MINISTRY OF COMMERCE AND INDUSTRY

(Department of Industrial Policy and Promotion)

NOTIFICATION

New Delhi, the 5th May, 2006

S.O. 657(E).—WHEREAS a draft of certain rules further to amend the Patents Rules, 2003 was published in exercise of the power conferred by section 159 of the Patents Act, 1970 (39 of 1970) *vide* notification of the Government of India in Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) *vide* Number SO. 1844(E) dated the 30th December, 2005, in Part II section 3, sub-section (ii) of the Gazette of India, (Extraordinary) dated 30th December, 2005 for inviting objections and suggestions from persons likely to be affected thereby before expiry of a period of thirty days from the date on which copies of the Gazette containing the Notification were made available to the public;

AND WHEREAS the copies of the Gazette containing the said Notification were made available to the public on 2nd January, 2006;

AND WHEREAS objections and suggestions received from the public on 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), Central Government hereby makes the following rules further to amend the Patents Rules, 2003, namely: -

1. (1) These rules may be called the Patents (Amendment) Rules, 2006.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Patents Rules, 2003 (hereinafter referred to as the principal rules), in rule 4, in sub-rule (1),
(a) in clauses (i), the words and figures "other than under sections 39,65 and 125" shall be omitted.
(b) clause (ii) shall be omitted

3. In rule 6 of the principal rules, in sub-rule (1), the proviso shall be omitted;

4. In rule 7 of the principal rules, in sub-rule (2),-
(a) in clause (a), after the words "paid in cash", the words "or through electronic means" shall be inserted;
(b) in clause (b), the words "within the time allowed for payment of the fees" shall be omitted;
(c) for clause (c), the following clause shall be substituted, namely:-
"(c) Where a fee is payable in respect of a document, the entire fee shall accompany the document.";

5. In rule 10 and in the explanation of the principal rules, for the words "three months", the words "six months" shall respectively be substituted;

6. In rule 12 of the principal rules, -
(a) in rule (1A) and in the explanation, for the words "three months", the words "six months" shall respectively be substituted;
(b) in rule (2), for the words "three months", the words "six months" shall be substituted;
(c) in rule (3), for the words "three months", the words "six months" shall be substituted;

7. In rule 24 of the principal rules, the following proviso shall be added, namely:-
"Provided that the period within which the Controller shall publish the application in the Journal shall ordinarily be one month from the date of expiry of said period, or one month from the date of request for publication under rule 24A.";

8. In rule 24B of the principal rules, -
(a) in sub-rule (1), -
(i) in clause (i), for the words "after the publication of the application but within thirty-six months", the words "within forty-eight months" shall be substituted;
(ii) for clause (ii), following clause shall be substituted, namely: -
"(ii) The period within which the request for examination under sub-section (3) of section 11B to be made shall be forty-eight months from the date of priority, if applicable, or forty-eight months from the date of filing of the application;
(iii) for clause (iii), following clause shall be substituted, namely:

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"(iii) The request for examination under sub-section (4) of section 11B shall be made within forty-eight months from the date of priority or form the date of filing of the a plication, or within six months from the date of revocation of the secrecy direction, whichever is later;

(iv) for clause (iv), following clause shall be substituted, namely:

"(iv) The request for examination of application as filed according to the 'Explanation' under sub-section (3) of section 16 shall be made within forty-eight months from the date of filing of the application or from the date of priority of the first mentioned application or within six months from the date of filing of the further application, whichever is later;

(v) in clause (v) for the words, figures and letter "the period specified under the section 11B or", the words, figures and letter "the period specified under the section 11B before the commencement of the Patents (Amendment) Act, 2005 or" shall be substituted;

(b) in sub- rule (2),-

(i) for clause (i), the following clause shall be substituted, namely: -

"(i) The period within which the Controller shall refer the application and specification and other documents to the examiner in respect of the applications where the request for examination has been received shall ordinarily be one month from the date its publication or one month from the date of the request for examination whichever is later:

Provided that such reference shall be made in order in which the request is filed under sub-rule (1),

(ii) after clause (ii), the following clause shall be inserted, namely: -

"(iii) the period within which the Controller shall dispose off the report of the examiner shall ordinarily be one month from the date of the receipt of the such report by the Controller.";

(c) in sub rule (3), for the words "his authorised agent", the words "his authorised agent ordinarily within six months from the date of the request for examination or six months from date of publication whichever is later." shall be substituted;

(d) for sub-rule (4), the following sub-rule shall be substituted, namely; -

"(4) The time for putting an application in order for grant under section 21 shall be twelve months from the date on which the first statement of objection is issued to the applicant to comply with the requirements."

9. In rule 26 of the principal rules, the figure and brackets "(1)" shall be omitted;

10. In Chapter VI of the principal rules, for the heading "OPPOSITION PROCEEDINGS", the following heading shall be substituted, namely: -

" OPPOSITION PROCEEDINGS TO GRANT OF PATENT ";

11. In rule 55 of the principal rules-

(a) (i) for the marginal heading, the following marginal heading shall be substituted, namely:-

"(1) Opposition to the patent.";

(ii) for sub-rule (1), the following sub-rules shall be substituted, namely:-

"(1) Representation for opposition under sub-section (1) of section 25 shall be filed at the appropriate office and shall include a statement and evidence, if any, in support of the representation and a request for hearing if so desired.

(1A) Notwithstanding anything contained in sub-rule(1), no patent shall be granted before the expiry of a period of six months from the date of publication of the application under section 11A.";

(b) in sub-rule(3), for the word, "effect", the words, "effect alongwith a copy of such representation" shall be substituted;

(c) in sub rule (4), for the words "one month" the words "three months." shall be substituted;

12. In rule 55A of the principal rules, for the words, figures and brackets "sub-section (3) of section 25", the words, figures and brackets "sub-section (2) of section 25" shall be substituted;

13. In rule 56 of the principal rules, -

(a) in sub rule (1), for the words "notice of opposition", the words, figures and letter "notice of opposition under rule 55A" shall be substituted;

(b) in sub-rule (4), for the words, figures and brackets "sub-section (4) of section 25", the words, figures and brackets "sub-section (3) of section 25" shall be substituted;

14. In rule 71 of the principal rules, for sub-rule (2), the following sub-rule shall be substituted, namely: -

"(2) The time within which the Controller dispose of the request made under sub-rule (1), except in case of inventions relating to defence and atomic energy applications, shall ordinarily be within a period of twenty one days from the date of filing of such request.";

15. For rule 74 of the principal rules, the following rule shall be substituted, namely; -

"74. Form of patent:-

(1) 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 37.

(2) The patent certificate shall ordinarily be issued within seven days from the date of grant of patent under section 43.

16. In rule 88 of the principal rules, the word "sealing", occurring at both the places, the word "grant", shall be substituted;

17. In rule 134 of the principal rules, in sub rule (1), -

(a) after clause (a), the following clause shall be inserted, namely: -

"(aa) as to when the information under section 8 has been filed.";

(b) in clause (k), for the words "Official Gazette", the words "Official Journal" shall be substituted;

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18. In rule 138 of the principal rules, in sub-rule (1), for the words, figures and brackets "in the rules 24,55 and 80(1A)", the words, figures and brackets "in the rules 24B, sub-rule (4) of rule 55 and sub-rule (1A) of rule 80 shall be substituted;

19. In the THE FIRST SCHEDULE of the principal rules, -

(a) for items number 4 and entries relating thereto, the following item and entries shall be substituted, namely:-

"4.	On request for extension of time under sections 53(2) and 142(4), rules 13(6), 80(1A) and 130.	4	300 per month	1,200 per month";

(b) in item number 12, in column 2, for the word figure and letter "rule 23B", the word figure and letter "rule 24A" shall be substituted, -

20. In the THE SECOND SCHEDULE of the principal rules,-

(i) in Form 1-

(a) in para 9, in item (i), in sub-item (b) for the word "Signature(s)",the words "Signature(s) of the inventor(s)" shall be substituted;

(b) after para 10, for the words "The Controller of Patent", the words "The Controller of Patents" shall be substituted;

(ii) in Form 4, omit words figures and brackets "24B(4)(ii),"

(iii) in Form 5, after Para 4, for the words "The Controller of Patent", the words "The Controller of Patents" shall be substituted;

(iv) in Form 7, for the words bracket and figure "See sections 25(3)" the words bracket and figure "See section 25(2)" shall be substituted;

(v) in Form 9, in Para 2, for the words "application for Patent No., the words "Patent application No." shall be substituted;

(vi) in Form 18, -

(a) in Para 1, after item (c), the following item shall be added, namely:

"(d) date of publication of the application under section 11A.....";

(b) after Para 4, for the words "The Controller of Patent", the words "The Controller of Patents" shall be substituted;

(vii) in Form 21, in Para 1, for the words "patent No./No.", the words "Patent No." shall be substituted;

(viii) in Form 25,

(a) the words "No Fee", occurring in the beginning shall be omitted;

(b)for the Note, the following Note shall be substituted, namely:-

" Note – (a) Strike out whichever is not applicable

(b) For fee see first schedule.";

21. For THE THIRD SCHEDULE of the principal rules, the following Schedule shall be substituted, namely:-

"THE THIRD SCHEDULE
(Refer rule 74)
FORM OF PATENT
GOVERNMENT OF INDIA

Patent No..... .....

Application No.....

Date of filing .....

Patentee.....

Inventor(s) (Where applicable).....

It is hereby certified that a patent has been granted to the patentee for an invention entitled..... as disclosed in the above mentioned application for the term of 20 years from the.....day of.....19/20....., in accordance with the provisions of the Patents Act, 1970.

Date of Grant---------- Controller of Patents

(Seal of the Office)

Note. – The fees for renewal of this patent, if it is to be maintained, will fall due on..... day of ..... 20..... and on the same day in every year thereafter.".

[F. No. 14/2/2005-PP & C]
N. N. PRASAD, Jt. Secy.

Note :— The principal rules were published in the Gazette of India *vide* Notification number S.O. 493 (E) dated the 2nd May, 2003 and subsequently amended vide notification No. S.O. 1418(E) dated 28th December, 2004.

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