (6) of Rule 20-D.

(3) Where the applicant does not comply with the requirements of sub-rule (1) or sub-rule (2), the ¹ [appropriate office] shall invite the applicant to file the priority document or the translation thereof, as the case may be, within three months from the date of the invitation, and if the applicant fails to do so, the claim of the applicant for the priority shall be disregarded for the purposes of the Act.

1. Substituted for "Patent Office ", vide " PATENTS RULES, 1972" Dt.19.11.99 Published in [Noti. No. 12/39/99-PP and C, S.O. 1148(E)dt. 19.11.99-Gaz. of India, Exty., Pt. II-Sec. 3(ii). No. 695, dt.19.11.99, p. 2.]

20F. Effect of non-compliance with certain requirements :-

An international application designating India shall be deemed to be withdrawn if the applicant does not comply with the requirements of Rule 20-D.

20G. The requirements under this Chapter to be supplemental to the Regulations, etc., under the Treaty :-

(1) The provisions of this Chapter shall be supplemental to the PCT and the Regulations and the Administrative Instructions made thereunder.

(2) In case of a conflict between any provisions of these rules and the provisions of Treaty and the Regulations and the administrative instructions made thereunder, the provisions of the Treaty and the Regulations and administrative instructions made thereunder shall apply in relation to international applications.

21. Procedure in case of anticipation by prior publication :-

(1) If the Controller is satisfied after investigation under section 13 that the invention so far as claimed in any claim of the complete specification has been published in any specification or other document referred to in clause (a) of sub-section (1) or sub-section (2) of the said section, the Controller shall communicate the gist of such objections to the applicant and the applicant shall be afforded an opportunity to amend his specification.

(2) If the applicant contests any of the objections communicated to him by the Controller under sub-rule (1) or if he refiles his specification along with his observations whether or not the specification is amended, he shall be given an opportunity to be heard in the matter if he so requires. ["Provided that such request is made on a date earlier than ten days of the final date of the period specified under sub-section (1) or sub-section (2) of Section 21.".]

(3) If the applicant requires a hearing under sub-rule (2) within a period of one month from the date of communication of the gist of objections or if the Controller, considers it desirable to do so, whether or not the applicant has refiled his application, fix a date for hearing having regard to the time remaining for putting the application in order or other circumstances of the case.

(4) When a hearing is fixed under sub-rule (3), the applicant shall be given at least 10 days' notice of such fixation or such shorter notice as appears to the Controller to be reasonable in the circumstances of the case and the applicant shall, as soon as possible notify the Controller whether he will attend the hearing.

(5) After hearing the applicant, or without a hearing if the applicant has not attended or has notified that he does not desire to be heard, the Controller may specify or permit such amendment of the specification as he thinks fit to be made and may refuse to accept the specification unless the amendment so specified or permitted is made within such period as he may fix.

22. Procedure in case of anticipation by prior claiming :-

(1) When it is found that the invention so far as claimed in any claim of the complete specification is claimed in any claim of any other specification falling within clause (b) of sub-section (1) of section 13 , the applicant shall be so informed and shall be afforded an opportunity to amend his specification.

(2) If the applicant's specification is otherwise in order for acceptance and an objection under clause (b) of sub-section (1) of section 13 is outstanding, the Controller may accept the specification and allow a period of two months from the date of its publication for removing the objection.

(3) If an objection under clause (b) of sub-section (1) of section 13 is communicated to the applicant after acceptance of the specification, a period of two months from the date of the communication shall be allowed for removing the objection.

23. Amendment of the complete specification in case of anticipation :-

(1) If the applicant so requests at any time, or if the Controller is satisfied that the objection has not been removed within the period prescribed by rule 22, a date for hearing the applicant shall be fixed and the applicant shall be given at least ten days' notice of the date so fixed. The applicant shall, as soon as possible, notify the Controller whether he will attend the hearing.

(2) After hearing the applicant, or without a hearing if the applicant has not attended or has notified that he does not desire to be heard, the Controller may specify or permit such amendment of the specification as will be to his satisfaction to be made and may direct that reference to such other specification, as he shall mention shall be inserted in the applicant's specification unless the amendment is made or agreed to within such period as he may fix.

24. Extension of the period specified in rules 22 and 23 :-

The periods mentioned in rule 22 or rule 23 may be extended if a request for such extension is made in ["Form 4"] before the expiry of such period or the extended period, so, however that the total extension of either period allowed under this rule shall not exceed six months.

25. Form of reference to another specification :-

When in pursuance of rule 23, the Controller directs that a reference to another specification shall be inserted in the applicant's complete specification, such reference shall be inserted after the claims and shall be in the following form namely:- "Reference has been directed, in pursuance of section 18(2) of the Patents Act. 1970, to the specification filed in pursuance of application No...."

26. Procedure in case of potential infringement :-

If in consequence of an investigation made under section 13 or section 25 , it appears to the Controller that the applicant's invention cannot be performed without substantial risk of infringement of a claim of another patent, the applicant shall be so informed and the procedure provided in rule 22 to rule 24 shall, so far as may be necessary, be applicable.

27. Form of reference to another patent :-

Where the Controller directs that a reference to another patent shall be inserted in the applicant's complete

specification under sub-section (1) of section 19 such reference shall be inserted after the claims in the following form, namely- "Reference has been directed, in pursuance of section 19(1) of the Patents Act, 1970, to Patent No....."

28. Form of application under sub-section (2) of section 19 :-

***]

29. Manner in which a claim under section 20(1) shall be made :-

(1) A claim under sub-section (1) of section 20 shall be made in ["Form 6"].

(2) The original assignment or agreement or an official or notarially certified copy thereof shall also be produced for the Controller's inspection and the Controller may call for such other proof of title or written consent as he may require.

30. Manner in which a request may be made :-

(1) A request under sub-section (4) of section 20 shall be made in ["Form 6"].

(2) The consent by the legal representative of the deceased joint applicant required to be give under sub-section (4) of section 20 shall be endorsed on the request.

(3) The request shall also be accompanied by proof of death of the joint applicant and a certified copy of the probate of the will of the deceased or letters of administration in respect of his estate or any other document to prove that the person who gives the consent is the legal representative of the deceased first applicant.

31. Manner of application under section 20(5) :-

(1) An application under sub-section (5) of section 20 shall be made in ["Form 6"]in duplicate and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks.

(2) A copy of the application and statement shall be sent by the Controller to every other joint applicant and the person making the application shall apply sufficient number of copies for that purpose.

32. Numbering of applications on acceptance of the complete specification :-

On the acceptance of a complete specification filed in respect of an application, the application shall be accorded a number (called serial number) in the series of numbers accorded to patents under Patents and Designs Act, 1911, which shall be the number of the patent which may be sealed in pursuance of the application.

33. Inspection of application, specification, etc :-

After the date of advertisement of the acceptance of a complete specification under section 23 , the application together with the provisional and complete specifications, the drawings and documents, if any, filed in respect of the application may be inspected at the appropriate office ["by making a written request to the Controller in that behalf].

CHAPTER 3A

Exclusive Marketing Rights

33A. Filing of application :-

An application for grant of a patent in respect of an invention covered under sub-section (2) of Section 5 shall be made to the Controller in Form 1 along with the fees as specified in the First Schedule.

33B. The application for grant of exclusive marketing right :-

An application for grant of exclusive right to sell or distribute the article or substance shall be made to the Controller in Form 27 along with the fees as specified in the First Schedule and the Controller shall notify the filing of the application in the Official Gazette and to the authority of the Central Government that is responsible for the grant of approval to sell or distribute the article or the substance for which the application is being made.

33C. Controller to refer application :-

On receipt of an application under Rule 33-B, the Controller shall refer the application relating to the patent to an examiner for making a report to him.

33D. Report of examiner :-

The examiner to whom an application has been referred shall ordinarily make the report to the Controller within a period of ninety days from the date of such reference.

33E. Notifying of grant or refusal of exclusive marketing rights :-

When the Controller grant or refuses an application for grant of exclusive right to sell or distribute the article or substance, he shall notify the same in the Official Gazette and to the authority of the Central Government that has granted approval to sell or distribute the article or the substance.

33F. Personal documents, etc. in relation to inventions :-

The recording in a document relating to specifications and trial or use as referred to in sub-section (2) of Section 24-B shall include public document, public trial or use but shall not include a personal document or secret trial or use.

33G. Appropriate tests :-

The appropriate tests conducted on or after the 1st day of January, 1995 and referred to in Section 24-B shall be the tests either the whole or a part of which had been conducted for the purposes of this Chapter.

33H. Form for grant of exclusive marketing rights :-

Exclusive marketing rights shall be granted in Form 28.

33I. Application for compulsory license to sell or distribute or for revocation of exclusive marketing rights :-

(1) An application to the Controller for an order under Section 84, Section 89, or Section 97, as modified by Section 24-C, shall be in Form 18 or, as the case may be in Form 20, to be modified as deemed necessary. Except in the case of an application made by the Central Government, the application shall set out the nature of the applicant's interest and the terms and conditions of the license to which the applicant is willing to accept.

(2) For the purpose of sub-section (4) of Section 84, as modified by Section 24-C, the Controller may call for statements and evidences from the applicant.

(3) On receiving an order from the Controller, the applicant shall furnish the statement and evidences within a period of ninety days from the date of the order of the Controller.

33J. When a prima facie case is not made out :-

(1) If upon consideration of the evidence, the Controller is satisfied that a prima facie case has not been made out for making an order under any of the sections referred to in Rule 33-I, he shall notify the applicant accordingly. Unless the applicant makes a request to be heard in the matter, the Controller shall refuse the application after the expiry of a period of thirty days from the date of receipt of the notice by the applicant.

(2) If the applicant makes a request for hearing within the time allowed under sub-rule (1), the Controller shall, after giving the applicant an opportunity of being heard, determine whether the application may be proceeded with or it shall be refused.

33K. Notice of opposition against grant of compulsory license or revocation of exclusive marketing rights :-

(1) A notice of opposition under sub-sections (2) of Section 92, as modified by Section 24-C shall be given in Form 14 and shall be sent to the Controller within ninety days from the date of the advertisement of the application under sub-section (1), of the said section.

(2) The notice of opposition referred to in sub-rule (1) shall include the terms and conditions of the license, if any, which the opponent is prepared to grant to the applicant and shall be accompanied by evidence in support of opposition.

(3) The Controller may by order call for further evidence from the opponent if he desires so.

(4) On receipt of the order under sub-rule (3), the opponent shall furnish the further evidence within a period of ninety days from the date of such receipt.

(5) The opponent shall serve a copy of his notice of opposition and evidence on the applicant and notify the Controller when such service has been effected.

(6) No further statement or evidence shall be delivered by either party except by leave of or on requisition by the Controller.

(7) The Controller shall thereafter appoint a date and time for the hearing of the case and shall give the parties not less than ten days notice of such hearing.

(8) The procedure specified in sub-rules (2) to (5) of Rule 44, shall, so far as may be, apply to the procedure for hearing under this rule, as they apply to the hearing of opposition to the grant of patents.

(9) The provisions of clause (f) of sub-section (1) of Section 77 for review of the decision of the Controller shall be applicable to any decision of the grant or refusal to grant of compulsory licence by the Controller.

(10) When the opponent makes the application for review of the decision of the Controller, the Controller shall suspend the operation of the decision for which the review is being requested till the disposal of the application for review.

33L. Manner of advertisement of the order for revocation of exclusive marketing rights :-

The Controller shall advertise, in the Official Gazette, the order made by him under sub-section (3) of Section 89 as modified by Section 24-C, for revoking exclusive marketing rights to sell or distribute the article or substance.

33M. Application for the revision of the terms and conditions of a license :-

(1) An application under sub-section (5) of Section 93 as modified by Section 24-C for the revision of the terms and conditions of a license which has been settled by the Controller shall be in Form 21 as may be modified as deemed necessary and shall state the facts relied upon by the applicant and the relief he seeks and shall be accompanied by evidence in support of the application.

(2) If the Controller is satisfied that a prima facie case has not been made out for the revision of the terms and conditions of the license, he may notify the applicant accordingly and unless within a period of thirty days the applicant requests to be heard in the matter, the Controller may refuse the application.

(3) The Controller, after giving the applicant an opportunity of being heard, shall determine whether the application shall be proceeded with or it shall be refused.

33N. Procedure to be followed in case of application under Rule 33-M :-

(1) If the Controller allows, the application to be proceeded with, he shall direct the applicant to serve copies of the application and of the evidence in support thereof upon the holder of exclusive marketing rights or upon any other person on whom, in his opinion, such copies should be served.

(2) The applicant shall inform the Controller the date on which the service of copies of application and of the evidence on the holder of exclusive marketing right and other persons referred to in sub-rule (1) has been effected.

(3) The holder of the exclusive marketing right or any other person on whom copies of the application and of the evidence have been served may give the Controller a notice of opposition in Form 14 as may be modified as deemed necessary, within sixty days from the date of such service. Such notice shall contain the grounds relied upon by the opponent and shall be accompanied by evidence in support of the opposition.

(4) The opponent shall serve copies of the notice of opposition and his evidence on the applicant and inform the Controller the date on which service has been made.

(5) No further evidence or statement shall be filed by either party without special leave of or on requisition by the Controller.

(6) On completion of the proceedings specified under sub-rule (1) to (5) or at such other time as he may deem fit, the Controller shall appoint a date and the time for the hearing of the case and shall give the parties not less than ten days notice of such hearing.

(7) The procedure specified in sub-rules (2) to (5) of Rule 44 shall, so far as may be, apply to the procedure for hearings under this rule as they apply to the hearing of opposition to the grant of a patent.

(8) If the Controller decides to revise the terms and conditions of licence he shall amend the license granted to the applicant in such manner as he may deem necessary.

33O. References to public interest :-

Reference to public interest in sub-section (1) of Section 24-D shall mean the requirement of the public in a national emergency or other circumstances of extreme urgency.

33P. Register of exclusive marketing rights :-

(1) There shall be kept at the head office of the patent office a register to be called the Register of exclusive marketing rights and a copy thereof shall be available at each of the branch offices and all entries relating to exclusive marketing rights shall be made therein.

(2) The Register kept under sub-rule (1) shall be open to the public on a request to be made to that effect to the Controller in writing.

(3) Certified copy of any entry in the Register of exclusive marketing rights thereof shall be supplied on a request therefor made to that effect to the Controller.

CHAPTER 4

OPPOSITION TO GRANT OF PATENT

34. Manner of application for extension of time under section 25(1) :-

(1) An application for extension of time for giving notice of opposition to the grant of patent under sub-section (1) of section 25 shall be made in ["Form 4"] and left at the appropriate office within four months from the date of advertisement of the acceptance of the complete specification stating the reasons for the grant of extension of time.

(2) The application for extension of time shall be filed in triplicate.

(3) One copy of the application for extension of time shall be sent by the Controller to the applicant for patent,

35. Filing of notice of opposition :-

The notice of opposition to be given under sub-section (1) of section 25 shall be made in ["Form 7"] and sent to the Controller in triplicate.

36. Written statement of opposition :-

The opponent shall send a written statement in duplicate setting out the nature of opponent's interest, the facts upon which he bases his case and relief which he seeks and evidence, if any, in duplicate in support of his case along with notice of opposition or within sixty days from the date of the notice of opposition and shall deliver to the applicant a copy of the statement and the evidence.

37. Time for filing reply statement :-

If the applicant desires to contest the opposition, he shall leave at the appropriate office a reply statement in

duplicate setting out fully the grounds upon which the opposition is contested and evidence if any, in duplicate, in support of his case within a period of sixty days from the date of receipt of the copy of the written statement and opponent's evidence by him under Rule 36 and deliver to the opponent a copy thereof.

38. Time for leaving evidence of opponent :-

***]

39. Time for leaving applicants evidence :-

***]

40. Reply evidence by opponent :-

The opponent may, within thirty days from the date of delivery to him a copy of the applicant's reply statement and evidence under Rule 37, leave at the appropriate office evidence in reply in duplicate strictly confined to matters in the applicant's evidence and shall deliver to the applicant a copy of such evidence.

41. Further evidence to be left with the leave of the Controller :-

No further evidence shall be delivered by either party except by leave or directions of the Controller.["Provided that such leave or direction is prayed before the Controller has fixed the hearing under Rule 44.".]

42. Number of copies to be supplied of documents :-

(1) Copies of all documents other than Indian patents specification referred to in the notice of opposition or in any statement or evidence filed in connection with the opposition and authenticated to the satisfaction of the Controller, shall-

(a) in a case where they are referred to in the notice of opposition and written statement, be furnished in triplicate; and

(b) in any other case, be furnished in duplicate. unless the Controller otherwise directs. The number of copies shall accompany the notice, statement or evidence as the case may be in which they are referred to.

(2) Where a specification or other document in a language other than English is referred to in the notice, statement or evidence, an attested translation thereof, in triplicate, in English shall be furnished.["along with such notice, statement or evidence, as the case may be"]

43. Extension of time :-

The time allowed for filing the reply statement or evidence shall not ordinarily be extended except by a special order of the Controller given on a petition made by the person seeking extension of time and on payment of the fee specified therefor in the First Schedule: Provided that the extension so granted shall in no case exceed three months in the aggregate.

44. Hearing :-

(1) On the completion of the presentation of evidence, if any, or at such other time as the Controller may think fit, he shall appoint a time for the hearing of the opposition and shall give the parties not less than ten days' notice of such hearing.

(2) If either party to the proceeding desires to be heard, he shall inform the Controller by a notice [***].

(3) The Controller may refuse to hear any party who has not given notice under sub-rule (2).

(4) If either party intends to refer at the hearing to any publication not already mentioned in the notice, statement or evidence, he shall give to the other party and to the Controller not less than five days' notice of his intention, together with details of such publication to which he intends to refer.

(5) After hearing the party or parties desirous of being heard, or if neither party desires to be heard, then without a hearing, the Controller shall decide the opposition and notify his decision to the parties giving reasons therefor.

45. Determination of costs :-

If the applicant notifies the Controller that he does not desire to proceed with the application after notice of opposition is given, the Controller in deciding whether cost should be awarded to the opponent, shall consider whether opposition might have been avoided if the opponent had given reasonable notice to the applicant before the notice of opposition was given to the Controller.

46. Time within which complete specification is to be amended under section 27 :-

The time within which an applicant shall amend his complete specification to the satisfaction of the Controller under section 27 shall be two months from the date of such intimation by the Controller.

47. Procedure to be followed :-

(1) If the specification has not been amended to the satisfaction of the Controller within the time allowed under rule 46, including any extension thereof which the Controller may allow, a time for hearing shall be appointed and the applicant shall be given at least ten days' notice of such date of hearing.

(2) The applicant shall as soon as possible, notify the Controller whether he will attend the hearing.

(3) After hearing the applicant, or without a hearing if the applicant has not attended or has notified that he does

not desire to be heard, the Controller may prescribe or permit such amendment of the specification as will be to his satisfaction to be made and may refuse to grant a patent unless the amendment is made or agreed to within two months from the date of his order.

48. Extension of time :-

A request for extension of time specified in rule 46 or in sub-rule (3) of rule 47 shall be made in ["Form 4"] and the total extension of time given under either of the said rules shall not exceed two months.

49. Manner of request under section 28(2) :-

A request under sub-section (2) of section 28 shall be made in ["Form 8"].

50. Manner of making a claim under section 28(3) :-

(1) A claim under sub-section (3) of section 28 shall be made in ["Form 8"], and shall be accompanied by a statement setting out the circumstances under which the claim is made.

(2) A copy of the claim made and of the statement shall be sent by the Controller to every applicant for the patent (not being the claimant) and to any other person whom the Controller may consider to be interested and the claimant shall supply sufficient number of copies for the purpose.

51. Form of application to be made under sub-section (7) of section 28 :-

(1) An application under sub-section (7) of section 28 for a certificate shall be made in ["Form 8"] and shall be accompanied by a statement setting out the circumstances under which the application is made.

(2) A copy of the application and of the statement shall be sent by the Controller to each patentee or the applicant for patent, as the case may be (not being the applicant), to the person mentioned as the actual deviser, and to any other person whom the Controller may consider to be interested and the applicant shall supply sufficient number of copies for the purpose.

52. Procedure for the hearing of claim or an application under section 28 :-

The procedure specified in rule 35 to Rule 45 relating to the filing of notice of opposition, written statement, reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of a claim or an application under section 28 as they apply to the proceedings in opposition to the grant of patents subject to the modification that reference to applicant shall be construed as the person making the claim or an application as the case may be.

53. Mention of inventor :-

Any mention of the inventor under sub-section (1) of section 28 shall be made in the patent after the name of the Controller and on the complete specification at the head of ["Form 2"] and may be in the following form, namely :-
"The inventor of this invention/substantial part of this invention within the meaning of section 28 of the Patents Act, 1970, is.....of....."

CHAPTER 5
SECRECY DIRECTIONS

54. Communication of result of reconsideration under section 36(2) :-

The result of every reconsideration under sub-section (1) of section 36 shall be communicated in writing to the applicant for patent within fifteen days of the receipt by the Controller of the notice under that sub-section.

55. Extension of time on revocation of secrecy directions under section 38 :-

The extension of time to be given for doing anything required or authorised to be done under section 38 shall not exceed the period for which directions given by the Central Government under sub-section (1) of section 35 were in force.

CHAPTER 6
SEALING OF PATENTS

56. Sealing of patents :-

(1) A request for the sealing of a patent under sub-section (1) of section 43 shall be made in ["Form 9"].

(2) The period within which a request for the sealing of a patent may be made under clause (a) of the proviso to sub-section (2) of section 43 shall be two months after the final determination of the proceedings referred to in that clause.

(3) An application under sub-section (3) of section 43 shall be made in ["Form 4"].

57. Form of patent :-

A patent shall be in the form as specified in the Third Schedule with such modifications as the circumstances of each case may require and shall bear the number accorded to the application under rule 32.

58. Amendment of patent under section 44 :-

An application under section 44 for the amendment of a patent shall be made in ["Form 10"] in duplicate and shall be accompanied by evidence verifying the statements made therein and by the patent.

59. Manner of applying for directions under section 51(1) :-

(1) An application for directions under sub-section (1) of section 51 shall be made in ["Form 11"] in duplicate and

shall be accompanied by a statement setting out the facts upon which the applicant relies.

(2) A copy of the application and of the statement shall be sent by the Controller to every other person registered as grantee or proprietor of the patent and the applicant shall supply sufficient number of copies for that purpose.

60. Manner of application under section 51(2) :-

(1) An application for directions under sub-section (2) of section 51 shall be made in ["Form 11"] in duplicate and shall be accompanied by a statement setting out the facts upon which the applicant relies.

(2) A copy of the application and statement shall be sent by the Controller to the person in default.

61. Procedure for the hearing of proceedings under section 51 :-

The procedure specified in rule 35 to Rule 45 relating to the filing of notice of opposition, written statement, reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of an application under section 51 as they apply to the hearing of an opposition to the grant of patents.

62. Manner of request under section 52(2) :-

(1) A request under sub-section (2) of section 52 shall be made in ["Form 12"] within three months from the date of the order of the Court referred to in sub-section (1) of the said section and shall be accompanied by a statement setting out the facts upon which the petitioner relies and the relief he claims and a certified copy of the order of the court:

Provided that the time taken for obtaining a certified copy of the order shall be excluded in calculating the said period of three months.

(2) Where the court has ordered the grant of patent to the applicant only for a part of the invention, the new patent granted shall be accorded a number in the same series of numbers accorded to the complete specifications accepted on the same days as the patent is granted.

63. Renewal fees :-

(1) If it is desired to keep a patent in force for the term of the patent, the renewal fees specified in the First Schedule shall be payable at the expiration of the second year from the date of the patent or of any succeeding year and the same shall be remitted to the Patent Office before the expiration of the second or the succeeding year.

(2) While paying the renewal fee, the number of the patent concerned and the year in respect of which the fee is paid shall be quoted.

(3) The annual renewal fees payable in respect of two or more years may be paid in advance.

(4) The Controller shall, after making such enquiry as he may deem necessary, credit any renewal fee and issue a certificate that the fee has been paid.

64. Form of request under section 55(1) :-

***]

CHAPTER 7

AMENDMENT OF APPLICATIONS AND SPECIFICATIONS

65. Amendment of application or specification :-

(1) An application under section 57 for the amendment of an application for a patent or a complete specification shall be made in ["Form 13"].

(2) If the application for amendment under sub-rule (1) relates to an application for a patent which has not been accepted, the Controller shall determine whether any subject to what conditions, if any, the amendment shall be allowed.

(3)

(a) If the application for amendment under sub-rule (1) is made after the acceptance of the complete specification, the application for the amendment and the nature of the proposed amendment shall be advertised by the Controller in the Official Gazette and by the applicant in such other manner as the Controller may in each case direct. The Controller shall also notify all the persons who, in his opinion, may have an interest in the matter.

(b) Any person ["interested in"] opposing the application for amendment shall give a notice of opposition in ["Form 14"] in duplicate within three months from the date of advertisement of the application in the Official Gazette.

(c) The procedure specified in rule 36 to Rule 45 relating to the filing of written statement, reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of the opposition under section 57 as they apply to the hearing of the opposition to the grant of patents.

66. Preparation of amended specifications, etc :-

Where the Controller allows the application for a patent or the complete specification to be amended, the applicant shall, if the Controller so requires and within the time to be specified by him, leave at the appropriate office an amended application or specification, as the case may be, in accordance with the provisions of these rules.

67. Advertisement of the amendments allowed :-

The amendments allowed by the Controller after a complete specification has been accepted may be advertised by him in the Official Gazette.

CHAPTER 8

RESTORATION OF PATENTS

68. Restoration of patents :-

(1) An application for the restoration of a patent under section 60 shall be made in ["Form 15"].

(2) Upon consideration of the application and the evidence adduced by the applicant, if any, if the Controller is satisfied that a prima facie case for the restoration of the patent has not been made out he shall intimate the applicant accordingly and unless within one month from the date of such intimation the applicant requests to be heard in the matter the Controller shall refuse the application.

(3) If the applicant requests for a hearing within the time allowed and the Controller after giving the applicant such a hearing, is prima facie satisfied that the failure to pay the renewal fees was unintentional, he shall advertise the application in the Official Gazette.

69. Opposition to restoration :-

(1) At any time within two months from the date of advertisement or the application in the Official Gazette under sub-rule (3) of rule 68, ["any person interested"] may give notice of opposition thereto in ["Form 14"] in duplicate.

(2) A copy of the notice of opposition shall be sent by the Controller to the applicant.

(3) The procedure specified in rule 36 to Rule 45 relating to the filing of written statement, reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of the opposition under section 60 as they apply to the hearing of the opposition to the grant of patents.

70. Payment of unpaid renewal fees :-

(1) If the Controller decides in favour of the applicant, the applicant shall pay the unpaid renewal fees and the additional fee specified in the First Schedule, within a month from the date of the order of the Controller allowing the applicant for restoration.

(2) The Controller shall advertise in the Official Gazette his decision on the application.

CHAPTER 9

SURRENDER OF PATENTS

71. Surrender of patents :-

(1) [***]

(2) The Controller shall advertise the notice of an offer given under Section 63 in the Official Gazette.

(3) Any person interested may within three months from the date of advertisement of the notice in the Official Gazette give notice of opposition to the Controller in ["Form 14"] in duplicate.

(4) The procedure specified in rule 36 to Rule 45 relating to the filing of written statement, reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of the opposition under section 63 as they apply to the hearing of the opposition to the grant of patents.

(5) If the Controller accepts the patentee's offer to surrender the patent, he may direct the patentee to return the patent and on receipt of such patent, the Controller shall by order revoke it and notify the revocation of the patent in the Official Gazette.

CHAPTER 10

REGISTER OF PATENTS

72. Register of patents :-

(1) Upon the sealing of a patent, the Controller shall enter in the register of patents, the name, address and nationality of the grantee as the patentee thereof, the title of the invention (including the categories specified in section 5 to which the invention relates), the date of the patent and the date of sealing thereof together with the address of service of the patentee.

(2) The Controller shall also enter in the register of patents particulars regarding proceedings under the Act before the Controller or the courts in respect of every patent.

73. Registration of documents under section 68 :-

An application for the registration of a document under section 68 shall be made in ["Form 16"].

74. Registration of title and interest in patents :-

(1) An Application referred to in sub-section (1) of section 69 shall be made-

(a) by a person becoming entitled to a patent or a share in it in ["Form 17"];

(b) by a person becoming entitled as a mortgagee or a licensee or otherwise to any other interest in a patent in ["Form 17"].

(2) An application referred to in sub-section (2) of section 69 shall be made-

(a) by the assignor in["Form 17"];

(b) by a mortgagor, licensor or other party in Form 39.

(3) An application for entry in the register of patents of the notification of any other document purporting to affect the proprietorship of the patent by the person benefiting under the document shall be made in ["Form 17"].

75. Presentation of assignment, etc., of patent to Controller :-

Every assignment and every other document giving effect to or being evidence of the transfer of a patent or affecting the proprietorship thereof or creating an interest therein as claimed in such application, shall, unless the Controller otherwise directs, be presented to him together with the application which shall be accompanied by two copies of the assignment or other document certified to be true copies by the applicant or his agent and the Controller may call for such other proof of title or written consent as he may require.

76. Registration of title or interest in a patent :-

After the receipt of an application under sub-section (1) or sub-section (2) of section 69 , the Controller shall register the title of the person concerned or his interest in a patent, as the case may be, and an entry in the following form shall be made in the register, namely, "In pursuance of an application received on the Proprietor Assignment registered as licensee by virtue of licence Mortgagee etc. mortgage deed etc. dated and made between of the one part and of the other part".

77. Entry of renewal fee :-

Upon the issue of a certificate of the payment of the prescribed renewal fee in respect of a patent, the Controller shall enter in the register of patents the fact that the fee has been paid and the date of payment of such fee as stated in the certificate.

78. Alteration of address :-

(1)A patentee may make a request ["in writing"]to the Controller for the alteration of his name, nationality, address or address for service as entered in the register of patents in respect of any patent granted to him. The Controller may require such proof of the alteration as he may think fit before acting on a request to alter the name or nationality.

(2) If the Controller allows a request made under sub-rule (1), he shall cause the entries in the register to be altered accordingly.

(3) If a patentee makes a request ["in writing"]for entering an additional address for service in India and if the Controller is satisfied that the request should be allowed, he shall have the additional address for service entered in the register subject to the condition that not more than two addresses for service shall be entered in the register at any one time.

79. Inspection of register of patents and fees payable therefor :-

(1) The register of patents shall be kept at the head office of the Patent Office and shall be open for public inspection during office hours on payment of the fees specified therefor in the First Schedule.

(2) A copy of the register shall be available for inspection at each of the branch offices of the Patent Office on the same conditions as are applicable to, and on payment of the same fees as are payable for, the inspection of the register under sub-rule (1).

CHAPTER 11

COMPULSORY LICENCES ENDORSEMENT OF PATENTS WITH THE WORDS "LICENCES OF RIGHT" AND REVOCATION

80. Application for compulsory licence etc :-

(1) An application to the Controller for an order under section 84 , section 86 , section 89 , section 96 , or section 97 shall be in ["Form 18", "Form 19" and "Form 20"], as the case may be. Except in the case of an application made by the Central Government, the application shall set out the nature of the applicant's interest and the terms and conditions of the licence the applicant is willing to accept.

81. When a prima facie case is not made out :-

(1) If, upon consideration of the evidence, the Controller is satisfied that a prima facie case has not been made out for the making of an order under any of the sections referred to in rule 80, he shall notify the applicant accordingly, and unless the applicant requests to be heard in the matter, within one month of the date of such notification, the Controller shall refuse the application.

(2) If the applicant requests for a hearing within the time allowed under sub-rule (1), the Controller shall, after giving the applicant an opportunity of being heard, determine whether the application may be proceeded with or whether it shall be refused.

82. Notice of opposition under section 92(2) :-

(1) A notice of opposition under sub-section (2) of section 92 shall be given in ["Form 14"] in duplicate and shall be sent to the Controller within two months from the date of the advertisement of the application under sub-section (1) of the said section.

(2) The notice of opposition referred to in sub-rule (1) shall include the terms and conditions of the licence, if any, the opponent is prepared to grant to the applicant and shall be accompanied by evidence in support of the opposition.

(3) The opponent shall serve a copy of his notice of opposition and evidence on the applicant and notify the Controller when such service has been effected.

(4) No further statement or evidence shall be delivered by either party except by leave of or on requisition by the Controller.

(5) The Controller shall thereafter appoint a date and time for the hearing of the case and shall give the parties not less than ten days' notice of such hearing.

(6) The procedure specified in sub-rules (2) to (5) of rule 44, shall, so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing of opposition to the grant of patents.

83. Manner of application under section 88(2) :-

(1) An application under sub-section (2) of section 88 for settling the terms of the licence shall be made in ["Form 21"] in duplicate and shall be accompanied by a statement of negotiations made between the applicant and the other party and the terms and conditions of the licence the applicant is willing to accept.

(2) In the case of applications in respect of patents for inventions referred to in sub-clause (i), or sub-clause (ii), of clause (a) of sub-section (1) of section 87 and deemed to be endorsed with the words "Licences of Right", under clause (a) or clause (b) of that sub-section, a statement containing an estimate of the net ex-factory sale price in bulk of the patented article and all the information relevant thereto with evidence in support thereof shall also be filed along with the application.

(3) The Controller shall send one copy of the application, the statement, if any, referred to in sub-rule (2) and the evidence to the other party and direct him to file a statement containing the terms and conditions of the licence he is prepared to accept within one month from the date of sending the said copies and serve a copy of such statement, if any, on the applicant and communicate the date of such service on the applicant to the Controller.

(4) In the case of an application in respect of a patent referred to in sub-rule (2) the Controller may also direct the other party to furnish a similar statement in reply and evidence in support thereof, and to serve a copy of the statement on the applicant.

(5) The Controller shall give the parties an opportunity of being heard within one month from the date of service of the statement or statements and evidence.

(6) The procedure specified in sub-rules (2) to (5) of rule 44, shall, so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing of opposition to the grant of a patent.

(7) The Controller in determining the royalty and other remuneration reserved to the patentee shall consider the statements and may make such enquiries, as he may deem fit.

84. Manner of applying under section 88(4) :-

(1) An application under sub-section (4) of section 88 for permission to work the patented invention shall be in ["Form 22"] in duplicate and shall contain the reasons for making the application and the terms under which he would work the patented invention pending agreement with the patentee or decision by the Controller. The applicant shall file evidence in support of the application, if the Controller so directs.

(2) The Controller shall forward a copy of the application and evidence, if any, to the patentee and direct him to file within such time not exceeding one month a statement containing the terms of the licence he is willing to grant or the terms under which the Controller may allow the applicant to work the patented inventions pending agreement with the applicant.

(3) The Controller after hearing the parties may direct them to execute a licence if they mutually agree on the terms and conditions of the same or permit the applicant to work the patented invention on such terms as he may think fit to impose.

85. Manner of advertisement of the revocation order :-

The Controller shall advertise in the Official Gazette the order made by him under sub-section (3) of section 89 revoking a patent.

86. Application under section 93(5) :-

(1) An application under sub-section (5) of section 93 for the revision of the terms and conditions of a licence which have been settled by the Controller shall be in ["Form 21"] in duplicate and shall state the facts relied upon by the applicant and the relief he seeks and shall be accompanied by evidence in support of the application.

(2) If the Controller is satisfied that a prima facie case has not been made out for the revision of the terms and conditions of the licence, he may notify the applicant accordingly and unless within a month the applicant requests to be heard in the matter the Controller may refuse the application.

(3) The Controller after giving the applicant an opportunity of being heard shall determine whether the application shall be proceeded with or whether the application shall be refused.

87. Procedure to be followed in case of applications under section 93(5) :-

(1) If the Controller allows the application to be proceeded with, he shall direct the applicant to serve copies of the application and of the evidence in support thereof upon the patentee or any other person appearing in the register to be interested in the patent or upon any other person on whom in his opinion such copies should be so served.

(2) The applicant shall inform the Controller the date on which the service of copies of application and of the evidence on the patentee and other persons referred to in sub-rule (1) has been effected.

(3) The patentee or any other person on whom copies of the application and of the evidence have been served, may give to the Controller notice of opposition in Form 46 in duplicate within two months from the date of such service. Such notice shall contain the grounds relied upon by the opponent and shall be accompanied by evidence in support of the opposition.

(4) The opponent shall serve copies of the notice of opposition and his evidence on the applicant and inform the Controller the date on which such service has been effected.

(5) No further evidence or statement shall be filed by either party without special leave of or on requisition by the Controller.

(6) On completion of the above proceedings or at such other time as he may deem fit, the Controller shall appoint a date and the time for the hearing of the case and shall give the parties not less than ten days' notice of such hearing.

(7) The procedure specified in sub-rules (2) to (5) or rule 44 shall, so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing of opposition to the grant of a patent.

(8) If the Controller decides to revise the terms and conditions of licence he shall amend the licence granted to the applicant in such manner as he may deem necessary.

CHAPTER 12
SCIENTIFIC ADVISERS

88. . :-

(1) The Controller shall maintain a roll of scientific advisers for the purpose of section 115 . The roll shall contain the names and addresses of scientific advisers, their designations, information regarding their educational qualifications, the disciplines of their specialisation and their technical, practical and research experience.

(2) A person shall be qualified to have his name entered in the roll of scientific advisers if he fulfils the following conditions, namely :-

(i) he holds a degree in science, engineering or technology;

(ii) he has at least 15 years' practical or research experience; and

(iii) he holds or has held a responsible post in a scientific or technical department of the Central or State Government or in any organisation.

89. Manner of application for inclusion in the roll of scientific advisers :-

Any interested person may apply to the Controller for inclusion of his name in the roll of scientific advisers furnishing his bio-data.

90. Inclusion of the name of any other person in the roll of scientific advisers :-

The Controller may, notwithstanding anything contained in rule 88 and Rule 89, enter the name of any person in the roll of scientific advisers, if the Controller is of opinion after such inquiry as he deems fit, that such person should be entered in the roll of scientific advisers.

91. Power to relax :-

Where the Controller is of the opinion that it is necessary or expedient so to do, he may, by order, for reasons to be recorded in writing, relax any of the qualifications specified in sub-rule (2) of rule 88 with respect to any person, if such person is otherwise well qualified.

92. Removal of names from the roll of scientific advisers :-

The Controller may remove the name of any person from the roll of scientific advisers,-

(a) if such person makes a request for such removal; or

(b) if the Controller is satisfied that his name has been entered in the roll by error or on account of misrepresentation or suppression of any material fact; or

(c) if he has been convicted of an offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity and the Controller is of the opinion that his name should be removed from the roll :

[Provided that, before removing the name of any person from the roll of scientific advisers under this rule, such person shall be given a reasonable opportunity of being heard.]

CHAPTER 13
PATENT AGENTS

93. Particulars to be contained in the register of patent agents :-

The register of patent agents maintained under section 125 shall contain the name, nationality, address of the principal place of business, addresses of branch offices, if any, the qualifications and the date of registration of every registered patent agent.

94. Application for registration of patent agents :-

(1) Every person desiring to be registered as a patent agent shall make an application in ¹["Form 23"]in duplicate, which shall be filed at the head office of the Patent Office.

(2) The applicant shall furnish such other information as may be required by the Controller,

² (3) A person desirous to appear in the qualifying examination under Rule 95 shall make a request therefor to the Controller.

1. Omitted for "Within one month from the date of delivery to him of the copy of the opponent's evidence under rule 33 or if the opponent does not file any evidence within one month from the expiration of time within which the opponent's evidence might have been left, the applicant may leave at the appropriate office evidence in duplicate in support of his case and shall deliver to the opponent a copy thereof. ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti.No. S.O. 411(E), dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

2. Inserted vide " PATENTS RULES, 1972"Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999,published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

95. Particulars of the qualifying examination for patent agents :-

(1) The qualifying examination referred to in clause (ii) of sub-section (1) of section 126 shall consist of a written test and a viva voce examination.

(2) The written test shall consist of the following papers, namely :- Subject Maximum Marks Paper I- Patents Act and rules 100 Paper II- Drafting and interpretation of patent specifications and other documents. 100

(3) The qualifying marks for each written paper and for the viva voce examination, shall be 40 per cent and 60 per cent respectively, and a candidate shall be declared to have passed the examination only if he obtains an aggregate of 50 per cent of the total marks.

¹ (4) A person who has functioned in the patent office under Section 73 for a period of at least 10 years as Examiner or Controller or both shall be deemed to have passed the qualifying examination.

1. Inserted vide " PATENTS RULES, 1972"Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999,published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

96. Registration of patent agents :-

After a candidate passes the qualifying examination specified to rule 95 and after obtaining any further information which the Controller considers necessary he shall, on receipt of the fee specified therefor in the First Schedule, enter the candidate's name in the register of patent agents and issue to him a certificate of registration as a patent agent.

97. Details to be included in an application for the registration of a patent agent :-

An application by a person entitled to be registered as a patent agent under sub- section (2) of section 126 shall be made in ¹ ["Form 23"]in duplicate and shall be accompanied by a statement giving information regarding his practice as patent agent before the 1st November, 1966 and a list of applications in respect of which he has filed complete specifications before the said date.

1. Substituted for "Form 50 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

98. Registration of patent agents under section 126(2) :-

On receipt of an application for the registration of a person as a patent agent under rule 97, the Controller may if he is satisfied that the said person fulfils the conditions specified in sub-section (2) of section 126 enter his name in the register of patent agents.

99. Disqualifications for registration as a patent agent :-

A person shall not be eligible to be registered as a patent agent, if he-

- (i) has been adjudged by a competent court to be of unsound mind;
- (ii) is an undischarged insolvent;
- (iii) being a discharged insolvent, has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part;
- (iv) has been convicted by a competent court, whether within or outside India of an offence to undergo a term of imprisonment, unless the offence of which he has been convicted has been pardoned or unless on an application made by him, the Central Government has, by order in his behalf, removed the disability;
- (v) being a legal practitioner has been guilty of professional misconduct; or
- (vi) being a chartered accountant, has been guilty of negligence or misconduct.

100. Payment of fees :-

The continuance of a person's name in the register of patent agents shall be subject to the payment of the fees specified therefor in the First Schedule.

101. Deletion of a name from the register of patent agents :-

- (1) The Controller may delete from the register of patent agents the name of any patent agent-
 - (a) from whom a request has been received to that effect; or
 - (b) when he is dead; or
 - (c) when the Central Government has removed the name of a person under sub- section (1) of section 130 ; or
 - (d) if he has defaulted in the payment of fees specified in Rule 100, by more than three months after they are due.
- (2) The deletion of the name of any person from the register of patent agents shall be notified in the Official Gazette and shall be communicated to the person concerned.

102. Restoration of names of persons removed from the register of patent agents :-

- (1) An application for the restoration of the name of any person removed from the register of patent agents under sub-section (2) of section 130 shall be made in ¹ ["Form 24"]in triplicate within six months from the date of such removal.
- (2) If the name of a person is restored to the register of patent agents, his name shall be continued therein for a period of one year from the date on which his last annual fee became due.
- (3) The restoration of a name to the register of patent agents shall be notified by the Controller in the Official Gazette and communicated to the person concerned.

1. Substituted for "Form 51 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

103. Alteration of names etc. in the register of patent agents :-

- (1) A patent agent may apply ¹ [***]in triplicate for the alteration of his name, address of the principal place of business and branch offices, if any, or the qualifications entered in the register of patent agents. On receipt of such application and the fee specified therefor in the First Schedule, the Controller shall cause the necessary alterations to be made in the register of patent agents.
- (2) Every alteration made in the register of patent agents shall be notified in the Official Gazette.

1. Omitted for "in Form 52 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

104. Refusal to recognise as patent agent :-

If the Controller is of the opinion that any person should not be recognised as a patent agent in respect of any business under the Act as provided in sub- section (1) of section 131 thereof he shall communicate his reasons to that person and direct him to show cause why he should not refuse to recognise him as such agent, within such time as he may allow, and after considering the reply, if any, of that person and giving him an opportunity of being heard, the Controller may pass such orders as he may deem fit.

105. Publication of the names of patent agents, registered under the Act :-

The names and addresses of persons registered as patent agents shall from time to time be published in the Official Gazette, newspapers, trade journals and in such other manner as the Controller may deem fit.

CHAPTER 14
MISCELLANEOUS

106. Address of all communications :-

All communications in relation to any proceeding under the Act or these rules shall be addressed to the Controller of Patents at the appropriate office.

107. Correction of clerical errors :-

A request for the correction of a clerical error in any document referred to in section 78 ¹ [***] shall be accompanied by two copies of the document indicating the corrections required clearly in red ink along with the fees payable therefor as specified in the First Schedule;

1. Omitted for "shall be made in Form 53 in duplicate and ", vide " PATENTS RULES, 1972" Dt. June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti.No. S.O. 411(E), dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

108. Manner of advertisement of the proposed correction of any error :-

Where the Controller requires a notice of the nature of the proposed correction to be advertised, the request and the nature of the proposed correction shall be published in the Official Gazette and the person making the request shall also serve copies of the request and the copies of the document showing the proposed corrections to such persons who, in the opinion of the Controller, may be interested.

109. Manner and time of opposition to the making of corrections :-

(1) Any person interested may, at any time, within three months from the date of the advertisement of the request for correction in the Official Gazette give notice of opposition to the Controller in ¹ ["Form 14"] in duplicate.

(2) Such notice of opposition shall be accompanied by a statement in duplicate setting out the nature of the opponent's interest, the facts on which he relies and the relief which he seeks.

(3) A copy of the notice and of the statement shall be sent by the Controller to the person making the request.

(4) The procedure specified in rule 37 to Rule 45 relating to the filing of reply statement, leaving evidence and hearing shall, so far as may be, apply to the hearing of the opposition under section 78 as they apply to the hearing of the opposition to the grant of patents.

1. Substituted for "Form 54 ", vide " PATENTS RULES, 1972" Dt. June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

110. Notification of corrections :-

The Controller shall notify the person making a request for the correction and the opponent, if any, of the corrections made in the relevant document.

111. Form, etc., of affidavits :-

(1) The affidavits required by the Act or these rules to be filed at the Patent Office or furnished to the Controller shall be headed in the matter or matters to which they relate, shall be drawn up in the first person, shall be divided into paragraphs consecutively numbered, and each paragraph shall as far as practicable, be confined to one subject. Every affidavit shall contain the description and place of residence of the person making the affidavit and shall bear the name and address of the person making it and, if the affidavit is made on behalf of any other person, it shall state the name of that person on whose behalf it is made.

(2) Where two or more persons join in an affidavit, each of them shall depose separately to such facts which are within his personal knowledge and those facts shall be stated in separate paragraphs.

(3) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove except in interlocutory matters, where statements of belief of the deponent may be admitted, provided that the grounds thereof are given.

(4) Affidavits shall be sworn to as follows :-

(a) In India-before any court or person having by law authority to receive evidence, or before any officer empowered by such court as aforesaid to administer oaths or to take affidavits;

(b) In any country or place outside India-before a diplomatic or consular officer, within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 in such country or place or before a notary of the country or place, recognised by the Central Government under Section 14 of the Notaries Act, 1952 (53 of 1952), or before a judge or magistrate of the country or place.

(5) the person before whom an affidavit is sworn to shall state the date on which and the place where the same is sworn to and shall affix thereto his seal, if any, or the seal of the court if the affidavit is sworn to before the court or an officer empowered by that court and sign his name and state his designation and address at the end thereof.

(6) Any affidavit purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised under sub-rule (4), in testimony of the affidavit having been sworn to before him, may be admitted by the Controller without proof of the genuineness of the seal or signature, or of the official position of that person.

(7) Alterations and interlineations shall, before an affidavit is sworn to or affirmed be authenticated by the initials of the person before whom the affidavit is sworn to.

(8) Where the deponent is illiterate, blind or unacquainted with the language in which the affidavit is written, a

certificate by the person before whom the affidavit is sworn to, to the effect that the affidavit was read, translated or explained in his presence to the deponent, and that the deponent seemed perfectly to understand it and has signed the affidavit or affixed his mark in his presence, shall be attached at the end of the affidavit.

(9) Every affidavit filed before the Controller in connection with any proceedings under the Act or these rules shall be duly stamped under the provisions of any law for the time being in force.

112. Exhibits :-

Where there are exhibits to be filed in an opposition or any other proceedings a copy or impression of each exhibit shall be supplied to the other party at his request and expense; if copies or impressions of the exhibits cannot conveniently be furnished, the originals shall be left with the Controller for inspection by the person interested by prior appointment. The exhibits in original if not already left with the Controller shall be produced at the hearing.

113. Directions not otherwise prescribed :-

(1) Where for the proper prosecution or completion of any proceedings under the Act or these rules, the Controller is of opinion that it is necessary for a party to such proceedings to perform an act, file a document or produce evidence, for which provision has not been made in the Act or these rules, he may, by notice in writing, require such party to perform the act, file the document or produce the evidence specified in such notice.

(2) Where an applicant or party to a proceeding desires to be heard or not, the Controller may, at any time, require him to submit his statement in writing giving such information as the Controller may deem necessary within the time specified by him.

114. Exercise of discretionary power by the Controller :-

Before exercising any discretionary power under the Act or these rules adversely to an applicant for a patent or a party to a proceeding the Controller shall give such applicant or party, a hearing, after giving him at least ten days' notice of such hearing.

115. Application for review of decisions or setting aside of orders of the Controller :-

(1) An application to the Controller for the review of his decision under clause (f) of sub-section (1) of section 77 shall be made in ["Form 25"]in duplicate within one month from the date of communication of such decision to the applicant or within such further period not exceeding one month thereafter as the Controller may on a request made in ["Form 4"]allow and shall be accompanied by a statement setting forth the grounds on which the review is sought. Where the decision in question concerns any other person in addition to the applicant, the said application and statement shall be left in triplicate. The Controller shall, forthwith transmit a copy of each of the applications and the statement to the other person concerned.

(2) An application to the Controller for setting aside an order passed by him ex parte under clause (g) of sub-section (1) of Section 77 shall be made in ["Form 25"]in duplicate within one month from the date of communication of such order to the applicant or within such further period not exceeding one month as the Controller may on a request made in ["Form 4"]allow and shall be accompanied by a statement setting forth the grounds on which the application is based. Where the order concerns any other person in addition to the applicant, the application and the statement shall be left in triplicate. The Controller shall, forthwith transmit a copy each of the applications and the statement to the other person concerned.

116. Manner of payment of compensation :-

(1) The compensation in respect of acquisition of an invention or patent by the Central Government under section 102 of the Act shall be payable by that Government in a lump sum, if the amount of compensation does not exceed Rs. 10,000 and if such amount exceeds Rs. 10,000 the amount over and above the said amount of Rs. 10,000 shall be payable in five equal annual instalments.

(2) If the compensation payable in a lump sum or any of the instalments thereof referred to in sub-rule (1) is not paid within thirty days of the date on which the amount of instalment is due, if any, the Central Government shall be liable to pay simple interest at the rate of 9 per cent per annum reckoned from the day immediately following the date of expiry of the said period of thirty days.

117. Form and manner in which statements required under section 146 (2) to be furnished :-

(1) The statements which shall be furnished by every patentee and every licensee under sub-section (2) of section 146 shall be ¹ [***]duly verified by the patentee or the licensee or his authorised agent.

(2) The statements referred to in sub-rule (1) shall be furnished in respect of every calendar year within three months of the end of each year.

(3) The Controller may publish the information received by him under sub-section (1) or sub-section (2) of section 146 in the Official Gazette and such newspapers and trade journals as he may deem fit.

1. Omitted for "in Form 58 ", vide " PATENTS RULES, 1972" Dt. June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

118. Form of application for the issue of a duplicate patent :-

An application for the issue of a duplicate patent under section 154 ¹ [***]shall contain a statement setting out the

circumstances in which the patent was lost or destroyed or cannot be produced together with the fees as specified therefor in the First Schedule.

1. Omitted for "shall be in Form 59 and ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E),dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

119. Supply of certified copies and certificates :-

Certified copies of any entry in the register, or certificates of, or extracts from patents, specifications and other public documents in the patent office, or from registers and other records kept there, may be furnished by the Controller on a request therefor made to him ¹ [***]and on payment of the fee specified therefor in the First Schedule.

1. Omitted for "in Form 60 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

120. Request for information under section 153 :-

(1) A request for information in respect of the following matters relating to any patent or application for a patent shall be made in ¹["respect of"]:-

(a) as to when a complete specification following a provisional specification has been filed or an application for patent has been deemed to have been abandoned;

² (aa) as to when the examination report has been issued for the first time.

(b) as to when a complete specification has been accepted or when an application for patent has been refused;

(c) as to when a patent has been sealed, or when the time for requesting scaling has expired;

(d) as to when a renewal fee has been paid:

(e) as to when the term of a patent has expired or shall expire;

(f) as to when an entry has been made in the register or application has been made for the making of such entry;
or

(g) as to when any application is made or action taken involving an entry in the register or advertisement in the Official Gazette, if the Nature of the application or action is specified in the request.

(2) Separate request shall be made in respect of each item of information required.

(3) The fees payable on a request to be made under section 153 shall be as set out in the First Schedule.

1. Substituted for "Form 61 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

2. Inserted vide " PATENTS RULES, 1972"Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999,published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

121. Agency :-

(1) The authorisation of an agent for the purposes of the Act and these rules shall be in ¹ ["Form 26"]or in the form of a power of attorney.

(2) Where any authorisation has been made under sub-rule (1) service upon the agent of any document relating to any proceeding or matter under the Act or these rules shall be deemed to be service upon the person so authorising him; all communications directed to be made to a person in respect of any proceeding or matter may be addressed to such agent, and all appearances before the Controller relating thereto may be made by or through such agent.

(3) Notwithstanding anything contained in sub-rules (1) and (2), the Controller may, if it is considered necessary, require the personal signature or presence of an applicant, opponent or party to such proceeding or matter.

1. Substituted for "Form 62 ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231] Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2,1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

122. Scale of costs :-

In all proceedings before the Controller, he may, subject to rule 46, award costs as he considers reasonable, having regard to all the circumstances of the case: Provided that the amount of costs awarded in respect of any matters set forth in the Fourth Schedule shall not exceed the amount specified therein.

123. Powers of Controller generally :-

Any document for the amendment of which no special provision is made in the Act may be amended and any irregularity in procedure which in the opinion of the Controller may be obviated without detriment to the interests of any person, may be corrected if the Controller thinks fit and upon such terms as he may direct.

124. Power to extend time prescribed :-

(1) The time prescribed by these rules for doing of any act or the taking of any proceeding thereunder may be extended by the Controller if he thinks it fit to do so and upon such terms as he may direct, provided that one such extension shall normally be granted by the Controller in every matter before him.

(2) Any request for extension of time made under these rules shall be made within the extendable period by request unless otherwise provided in these rules.

1. Substituted for " 124 Power to extend the time prescribed . The time prescribed by these rules for the doing of any act or the taking of any proceeding thereunder may be extended by the Controller, if he thinks fit and upon such terms as he may direct. ", vide " PATENTS RULES, 1972" Dt.June 2, 1999 Published in [231]Ministry of Industry (Deptt. of Industrial Development), Noti. No. S.O. 411(E), dated June 2, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 2nd June, 1999, pp. 38-96, No. 308 [No. 14/1/99-PPandC] [L]

125. Hearing before the Controller to be in Public in certain cases :-

Where the hearing before the Controller of any dispute between two or more parties relating to an application for a patent or to any matter in connection with a patent takes place after the date of the publication of the complete specification, the hearing of the dispute shall be in public unless the Controller, after consultation with the parties to the dispute who appear in person or are represented at the hearing, otherwise directs.

126. Repeal and amendment of the Indian Patents and Designs Rules, 1933 :-

Patents and Designs Rules, 1933, in so far as they relate to patents are hereby repealed, that is to say, the said rules shall stand amended in the manner specified in the Fifth Schedule.

SCHEDULE 1

THE FIRST SCHEDULE

(See Rule 7) FEES Number \On what payable \Number of \Amount of \fees (in rupees) of \the relevant \entry \Form \ \ \ \ \ \For \For legal entity \ \ \individual(s) \other than \ \ \individual(s) \ \ \either alone or \ \ \jointly with \ \ \other(s) 1 \2 \3 \4 \5 \ \Rs \Rs 1. \On application for a patent under \1 \1500 \5000 \Sections 5(2), 7, 54 or 135 \ \ \accompanied by provisional \complete \ \ \specification \ \ \2. (i) \On filing complete specification in \2 \1400 \4900 \respect of application for patents for \ \ \which provisional specification filed \ \ \before the commencement of the \ \ \Patents (Amendment) Rules, 1999 \ \ \ (ii) \On filing complete specification \2 \No fee \No fee \after provisional \ \ \3. \On filing a statement and \3 \No fee \No fee \undertaking under Section 8 \ \ \4. \On request for extension of time \4 \250 per \1000 per month \under Sections 9(1), 21(2), 25(1), \month \28(4), 43(3) or 53(3) and Rules \ \ \14(5), 24, 34(1), 48, 56(3) or 115. \ \ \5. \On filing a declaration as to inventor \5 \No fee \No fee \-ship under Rule 14(5) \ \ \6. \On application for post-dating \- \500 \2000 7. \On application for deletion of \- \500 \2000 \reference under Section 19(2) \ \ \8. (i) \On claim under Section 20(1); \6 \500 \2000 (ii) \On request for direction under \6 \500 \2000 \Section 20(4) or 20(5). \ \ \9. \On request for postponement of \- \500 \2000 \acceptance of complete specification \ \ \under Section 22 \ \ \10. \On notice of opposition to grant of \7 \1500 \5000 \patent \ \ \11. \On giving notice that hearing before \- \1500 \5000 \Controller will be attended \ \ \12. \On application under Sections 28(2), \8 \500 \2000 \28(3) or 28(7) \ \ \13. \On request for sealing of a patent \9 \1500 \5000 \under Section 43 \ \ \14. \On application under Section 44 for \10 \1500 \5000 \amendment of patent \ \ \15. \On application for directions under \11 \500 \2000 \Sections 51(1) or 51(2) \ \ \16. \On request for grant of a patent \12 \1500 \5000 \under Section 52(2) \ \ \17. \On request for converting a patent \- \500 \2000 \of addition to an independent patent \ \ \under Section 55(1) \ \ \18. \For renewal of a patent under \ \ \Section 53 \ \ \ (i) \Before the expiration of the 2nd \- \600 \3200 \year from the date of patent in \ \ \respect of 3rd year \ \ \ (ii) \Before the expiration of the 3rd year \- \600 \3200 \in respect of the 4th year \ \ \ (iii) \Before the expiration of the 4th year \- \600 \3200 \in respect of the 5th year \ \ \ (iv) \Before the expiration of the 5th year \- \600 \3200 \in respect of the 6th year \ \ \ (v) \Before the expiration of the 6th year \- \1500 \4500 \in respect of the 7th year \ \ \ (vi) \Before the expiration of the 7th year \- \1500 \4500 \in respect of the 8th year \ \ \ (vii) \Before the expiration of the 8th year \- \1500 \4500 \in respect of the 9th year \ \ \ (viii) \Before the expiration of the 9th year \- \1500 \4500 \in respect of the 10th year \ \ \ (ix) \Before the expiration of the 10th \- \3500 \10,000 \year in respect of the 11th year \ \ \ (x) \Before the expiration of the 11th \3500 \10,000 \year in respect of the 12th year \ \ \ (xi) \Before the expiration of the 12th \- \3500 \10,000 \year in respect of the 13th year \ \ \ (xii) \Before the expiration of the 13th \- \3500 \10,000 \year in respect of the 14th year \ \ \19. \On application for amendment of \13 \ \ \application for patent/complete \ \ \specification under Section 57- \ \ \ (i) \Before acceptance \700 \2500 (ii) \After acceptance \1000 \6000 20. \On notice of opposition to an \14 \1500 \5000 \application under Sections 57, 60, \ \ \19(2), 93(5) or to surrender a patent \ \ \under Section 63 or to a request \ \ \under Section 78(5) or Section 93(5) \ \ \as modified by Section 24-C \ \ \21. \On application for restoration of a \15 \1500 \5000 \patent under Section 60 \ \ \22. \Additional fee for restoration \- \3000 \10,000 23. \On notice of offer to surrender a \1000 \3000 \patent under Section 63 \ \ \24. \Application for registration of a \16 \700 \3000 \document in the register of patent \ \ \under Section 68 in respect of each \ \ \patent \ \ \25. \On application for the entry in the \17 \700 \3000 \register of patent of the name of a \ \ \person entitled to a patent or as a \ \ \share or as a mortgagee or as \ \ \licensee or as otherwise or for the \ \ \entry in the Register of Patents of \ \ \notification of a document under \ \ \Sections 69(1) or 69(2) and Rule \ \ \74(1), 74(2) or 74(3) in respect of \ \ \each patent \ \ \26. \On application for alteration of an \- \200 \500 \entry in the register of patents or \ \ \register of patent agent under Rule \ \ \78(1) or Rule 103 \ \ \27. \On request for entry of an additional \- \700 \2500 \address for service in the Register of \ \ \Patents under Rule 78(3) \ \ \28. \On application for Compulsory \18 \1500 \5000 \license under Sections 84(1), 96(1), \ \ \97(1) and Sections 84(1) and 97(1) \ \ \as modified by Section 24-C \ \ \29. \On application by Central \19 \- \5000 \Government for endorsement of \ \ \Patent under Section 86(1) \ \ \30. \On application for revocation of a \20 \1500 \5000 \patent under Section 89(1), and \ \ \Section 89(1) as modified by \ \ \Section 24-C \ \ \31. \On application for settlement of \21 \1500 \5000 \terms of license or for revision of \ \ \terms and conditions of license \ \ \under Sections 88(2) or 93(5) and \ \ \Section 93(5) as modified by \ \ \Section 24-C \ \ \32. \On application for permission of \22 \1500 \5000 \working a patented invention under \ \ \Section 88(4) \ \ \33. \On application for registration as a \23 \1000 \ \patent agent under Rules 94 or 97 \ \ \34. \On request for appearing in the \- \200 \- \qualifying examination under Rule \ \ \95 \ \ \35. \For registration of a person as a \- \1000 \- \patent agent under Rule 94 or 97 \ \ \36. \For continuance of the name of a \ \ \person in the register of patent agent \ \ \ (i) \For the 1st year to be paid along \- \500 \- \with registration \ \ \ (ii) \For every year excluding the 1st \- \500 \- \year to be paid on the 1st April in \ \ \each year \ \ \37. \On application for restoration of the \24 \1000 (Plus \- \name of a person in the Register of \ \ \continuation \ \ \Patent Agents under Rule 102 \ \ \fee under \ \ \entry \ \ \number 36) \ \ \38. \On a request for correction of \- \500 \1500 \clerical error under Section 78(1) \ \ \39. \On application for review or setting \25 \700 \2500 \aside the decisions/order of the \ \ \Controller under Sections 77(1)(f) or \ \ \77(1)(g) \ \ \40. \On statement regarding working of a \- \No fee \No fee \patented invention on a commercial \ \ \scale in India under Section 146(2) \ \ \41. \On application for duplicate Patent \- \1000 \3000 \under section 154 \ \ \42. \On request for certified copies under \- \700 \2500 \Section 72 or for certificate under \ \ \Section 147 \ \ \43. \For certifying office copies, MSS or \- \200 \500 \printed each \ \ \44. \On request for inspection of register \- \200 \500 \under Section 72 \ \ \45. \On request for information under \- \300 \1000 \Section 153 \ \ \46. \On form of authorisation of patent \26 \No fee \No fee \agent \ \ \47. \On petition not otherwise provided \- \1000 \3000 \for \ \ \48. \For supplying of Xerox copies of \- \10 \10 \the documents per page \ \ \49. \Transmittal fee for Intenational \ \ \1500 \5000 \application \ \ \50. \For preparation of certified copy

of \- \1000 \3000 \priority document and for \ \ \ \transmission of the same to the \ \ \ \International Bureau \ \ \ \ 51. \National fee in respect of \- \1500 \5000 \International application \ \In case of no \In case of no \ \ \priority or \priority or one \ \ \one priority \priority and \ \ \and multiple \multiple of \ \ \of 15UU in \5000 in case of \ \ \case of every \every multiple \ \ \multiple \priority \ \ \priority \ 52. \On request for grant of exclusive \27 \25,000 \75,000 \marketing right under Section 24-B \ \ \ 53. \On application for compulsory \18 \25,000 \75,000 \license under Rule 33-1 \ \ \ 54. \On application for revocation of \20 \1500 \5000 \exclusive marketing right under \ \ \ \Rule 33-1 \ \ \ 55. \On notice of opposition to \14 \10,000 \30,000 \application under Rule 33-K or Rule \ \ \ \33-N \ \ \ 56. \On application for revision of terms \21 \10,000 \30,000 \and conditions of License under \ \ \ \Rule 33-M \ \ \ 57. \On request for inspection of \- \200 \500 \Register of exclusive marketing \ \ \ \right \ \ \ 58. \On request for supply of certified \ \700 \2500 \copy of the entry in the Register of \ \ \ \exclusive marketing right \ \ \

SCHEDULE 2
THE SECOND SCHEDULE

SCHEDULE 3
FORM OF PATENT

[See rule 57] GOVERNMENT OF INDIA THE PATENT OFFICE No..... of.....19..... Whereas..... has declared that he is in possession of an invention for and that he is the true and first inventor thereof (or the legal representative or assignee of the true and first inventor) and that he is entitled to a patent for the said invention, having regard to the provisions of the Patents Act, 1970 and that there is no objection to the grant of a patent to him; And whereas he has, by an application, requested that a patent may be granted to him for the said invention; And whereas he has by and in his complete specification particularly described and ascertained the nature of the said invention and the manner in which the same is to be performed; Now, these presents that the above-said applicant (including his legal representatives and assignees or any of them) shall, subject to the provisions of the Patents Act, 1970 and the conditions specified in section 47 of the said Act, and to the conditions and provisions specified by any other law for the time being in force, have the exclusive privilege of making, using, exercising, selling or distributing any article or substance in India/using or exercising the method or process in India, for a term of five years/ seven years/fourteen years from the day of 19..... and of authorising any other person to do so, subject to the conditions that the validity of this patent is not guaranteed and that the fee prescribed for the continuance of this patent are duly paid. In witness thereof, the Controller has caused this patent to be sealed as of the day of..... 19..... Controller of Patents. Date of sealing..... Note.-The fees for renewal of this patent, if it is to be maintained, will fall due on..... day of.....19 and on the same day in every year thereafter.

SCHEDULE 4
THE FOURTH SCHEDULE

(See proviso to Rule 122) Number \Matter in respect of which cost is to be awarded \Amount of \fees (in rupees) of entry \ \ \ \ \For \For legal \ \individual(s) \entity other \ \ \than \ \individual(s) \ \ \either alone or \ \ \jointly with \ \ \other(s) 1 \2 \3 \4 1. \For notice of opposition under Sections 25, 57, 60, \1500 \5000 \63, 78, 92(2) or 93(5) and Sections 92(2), 93(5) as \ \modified by Section 24-C \ \ 2. \For application for compulsory license or \5000 \5000 \endorsement of patents under Sections 84(1), 86(1), \ \ \93(5), 96(1) or 97(1) and Sections 84(1), 93(5) and \ \ \97(1) as modified by Section 24-C \ \ \ 3. \For notice of intention to attend the hearing \1500 \5000 4. \Stamp fee for power of attorney, where a patent \The amount \The amount \agent or other person has been appointed or stamp \actually paid \actually paid \fee in respect of relevant affidavits \ \ 5. \For written statement under Rule 36 or reply \2500 \2500 \statement under Rule 37 or for each affidavit, if \ \ \relevant \ \ 6. \For each document or publication produced in the \1000 \1000 \proceedings, if relevant \ \ 7. \For each unnecessary or irrelevant affidavit or \1000 \1000 \citation \ \ 8. \For every day or part day of hearing before the \2500 \2500". \Controller

SCHEDULE 5
AMENDMENTS TO THE INDIAN PATENTS AND DESIGNS RULES, 1933

1. Rule 1-In sub-rule (1), omit "Indian Patents and" 2. Rule 2- (i) in clause (a), omit "Indian Patents and", (ii) in clause (b), omit "an inv case may be", (iii) for clause (c), substitute- '(c) "Controller" means the Controller General of Patents, Designs and Trade Marks, appointe (1) of S.4 of the Trade and Merchandise Marks Act, 1958.' (iv) for clause (d), substitute- (d) "Office" means the patent office referred to i Patents Act, 1970 (39 of 1970)'. 3. Rule 3- In sub-rule (2), omit "to a patentee or", and "register of patents or", "as the case may be" and opposition". 4. Rule 4- Omit " a patentee or", "patent or the" and "patentee". 5 Rule 5- In sub-rule (i), omit "the grant of patents and", "p proviso. 6. Rule 6- Omit the proviso. 7. Omit Chapter II. 8. Rule 48-for sub-rule (4), substitute,- "(4) The applicant may, after delivery to registered proprietor's counter-statement, leave at the office, evidence by way of affidavits in support of his case and shall also deliver to proprietor a copy thereof. (5) The registered proprietor may, after delivery to him of the applicant's evidence, leave at the office evidence support of his case and shall also deliver to the applicant a copy thereof. (6) The applicant may, after delivery to him of a copy of the reg evidence leave at the office evidence in reply by way of affidavits and shall also deliver to the registered proprietor a copy of such evidenc statement or evidence shall be left by either party except by leave of or on requisition by the Controller. (8) Where a document in a langu is referred to in any statement or affidavit filed in connection with an application under section 51A or opposition thereto, an attested tran document shall be furnished in duplicate. (9) the time allowed for filing the counter-statement or for leaving evidence by way of affidavits month which may be extended only by a special order of the Controller given on a petition made by the party seeking extension of time : extension so granted shall in no case exceed three months in the aggregate. (10) On completion of the filing of the statement and the evi sub-rules (3) to (8) or at such other time as he may decide, the Controller shall appoint a time for the hearing of the application and shall less than ten days' notice of such hearing. (11) If either party desires to be heard, he shall give to the Controller a notice in Form 7 of his hearing. (12) If, at the hearing, either party intends to refer to any publication, he shall give to the Controller and to the other party not l notice of such intention, together with the details of the publication to which he intends to refer. (13) After hearing the party or parties de or without a hearing, if neither party desires to be heard or attends the hearing, the Controller shall decide on the application and the opp notify his decision to the parties." 9. In the heading to Chapter IV, omit "Patents and". 10. Omit rule 49 to Rule 51. 11. Rule 53-Omit "pat Omit "to a patent or", "patent or" and "as the case may be". 13. Rule 56-Omit "of a patent or". 14. Rule 58-For "registers", substitute "reg omit "of a patent, or". 15. Rule 59-For "Registers of Patents and Designs", substitute "Register of Designs". 16. Rule 60-Omit "Patents or" number the existing rule as sub-rule (1) thereof, and in sub-rule (1) as so re-numbered, omit "the Register of Patents or" and "and the pr disposal of such opposition shall be regulated by the provisions of rule 20, Rule 21 and Rule 22"; (ii) After sub-rule (1) as so re-numbere opponent shall, within fourteen days of giving notice of opposition, leave at the office his written statement in duplicate setting out the ne facts upon which he bases his opposition and the relief which he seeks. (3) the Controller shall furnish the applicant with a copy each of t and the written statement. (4) The procedure specified in sub-rules (4) to (13) of rule 48 relating to leaving evidence and hearing shall, s to the hearing of the application under section 54 as they apply to the hearing of an application under section 51A." 18. Rule 62-In Clause omit "In appeals under section 9 , Rule 10(1A), Rule 16 and Rule 17 of the Act". 19. Rule 63-For "registers" substitute "register of designs specifi- cations". 20. Omit rule 63A 21. Omit rule 63D 22. Rule 64-Omit "for a patent or" and "refused, or, as the case may be". 23. The F entries Nos. I to 24; (ii) in entry No. 25, omit "an unpatented invention or" and "40 or"; (iii) in entry No. 34 omit "of specifications etc.", substitute "Copies of representations of designs"; (iv) omit entry No. 37A; (v) In entries Nos. 41,43 and 45 omit " of Patents or" and "or force of these Rules"; (vi) in entries Nos. 42 and 44, omit "of Patents or" and "and the coming into force of these Rules"; (vii) in entry No or", "the grant of patents" and "and the coming into force of these Rules"; (viii) in entry No. 48, omit "20 or"; (ix) in entry No. 52, omit " 24. In the Second Schedule,- (i) for the list of forms, substitute,- "LIST OF FORMS

Form Section of the Title No. Act or Rule

4. Rule 38A Application for extension of time. 5. 43,69 Appeal. 7. Rule 48 or 61 Notice of intention to attend hearing. 14. 40,52 Notice of publication of an unregistered design. 15. 43 Application for registration of design. 16. 78A Application for registration of design under re 17. 43 Application for registration of design applicable to a set. 18 Rule 41 Request for grounds of decision. 19 47 Application for extensi

Request for information when registration number is furnished. 21. 51 Request for information when registration number is furnished. 22. Controller to cancel registration of design. 23. Rule 53 Request to alter name or address or address for service in Register. 24. 20,46 Request for information when registration number is furnished. 25. 63 Application for entry in Register. 26. 63 Application for entry in Register. 27. Rule 53 Application for entry of documents in register. 28. 62. Request for correction. 29 59 (Rule 63) Request for certificate. 30. 64 Application for rectification of Register authority to agent". (ii) In the heading to all the Forms, omit "Indian patents and"; (iii) Omit Forms 1, 1A, 1B, 1C, 1AC, 1CC, 2, 2A, 2C, 2 IA, I IB, I IC, 12, 13 and 29A; (iv) In form, - \ \ \ \ \ \ \ \ (a) for "Sections 4A, 5, 10, 14 or Rule I I or 38A", \ \ \ \ \ \ \ \ substitute "(See rules (a) to (d). (v) In Form 5, omit "Sections 5,9, 10(1 A), 16, 17", and items (a) to (1). (vi) In Form 7, for "Section 9, IO(IA), 16, 17, substitute "(See rules 48 (ii) and 61)" (vii) In Form 23,- (a) omit "of Patents or" and "Patent No..... of.....;" (b) for "Register of Patents/ Designs". Designs (c) In the Note, omit "Patent or". (viii) In Form 24,- (a) for "Register of Patents/Designs" in the two places "Register of \ \ \ \ \ \ \ \ Designs"; (b) omit "20 or" and "Patent No. of". (ix) In Form 25,- (a) for "Register of Patents / Designs" they occur, substitute "Register of Designs"; (b) omit "of Patent(s) No(s) '..... of granted to 2 of which the title is' notes 2 and 3; (d) in the footnote,- (A) omit "or the coming into force of the Indian Patents and Designs Rules, 1933"; (B) omit "patent or" (x) In Form 26,- (a) for "Register of Patents/Designs" in the two places they occur, substitute "Register of Designs"; (b) omit "in Patent(s) No. granted to 3 of which the title is' (c) omit marginal notes 3 and 4; \ \ \ \ \ \ \ \ (d) in the footnote,- \ \ \ \ \ \ \ \ (A) omit "force of the \ \ \ \ \ \ \ \ Indian Patents and Designs Rules, 1933"; \ \ \ \ \ \ \ \ (B) omit "patent or" wherever occurring. \ \ \ \ \ \ \ \ (xi) In Form 27, \ \ \ \ \ \ \ \ (a) for "Register of Patents / Designs", substitute \ \ \ \ \ \ \ \ "Register of Designs"; \ \ \ \ \ \ \ \ (b) omit "29 or" and "Patent(s)"; \ \ \ \ \ \ \ \ (c) in the footnote,- \ \ \ \ \ \ \ \ (A) omit "the grant of the patent or "and "or \ \ \ \ \ \ \ \ the coming into force of the Indian \ \ \ \ \ \ \ \ Patents and Designs Rules, 1933"; \ \ \ \ \ \ \ \ (B) omit "patent or" wherever occurring. \ \ \ \ \ \ \ \ (xii) In Form 29,- \ \ \ \ \ \ \ \ "Patent No.' of \ \ \ \ \ \ \ \ (b) for the marginal heading No. I, substitute \ \ \ \ \ \ \ \ "Insert number and class of design". \ \ \ \ \ \ \ \ (xiii) In Form 30,- \ \ \ \ \ \ \ \ "Register of Patents/Designs", substitute \ \ \ \ \ \ \ \ "Register of Designs"; \ \ \ \ \ \ \ \ (b) for "Patents/Design" substitute "Design"; \ \ \ \ \ \ \ \ marginal heading No. 2, omit "patent \ \ \ \ \ \ \ \ or of"

25. Omit the Third Schedule. 26. In the fifth Schedule- (i) in entry No. I, for " section 9 , Rule 16 and Rule 17 and Rules 33 and 61 ", substitute "Rule 61"; (ii) omit entries Nos. 2 and 3; (iii) in entry No. 8, omit "Rule 21(1) or"; (iv) in entry No. 9, omit "Rule 21 (2) or"