EDITION ONE

RASPREP

Module 3

The Patents Rules, 2003 – Simplified

Part II

Rule-wise Analysis of the Indian Patents Rules, 2003 (Chapter 6–16)

PREFACE

This book titled "The Patents Rules, 2003 – Simplified (Part-II)," outlines the rules for patent applications and grants in India.
The rules are divided into sixteen chapters, covering a wide range of topics. In this book we will covering Chapter VI to Chapter XVI.

- Chapter VI: OPPOSITION PROCEEDINGS TO GRANT OF PATENTS
- Chapter VII: Secrecy Directions
- Chapter VIII Grant of Patents
- Chapter IX: Amendment of Application, Specification or any Document Relating Thereto
- Chapter X: Restoration of Patents
- Chapter XI: Surrender of Patents
- Chapter XII: Register of Patents
- Chapter XIII: Compulsory Licence and Revocation of Patent
- Chapter XIV: Scientific Advisers
- Chapter XV: Patent Agents
- Chapter XVI: Miscellaneous
- First Schedule

REFERENCE

The explanations and commentary in this book are based on the Indian Patents Rules, 2003, including all subsequent amendments. Rules are cited in this book are reproduced from the Indian Patents Rules, 2003 while the explanations and commentary are original, provided for clarity and understanding.

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About Us

At RAS Intellect, we specialize in patents, trademarks, copyrights, and everything that protects your brainchild. From solo inventors to growing startups and global enterprises, we empower creators to secure, protect, and profit from their innovation. Our team of skilled professionals is dedicated to guiding organizations through the complexities of IP processes, ensuring that valuable assets are effectively protected and leveraged for maximum benefit. We operate across multiple verticals to cater to the unique challenges faced by organizations in promoting innovation while ensuring effective protection and management of intellectual assets. We also offer end-to-end support for research paper writing and publication, enabling impactful dissemination of innovative ideas in reputed journals.

Vision

Our vision is to become a leading innovation and intellectual property enabler across India by empowering startups, universities, researchers, and enterprises with technology-driven IP, research, and commercialization solutions that transform ideas into impactful innovations.

Mission

To empower innovators and creators by protecting and maximizing the value of their intellectual property through strategic, tailored solutions, while advancing research excellence by enabling high-quality publications in globally recognized and reputed journals.

Charting the Course to Success

Our services are focused on strengthening measurable research, innovation, IPR, publication, and documentation outcomes for NIRF, NAAC and IIC.

1. IPR and Patent Filing Support

- Patentability assessment of faculty/student research
- Prior art searching and patent landscape reports
- Provisional and complete patent specification drafting
- Patent filing
- Early publication request support
- Request for examination filing support
- FER response drafting and prosecution assistance
- Patent grant tracking and reporting
- Design registration filing
- Copyright filing for software, manuals, literary works, lab content and academic material
- Trademark support for university innovation cells, incubation centres and institutional brands

2.NIRF Research Parameter Support

- Annual NIRF research data audit
- Patent published/granted tracking
- Research publication tracking
- Scopus publication mapping
- Citation and H-index monitoring
- Faculty-wise research output mapping
- Department-wise research performance reports

3. NAAC Criterion III Support

- Criterion III gap analysis
- Research policy drafting
- IPR policy drafting or revision
- Innovation and startup policy drafting
- Seed money policy documentation
- Research promotion mechanism documentation
- Faculty research incentive policy support
- Patent and publication evidence compilation
- MoU and collaboration evidence structuring
- Extension activity documentation
- Innovation ecosystem documentation

4. IIC and Innovation Cell Support

- IIC annual activity calendar planning
- Innovation and IP awareness sessions
- Patent search workshops
- Idea-to-IP mentoring
- Student innovation screening
- Hackathon planning and execution
- Prototype documentation support
- Startup mentoring sessions
- Entrepreneurship and commercialization workshops.

5. Research Paper and Publication Support

- Research topic selection support
- Literature review guidance
- Research paper structuring
- Journal selection guidance
- Scopus-indexed journal identification
- Plagiarism and AI-similarity reduction guidance
- Manuscript formatting as per journal guidelines
- Citation and referencing support
- Response to reviewer comments

6. Faculty Development and Student Training Programs

- Patent drafting workshop
- Patent search workshop
- Research methodology workshop
- Scopus publication workshop
- Copyright and design registration workshop
- Innovation-to-commercialization workshop
- Technology transfer and licensing session
- Startup and entrepreneurship bootcamp
- Patent Agent career awareness session
- IP for faculty research advancement
- IP for Ph.D. scholars and research supervisors

7. University IP Cell Setup and Management

- IP Cell formation support
- IP Cell SOP drafting
- Invention disclosure form preparation
- Patent review committee formation support
- IP ownership and revenue-sharing policy
- Faculty/student disclosure workflow
- Patent filing calendar
- IP awareness schedule
- Department-wise IP coordinators' training

8. Incubation and Commercialization Support

- Technology readiness assessment
- Commercial potential assessment
- Startup idea screening
- IP-based startup mentoring
- Licensing strategy
- Technology transfer documentation
- MoU drafting support
- Pitch deck preparation
- Innovation portfolio preparation

RASPREP University Training Programs

RAS Intellect offers structured IP training and internship programs for universities through 1-week, 6-week, and 6-month formats. These programs cover IP fundamentals, patent searching, patent drafting, legal understanding, innovation awareness, and career readiness in the intellectual property domain. The modules can be delivered in virtual, hybrid, or offline mode and may also be customized as credit-based, vocational, or skill-development programs for students and faculty. This initiative supports universities in strengthening innovation culture, student employability, academic enrichment, and evidence-based contribution towards NAAC, NIRF and IIC-related research and innovation parameters.

How this supports Universities

- NAAC Criterion III: research, innovation, extension, skill development, and institutional innovation ecosystem.
- IIC activities: IP awareness, innovation training, patent search workshops, idea-to-IP mentoring, and entrepreneurship-linked activities.
- NIRF support areas: research culture, professional practice, IPR awareness, patent filing pipeline, and student/faculty innovation outcomes.
- Employability and academic enrichment: by creating technically trained students for IP, patent drafting, research analysis, and innovation-based career roles.

Recent Milestones

Recognitions and Contributions from 2024–2025

- **National IP Outreach Mission – Viksit Bharat**

Dr. Ruchi represented RAS Intellect Solutions as a panelist in the "IPR for Women in Business" session organized by PHDCCI, contributing to the national dialogue on IP for inclusive innovation.

- **National IP Yatra 2025 – ASSOCHAM & MSME Ministry**

As co-panelist at this MSME Ministry-supported event, Dr. Ruchi addressed "Maximizing IP Value for Startups & MSMEs," underscoring the firm's expertise in IP commercialization.

- **National Intellectual Property Awards 2024 – Ministry of Commerce & CGPDTM**

Dr. Ruchi was invited to the prestigious IP Awards held at Bharat Mandapam, New Delhi, recognizing RAS Intellect's national contribution to IP literacy and strategy.

- **Leadership & Innovation Milestone – TiECON 2025**

Honoured by the Governor of Punjab, Dr. Ruchi received an award at TiECON 2025 for excellence in research and innovation leadership.

Building IP Foundations for Viksit Bharat

A visionary collaboration with Punjab School Education Board (PSEB)

In alignment with the national vision of **Viksit Bharat@2047**, RAS Intellect is collaborating with the **Punjab School Education Board (PSEB)** to introduce Intellectual Property (IP) education in schools across Punjab.

This initiative aims to embed IP awareness and foundational knowledge within the school curriculum — empowering students and educators to understand, create, and protect innovation from an early age. By nurturing IP consciousness at the grassroots level, we are shaping a generation of future-ready innovators equipped to lead India toward self-reliance and global competitiveness.

Meet the Founder

Visionary leadership driving India's IP revolution

Dr. Ruchi Singla

Director & CEO, RAS Intellect Solutions Pvt. Ltd

- Over 20 years of experience in academic research, intellectual property strategy, and innovation leadership
- Recognized among the **Top 50 Mentors in India** for contributions to national mentoring initiatives
- Serves as a **Regional Mentor of Change** under the **Atal Innovation Mission**, NITI Aayog
- Successfully guided **over 2,300 patent filings** across diverse fields, including AI, drones, and cybersecurity
- Established **three Centres of Excellence** during her academic leadership, fostering innovation ecosystems
- Licensed Indian Patent Agent (No. 5887) and Certified Canadian Patent Administrator by **the Intellectual Property Institute of Canada**
- Secured **over ₹15 crores** in funding for research, innovation, and startup incubation projects
- Empaneled as an **IP Facilitator under the Startup India Scheme (SIIP)** to support early-stage ventures
- Regular speaker and co-panelist at national forums including **TiECON, ASSOCHAM, and PHDCCI**
- Former **Director of Research & Innovation at CGC Landran** and **Director at ACIC RISE Association,** supported by NITI Aayog

At the intersection of policy, education, and intellectual property, Dr. Ruchi Singla is building a more innovation-ready India.

CHAPTER 6:
OPPOSITION PROCEEDINGS TO THE GRANT OF PATENTS

Rule 55
Opposition to the patent

(1) Representation for opposition under sub-section (1) of section 25 shall be filed in Form 7(A) at the appropriate office with a copy to the applicant, 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 11 A.
(2) The Controller shall consider such representation only when a request for examination of the application has been filed.
(3) On consideration of the representation if the Controller is satisfied that, -

- (a) no prima facie case is made out in the representation, he shall notify the opponent accordingly, and
  - (i) unless the opponent requests to be heard in the matter, the Controller shall, within one month from the date of such notification, pass an order recording the grounds for refusal of the representation;
  - (ii) if opponent requests for a hearing, the Controller shall, after giving the opponent an opportunity of being heard, pass an order within one month from the date of hearing, recording his reasons for refusal or prima facie acceptance of the representation and the applicant shall be notified accordingly.
- (b) a prima facie case is made out in the representation, the Controller shall, within one month of receiving the representation, pass an order recording his reasons and notify the applicant accordingly.

(4) On receiving the notice under sub-rule (3), the applicant shall, if he so desires, file his statement and evidence, if any, in support of his application within two months from the date of the notice, with a copy to the opponent.
(5) On consideration of the statement and evidence filed by the applicant, the representation including the statement and evidence filed by the opponent, submissions made by the parties, and after hearing the parties, if so requested, the Controller may either reject the representation or require the complete specification and other documents to be amended to his satisfaction before the patent is granted or refuse to grant a patent on the application, by passing a speaking order to simultaneously decide on the application and the representation ordinarily within one month from the completion of above proceedings.

- (5A) The procedure specified in sub-rules (2) to (4) of rule 62 shall, as far as may be, apply to the procedure for hearing under this rule.
- (5B) An application for a patent, in which a representation for opposition has been filed and notice has been issued by the Controller under rule 3, shall be examined in accordance with rule 24C.

(6) [omitted]

Explanation: Where an application for a patent has been published but a patent has not been granted, any person may file an opposition on Form 7(A) at the appropriate office with a copy to the applicant. The opposition shall include a statement and evidence in support of the representation. The person filing for an opposition can also request for a hearing.

No patent shall be granted before the expiry of a period of six months from the date of publication of the application under section 11 A.

When a representation for pre-grant opposition is filed and if no prima facie case is made out, the Controller shall notify the opponent (the person filing the representation).

(i) If the opponent does not request a hearing, the Controller shall pass an order within one month from the date of notification, recording reasons for refusing the representation.
(ii) If the opponent requests a hearing, the Controller shall give them an opportunity to be heard and then, within one month from the date of hearing, pass an order either refusing the representation with reasons, or recording prima facie acceptance of the representation. The applicant shall also be notified accordingly.

If a prima facie case is made out in the representation, then the Controller shall, within one month of receiving the representation, pass an order recording reasons and the applicant shall be notified accordingly.

(Prima facie case means that on a preliminary examination of the representation without going into a detailed trial or evidence, if the Controller finds that the opponent's objections are reasonable, credible, and supported with some material, such that they deserve further consideration. Examples: Opponent submits documents showing the invention was already disclosed in a prior published article (novelty objection). Evidence is credible enough to raise doubt on patentability. No prima facie case is made if the Opponent only makes vague statements like "this is not new" without any supporting documents or proof or the opposition is based on irrelevant grounds.)

When the notice is received by the applicant, the applicant can within two months, reply to the notice by filing his statement and evidence. A copy of the same is sent to the opponent.

Once the Controller finds that a prima facie case exists and the applicant has responded, the Controller looks into the statement and evidence filed by the applicant in response to the opposition, the statement and evidence filed by the opponent., written or oral submissions made by both parties and Oral hearing (if either party requests it). The Controller's decision can reject the representation and allow the patent application to proceed, may order an amendment(s) in the complete specification or other documents, to his satisfaction, before granting the patent or refuse to grant the patent.The Controller must pass a "speaking order", i.e., a reasoned order that explains the grounds for the decision within one month from the completion of the above proceedings.

As per Rule 55(5A), the procedure for hearing will be as per the procedure set out in sub rule (2) to (4) of Rule 62..

Top of Form

Bottom of Form

Rule 55A

Filing of notice of opposition

The notice of opposition to be given under sub-section (2) of section 25 shall be made in Form 7 and sent to the Controller in duplicate at the appropriate office.

Explanation: The notice of post grant opposition is to be made on Form 7 and a copy of the same is to be sent to Controller at the appropriate office.

Rule 56

Constitution of Opposition Board and its proceeding

(1) On receipt of notice of opposition under rule 55A, the Controller shall, by order, constitute an Opposition Board consisting of three members and nominate one of the members as the Chairman of the Board.

(2) An examiner appointed under sub-section (2) of section 73 shall be eligible to be a member of the Opposition Board.

(3) The examiner, who has dealt with the application for patent during the proceeding for grant of patent thereon shall not be eligible as member of Opposition Board as specified in sub-rule (2) for that application.

(4) The Opposition Board shall conduct the examination of the notice of opposition along with documents filed under rules 57 to 60 referred to under sub-section (3) of section 25, submit a report with reasons on each ground taken in the notice of opposition with its joint recommendation within two months from the date on which the documents were forwarded to them.

Explanation:

Once the notice of post grant opposition is received, the Controller will constitute a three member Opposition Board and nominate one of the members as the Chairman of the board. An examiner appointment under Section 73(2) by the Central government is eligible to be a member of the opposition board. An examiner dealing with the same patent application during the grant process is not eligible to be a member of the Opposition Board. The opposition board will conduct an examination and submit a final report with reasons within two months from the date of receipt of documents.

Rule 57

Filing of written statement of opposition and evidence

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

Explanation:

The person filing for the opposition (opponent) shall submit a duplicate copy of evidence and notice of opposition to the patentee.The opponent will also submit the reason of his interest in filing an opposition to the patent application.

Rule 58

Filing of reply statement and evidence

(1) If the patentee desires to contest the opposition, he shall leave at the appropriate office a reply statement setting out fully the grounds upon which the opposition is contested and evidence, if any, in support of his case within a period of two months from the date of receipt of the copy of the written statement and Opponent's evidence, if any by him under rule 57 and deliver to the opponent a copy thereof.

(2) If the patentee does not desire to contest or leave his reply and evidence within the period as specified in sub-rule (1), the patent shall be deemed to have been revoked.

Explanation:

If the patentee wants to contest the opposition then the patentee must file a reply statement fully setting out the grounds of contest and supporting evidence, if any, within 2 months from the date of receipt of the opponent's written statement (under Rule 57), and the opponent's evidence, if filed.A copy of the patentee's reply and evidence must also be delivered to the opponent.

If the patentee does not wish to contest the opposition, or fails to file the reply statement and evidence within the 2-month period, then the patent shall be deemed to have been revoked.

Rule 59

Filing of reply evidence by opponent

The opponent may, within one month from the date of delivery to him of a copy or the patentee's reply statement and evidence under rule 58, leave at the appropriate office evidence in reply strictly confined to matters in the patentee's evidence and shall deliver to the patentee a copy of such evidence.

Explanation:

Upon receiving a reply from the patentee, the opponent may within one month leave a reply to the patentee's report at the appropriate office. The opponent will also deliver a copy of the reply to the patentee.

Rule 60

Further evidence to be left with the leave of the Controller

No further evidence shall be delivered by either party except with the leave or directions of the Controller:

Provided that such leave or direction is prayed before the Controller has fixed the hearing under rule 62.

Explanation:

Once the opponent and patentee have exchanged their evidence (under Rule 57 and Rule 58), neither party can file any additional evidence as a matter of right.

Additional evidence can be filed only with the leave (permission) or directions of the Controller. Such leave must be sought before the Controller fixes the hearing under Rule 62. After the hearing is fixed, no new evidence will be entertained.

Rule 61

Copies of documents to be supplied

(1) Copies of all documents 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 be simultaneously furnished in duplicate unless the Controller otherwise directs.

(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 duplicate, in English shall be furnished along with such notice, statement or evidence, as the case may be.

Explanation:

Rule 57 deals with filing of documents in a pre-grant or post-grant opposition.

Any documents referred to in the notice of opposition or in any statement or evidence must be furnished in duplicate. These documents should be authenticated (i.e., verified/attested) to the satisfaction of the Controller. Unless the Controller directs otherwise, the requirement of furnishing in duplicate applies.

If the notice, statement, or evidence refers to a specification or document in a language other than English, an attested English translation must be filed. This translation must also be in duplicate and accompany the notice, statement, or evidence.

Rule 62

Hearing

(1) On the completion of the presentation of evidence, if any, and on receiving the recommendation of Opposition Board or at such other time as the Controller may think fit, he shall fix a date and time for the hearing of the opposition and shall give the parties not less than ten days' notice of such hearing and may require members of Opposition Board to be present in the hearing.

(2) If either party to the proceeding desires to be heard, he shall inform the Controller by a notice along with the fee as specified in the First Schedule.

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

(4) If either party intends to rely on any publication at the hearing 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.

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

Explanation:

Rule 62 explains the procedure for hearing in an opposition proceeding.

Once all the evidences are presented and the Opposition Board's recommendation is received, the Controller fixes a date and time for the hearing, gives both parties at least notice of ten days of such hearing. The Controller may require members of the Opposition Board to be present during the hearing.

If either party i.e. opponent or applicant wishes to be heard, they must notify the Controller and pay the prescribed fee (as per the First Schedule). The Controller may refuse to hear a party who has not filed the notice and fee under sub-rule (2). If either party plans to rely on a publication or a journal or article, which has not been cited in earlier statements or evidence, the party must notify the other party and the Controller at least 5 days before the hearing, providing details of the publication. After hearing the parties who have requested a hearing, or If neither party wishes to be heard, the Controller shall consider the Opposition Board's recommendation, and decide the opposition, giving reasons for the decision in writing and notifying both parties.

Rule 63
Determination of costs

If the patentee notifies the Controller that he desires to withdraw the patent after notice of opposition is given, the Controller, depending on the merits of the case, may decide whether costs should be awarded to the opponent.

Explanation:
Once a notice of opposition has been filed (whether pre-grant or post-grant), the patentee may decide to withdraw the patent. The patentee must notify the Controller of the decision to withdraw. The Controller has the authority to decide, based on the merits of the case, whether costs should be awarded to the opponent (i.e., to cover expenses incurred by the opponent in pursuing the opposition).

Rule 63A
Request made under section 26(1)

Request under section 26(1) shall be made on Form 12 within three months from the date of the order of the Controller and shall be accompanied by a statement setting out the facts upon which the petitioner relies and relief he claims.

Explanation:
Section 26(1) applies when, in opposition proceedings or otherwise, the Controller finds that the invention claimed in a patent was obtained from the opponent or another person without due authorization. In such a case, the Controller may direct the patent be revoked or, on request, grant the patent to the rightful person. A request under Section 26(1) must be made using Form 12 within three months from the date of the Controller's order accompanied by a statement of facts and the relief claimed (e.g., revocation of patent or substitution of patentee's name).

Rule 64
Omitted

Rule 65
Omitted

Rule 66
Form of making a request under section 28(2)

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

Explanation:
Section 28(2) states that where a patent has been applied for by someone other than the inventor, the inventor may request that the Controller direct that he/she be mentioned as such in the patent. The request shall be made on Form 8.

Rule 67
Form 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 and 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.

Explanation:
Section 28 of the Patents Act, 1970 explains about "Mention of inventor as such in patent". Sub-section (3) allows a person who believes that he/she should be mentioned as an inventor to make a claim in Form 8 to the Controller.

Rule 68

Form of application to be made under section 28(7)

(1) An application under sub-section (7) of section 28 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 the statement shall be sent by the Controller to each patentee or the applicant for patent, as the case may be, and to any other person whom the Controller may consider to be interested.

Explanation:

Section 28(7) states that any person who alleges that he has not been mentioned as an inventor may at any time apply to the Controller, requesting for a certificate and the Controller may issue such certificate and the Controller shall rectify the register and specification accordingly. The person can apply for this request to the Controller on Form 8. A copy of the application and the statement will be sent by the Controller to all the applicants and to all the persons whom the Controller feels suitable.

Rule 69

Procedure for the hearing of claim or an application under section 28

The procedure specified in rules 55A and 57 to 63 relating to the filing of notice of opposition, written statement, reply statement, leaving evidence, hearing and cost shall, so far as may be, apply to the hearing of a claim or an application under section 28 as they apply to the opposition proceedings subject to the modification that reference to patentee shall be construed as the person making the claim, or an application, as the case may be.

Explanation:

If an inventor applies to be added in a patent or application, the process mirrors that of opposition proceedings, ensuring fair hearing, exchange of evidence, and procedural safeguards. When a claim or application is made under Section 28 for an inventor to be mentioned in a patent application or patent, the procedure followed will be the same as that used in opposition proceedings under Rules 55A and 57–63. This includes filing of notice of opposition, submission of written statement of opposition, filing of reply statement by the applicant/claimant, filing and exchange of evidence, hearing before the Controller and the costs that may be awarded.

Rule 70

Mention of inventor

Any mention of the inventor under sub-section (1) of section 28 shall be made in the relevant documents 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 .....".

Explanation:

The mention of Inventor will be made in the register, specification and the certificate issued to the inventor in the form as mentioned in Rule 70.

CHAPTER 7:
SECRECY DIRECTIONS

Rule 71

Permission for making patent application outside India under section 39

(1) The request for permission for making patent application outside India shall be made in Form 25.
(2) The Controller shall dispose of the request made under sub-rule (1) within a period of twenty-one days from the date of filing of such request: Provided that in case of inventions relating to defence or atomic energy, the period of twenty-one days shall be counted from the date of receipt of consent from the Central Government.

Explanation:

An Indian resident (individual or entity) intending to file a patent application outside India for an invention made in India may seek permission by filing a request requested using Form 25.
The Controller is required to dispose of the request within 21 days from the date of filing of Form 25. If the invention relates to defence or atomic energy, the 21-day period starts from the date the Central Government grants consent.

Rule 72

Communication of result of reconsideration under section 36(2)

(1) The result of every reconsideration under sub-section (1) of section 36 shall be communicated to the applicant for patent within fifteen days of the receipt of the notice by the Controller.
(2) 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.

Explanation:

The question whether an invention in respect of which directions have been given under Section 35 continues to be relevant for defence purposes will be reconsidered by the Central Government. The result of every reconsideration shall be communicated to the patentee within fifteen days of the receipt of the notice by the Controller.
When secrecy directions are revoked under Section 38, the applicant may be granted an extension of time for doing acts that were delayed because of the secrecy directions. But the extension cannot exceed the duration for which the secrecy directions under Section 35(1) remained in force.

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CHAPTER 8:
GRANT OF PATENTS

Rule 73
Omitted

Rule 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.

Explanation:
The patent certificate shall be in the form prescribed in the Third Schedule of the Patents Rules, 2003. It can be modified depending on the specific circumstances of each case. The certificate must bear the application number that was assigned under Rule 37 (the rule on numbering of applications on the grant of patent). Once the Controller grants a patent under Section 43 of the Act, the patent certificate must ordinarily be issued within seven days from the date of grant.

Rule 74A
Inspection of documents related to grant of patent

After the date of publication of a grant of a patent, the application together with the complete specification and provisional specification, if any, the drawing if any, abstract and other documents related thereto may be inspected at the appropriate office by making a written request to the Controller and on payment of fee and may obtain copies on payment of fee specified in the First Schedule.

Explanation:
After the grant of the patent, the Controller shall publish the fact that the patent has been granted (as per Section 43(2)) and the application together with complete and provisional specification, drawings, abstract and other documents related to application are open for public inspection. Any person can inspect and obtain copies of the patent application and related documents by making a written request and paying a relevant fee at the appropriate office.

Rule 75
Amendment of patent under section 44

An application under section 44 for the amendment of a patent shall be made in Form 10 along with substantiating evidence and be accompanied by the patent.

Explanation:
As per Section 44, at any time after the grant of the patent, the person to whom the patent was granted dies, or in case of body incorporate, has ceased to exist, a request for the amendment of the name by substituting the name of that person can be made on Form 10.

The patentee must file substantiating evidence justifying why the amendment is required. The application must be accompanied by the patent certificate itself. The Controller has discretion to allow or refuse the amendment. Once allowed, the amendment is recorded in the Register of Patents and reflected in the specification.

Rule 76

Manner of applying for direction under section 51(1)

(1) An application for directions under sub-section (1) of section 51 shall be made in Form 11 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.

Explanation:
When a patent is granted to two or more persons, each is entitled to an equal undivided share, unless there is an agreement between the co-owners. Disputes may arise between co-owners about licensing, use, assignment, or enforcement. Section 51(1) gives the Controller power to issue directions for regulating the rights of co-owners if they cannot agree.
The application to the Controller must be made in Form 11, accompanied by a statement of facts like the grounds and circumstances of the dispute. The Controller must send a copy of the application and the statement to every other person who is registered as a grantee or proprietor of the patent.

Rule 77

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 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.

Explanation:
When a patent has more than one owners and if any co-owner is in default by not joining in licensing, assignment, or infringement proceedings, the other co-owner(s) can approach the Controller for directions to protect their rights. For this, the application must be filed in Form 11. The application should include a statement of facts. The Controller sends a copy of the application and a statement to the co-owner in default, so they have an opportunity to respond.

Rule 78

Procedure for the hearing of proceedings under section 51

The procedure specified in rules 55A and 57 to 63 relating to the filing of notice of opposition, written statement, reply statement, leaving evidence, hearing and costs 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 proceeding.

Explanation:
The process of hearing mirrors that of opposition proceedings, ensuring fair hearing, exchange of evidence, and procedural safeguards. The procedure followed will be the same as that used in opposition proceedings under Rules 55A and 57–63. This includes filing of notice of opposition, submission of written statement of opposition, filing of reply statement by the applicant/claimant, filing and exchange of evidence, hearing before the Controller and the costs that may be awarded.

Rule 79

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 Appellate Board or 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 Appellate Board or court.

(2) Where the Appellate Board or 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 day as the patent is granted.

Explanation:

If the High Court finds that a patent has been wrongfully obtained by someone other than the true and first inventor, it may direct the patent be granted to the true and first inventor, or it may order an amendment such that the patent is granted only for part of the invention.

A request must be made by a petitioner on Form 12, within 3 months from the date of the order of the High court under Section 52(1), accompanying a statement of facts (grounds for the request and relief sought) and a certified copy of the order of the court for grant of New Patent.

If the order states that whole of the patent to be granted, a new patent number bearing the same date and number as the patent revoked; in case where the High Court permits a part of the patent to be granted, a new patent for such part bearing the same date as the patent revoked and will be given a serial number in the same series of numbers as complete specifications accepted on the same day as the grant.

Rule 80

Renewal fees under section 53

(1) To keep a patent in force, 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 or the second or the succeeding year.

(1A) The period for payment of renewal fees so specified in sub-rule (1) may be extended to such period not being more than six months if the request for such extension of time is made in Form 4 with the fee specified in the First Schedule.

(2) While paying the renewal fee, the number and date 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:

Provided that where the renewal fees is paid in advance through electronic mode for a period of at least 4 years, a ten per cent reduction in fee shall be applicable for such renewal.

Explanation:

To keep a patent in force, annual fees must be paid starting at the end of the second year from the date of the patent grant, and then every succeeding year thereafter, which should be paid before the expiration of that year.

If renewal fees are not paid within the prescribed time, an extension of up to 6 months may be obtained filed in Form 4 with the prescribed fee.

While paying the renewal fee, the applicant must clearly mention patent number, date of patent and Year of renewal for which the fee is being paid. If renewal fees are paid in advance for at least 4 years and the payment is made electronically, a 10% reduction in fee is allowed.

CHAPTER 9:
AMENDMENT OF APPLICATION, SPECIFICATION OR ANY DOCUMENT RELATING THERETO

Rule 81

Amendment of application, specification or any document relating thereto

(1) An application under section 57 for the amendment of an application for a patent or a complete specification or any document related thereto 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 granted, the Controller shall determine whether and 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 grant of patent and the nature of the proposed amendment is substantive, the application shall be published.

(b) Any person interested in opposing the application for amendment shall give a notice of opposition in Form 14 within three months from the date of publication of the application.

(c) The procedure specified in rules 57 to 63 relating to the filing of written statement, reply statement, leaving evidence, hearing and costs shall, so far as may be, apply to the hearing of the opposition under section 57 as they apply to the hearing of an opposition proceeding.

Explanation:

Any request to amend a patent application, a complete specification, or any related document must be filed using Form 13.

When the amendment is made before the grant of the patent, the Controller examines the proposed amendment to decide whether to allow it or not. If allowed, under what conditions (e.g., ensuring no new subject matter is added or claims are broadened),

When the amendment is made after the grant of the patent and If the proposed amendment is substantive (not merely clerical or typographical), the application will be published. After the publication of the application, any interested person may file an opposition using Form 14, within 3 months from the publication date. The procedure for opposition follows Rules 57–63 which is same for the post grant opposition::

1. **Filing of written statement (Rule 57)**
2. **Filing of reply statement and evidence (Rule 58)**
3. **Submission of further evidence (Rule 60)**
4. **Hearing procedures (Rule 62)**
5. **Costs (Rule 63)**

Rule 82

Preparation of amended specifications, etc.

Where the Controller allows the application for a patent or the complete specification or any other document 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 the specification or the other document, as the case may be, in accordance with the provisions of these rules.

Explanation:

If the Controller allows an amendment request (under Rule 81 and Section 57), the Controller may require the applicant to submit a revised or amended version of the application, specification, or other document within the time frame specified by him. Failure to comply within this timeframe may result in the amendment being treated as not filed or invalid.

Rule 83

Publication of the amendment allowed

The amendments allowed after a patent has been granted, shall be published.

Explanation:

The amendments which are allowed by the Controller for the patent which has been granted. When the amendment is made after the grant of the patent and If the proposed amendment is substantive (not merely clerical or typographical), the application will be published.

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CHAPTER 10:
RESTORATION OF PATENTS

Rule 84

Restoration of patents

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

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

(3) Where 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 publish the application.

Explanation:

If a patent application has lapsed due to non-payment of renewal fees, the patentee can apply for restoration using Form 15 within 18 months from the date on which the patent had ceased to have effect. Once the restoration request is received, the Controller conducts a preliminary (prima facie) examination to check whether the patent had actually lapsed due to non-payment of renewal fee, and whether there's any reasonable cause for that failure. If no sufficient cause is found, the Controller sends an intimation to the applicant rejecting the case unless the applicant requests a hearing within one month. If no hearing is requested, the application is refused. If the applicant requests a hearing within the one-month period, the Controller gives the applicant an opportunity to explain why the renewal fees were missed. After hearing, if the Controller is satisfied that the failure was unintentional, he will allow publication of the restoration application in the Official Journal of the Patent Office.

Rule 85

Opposition to restoration under section 61

(1) At any time, within two months from the date of publication of the application under sub-rule (3) of rule 84, any person interested may give notice of opposition thereto in Form 14.

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

(3) The procedure specified in rules 57 to 63 relating to the filing of written statement, reply statement, leaving evidence, hearing and costs shall, so far as may be, apply to the hearing of the opposition under section 60 as they apply to the hearing in the opposition proceeding.

Explanation:

Once the patent application is restored and published, any person who is interested can file a notice of opposition on Form 14. A copy of the notice of opposition is sent to the applicant by the Controller. The same procedural framework that applies to post-grant opposition (Rules 57–63) is followed here as well which includes:

Rule 57: Opponent's written statement and evidence

Rule 58: Applicant's reply statement and evidence

Rule 60: Further evidence (with Controller's leave)

Rule 62: Hearing before the Controller

Rule 63: Costs that may be awarded

Rule 86

Payment of unpaid renewal fees

(1) Where 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 application for restoration.

(2) The Controller shall publish his decision.

Explanation:

Once the patent application is restored, the applicant has to pay all the unpaid renewal fee and the additional fee (restoration fee) as is mentioned in the First Schedule within one month from the date of decision made by the Controller for the restoration of application. Once the Controller issues his final decision, it is published in the Official Journal of the Patent Office.

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CHAPTER 11:
SURRENDER OF PATENTS

Rule 87
Surrender of Patents

(1) The Controller shall publish the notice of an offer given under section 63.
(2) Any person interested may, within three months from the date of publication of the notice, give notice of opposition to the Controller in Form 14 in duplicate.
(3) The procedure specified in rules 57 to 63 relating to the filing of written statement, reply statement, leaving evidence, hearing and costs shall, so far as may be, apply to the hearing of the opposition under section 63 as they apply to the hearing in opposition proceeding.
(4) 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 publish the revocation of the patent.

Explanation:
The Controller shall publish a notice of an offer when a patentee offers to surrender their patent (as allowed under Section 63). Any person interested may oppose the surrender. The opposition must be filed on Form 14, in duplicate, within three months from the date of publication of the notice. The same procedure as that for other oppositions (as per Rules 57–63) applies which includes:

1. **Filing of written statement (Rule 57)**
2. **Reply statement (Rule 58)**
3. **Submission of evidence (Rules 59–60)**
4. **Hearing (Rule 62)**
5. **Costs (Rule 63)**

In case the Controller decides to accept the patentee's offer to surrender, he may direct the patentee to return the patent document. On receipt of the patent, the Controller orders the revocation of the patent by order and publishes the revocation in the official journal.

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CHAPTER 12:
REGISTER OF PATENTS

Rule 88
Register of patents under section 67

(1) Upon the grant of a patent, the Controller shall enter in the register of patents at each appropriate office, the name, address and nationality of the grantee as the patentee thereof, the title of the invention (including the categories to which the invention relates), the date of the patent and the date of grant thereof together with the address for 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 Appellate Board or the courts in respect of every patent.
(3) Where the register of patents or any part thereof is in computer floppies, diskettes or any other electronic form it shall be maintained and accessed only by the person who is duly authorised by the Controller and no entry or alteration of any entry or rectification of any entry in the said register shall be made by any person who is not so authorised by the Controller.

Explanation:
On the grant of a patent, the Controller must record the following details in the Register of Patents at the appropriate patent office:

- **Name, address, and nationality of the grantee/patentee**
- **Title of the invention, including the categories it relates to (e.g., mechanical, chemical, biotechnological, etc.)**
- **Date of the patent and date of grant**
- **Address for service of the patentee**

The Controller must also record in the register all the proceedings under the Act before the Controller, Appellate Board, or courts,
When the register of patents or any part is maintained in electronic or digital form like computer floppies, diskettes, it shall be accessed and maintained only by persons duly authorised by the Controller.

Rule 89
Omitted

Rule 90
Registration of title and interest in patents

(1) An application referred to in sub-section (1) or sub-section (2) of section 69 shall be made in Form 16.
(2) An application for an entry in the register of patents of any other document purporting to affect the proprietorship of the patent by the person benefiting under the document shall be made in Form 16.

Explanation:
Section 69(1) states that any person becomes entitled by assignment, transmission or operation of law to a patent or to a share in a patent or becomes entitled as a mortgagee, licensee or otherwise to any other interest in a patent shall apply in writing in the prescribed manner to the Controller in Form 16 for the registration of his title.
Section 69(2) states that an application for the registration of the title of any person becoming entitled by assignment to a patent or a share in a patent or becoming entitled by virtue of a mortgage, licence or other instrument to any other interest in a patent may be made in Form 16 by the assignor, mortgagor, licensor or other party to that instrument. If any legal document (for example, a deed, contract, or agreement) affects the ownership of a patent, the person who gains rights under that document must apply in Form 16 for it to be entered in the register.

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Rule 91

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.

Explanation:

Rule 91 gives the information about the process for recording changes in ownership or interest in a patent such as assignments, transmissions, mortgages, licenses, or other legal transfers. When applying for registration of a change in ownership or interest (using Form 16, as per Rule 90), the applicant must also submit every assignment or other relevant document that transfers or affects the patent's proprietorship with the application, which shall be accompanied by two certified copies of that document, certified to be true copies by the applicant or his patent agent.

The Controller can demand for the proof of title for e.g., notarized copies, legal verification, or additional documents to confirm ownership. The Controller may also demand written consent from relevant parties to ensure there are no disputes regarding the transfer. In special cases, the Controller may waive the requirement for production of the original or multiple copies if satisfied by other means.

Rule 92

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.....licencee..... by virtue of.....licence.....Mortgagee etc..... Mortgage deed etc.....dated.....and made between.....of the one-part and.....of the other part."

Explanation:

Once the application is received by the Controller receives under section 69(1) or 69(2) of the Patents Act, 1970, the Controller examines the application and supporting documents like assignment deed, licence agreement or mortgage deed. If the Controller is satisfied with the documents, the Controller registers the title or interest of the person concerned in the patent register. An official entry is made in the Register of Patents in the form as mentioned in Rule 92.

Rule 93

Entry of renewal fee

Upon receipt 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 and issue a certificate of renewal of the patent.

Explanation:

On receipt of renewal fee of a patent, the Controller enters the same in the register of patents with the details of the date of the patent and issues a renewal certificate of the patent.

Rule 94

Alteration of address

(1) A patentee may make a request in writing along with fee payable 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 along with fee payable 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.

Explanation:

A patentee may submit a written request to the Controller, pay the prescribed fee, and request for the change of name, nationality, address, or address for service (official correspondence address).The Controller can ask for proof of alteration and if the Controller is satisfied, the name and nationality will be altered in the register of patents.

The patentee can add another address for service in India by making a written request and paying the prescribed fee, and if the Controller is satisfied, the additional address for service will be entered in the register.

Rule 95

Inspection of register of patents under section 72 and fees payable therefor

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

(2) When register of patents or any part thereof is in computer floppies, diskettes or any other electronic form the person authorised by the Controller under sub-rule (3) of rule 88 shall provide access to the computer floppies, diskettes or other electronic form or printouts of the records thereof.

Explanation:

The register of patents shall at all convenient times will be open for the inspection by the public and certified copies, sealed with the seal of patent office, of any entry in the register shall be given to the any person requiring them on the payment of the fee as specified in the First Schedule.

If the record of the particulars is kept in the computer floppies, diskettes or any other electronic form, the person authorised by the Controller will provide access to the electronic form of data.

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CHAPTER 13:
COMPULSORY LICENCE AND REVOCATION OF PATENT

Rule 96

Application for compulsory licence etc.

An application to the Controller for an order under section 84, section 85, section 91 or section 92 or section 92A shall be in Form 17, or Form 19, 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 terms and conditions of the licence the applicant is willing to accept.

Explanation:

This rule governs the procedure for applying to the Controller for an order on applying for Section 84 (Compulsory licences on certain grounds), Section 85 (Revocation of patents for non-working), Section 91 (Licensing of related patents), Section 92 (Special provisions for compulsory licences on notifications by the Central Government), Section 92A (Compulsory licence for manufacture and export of patented pharmaceutical products to countries having insufficient manufacturing capacity)

The application must be made:

In Form 17 — for applications under sections 84, 85, 91, or 92, or

In Form 19 — for applications under section 92A.

The application must be submitted to the Controller along with the prescribed fee.

Except when the Central Government makes the application, every application shall include nature of the applicant's interest and terms and conditions of the licence which the application is willing to accept, such as duration of licence, Royalty or payment terms, territory of operation, nature of use for example commercial, public health, export, etc.

Rule 97

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 96, he shall notify the applicant accordingly, and unless the applicant requests to be heard in the matter, within one month from 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.

Explanation:

When an application is made for Section 84(Compulsory licences on certain grounds), Section 85(Revocation of patents for non-working), Section 91 (Licensing of related patents), Section 92 (Special provisions for compulsory licences on notifications by the Central Government), Section 92A (Compulsory licence for manufacture and export of patented pharmaceutical products to countries having insufficient manufacturing capacity), under Rule 96, the Controller will examine the application and any accompanying evidence to determine whether there exists a prima facie case. If no prima facie case is made out, the Controller shall notify the applicant of this decision, and unless the applicant requests a hearing within one month of receiving the notification, the Controller shall refuse the application.

If the applicant requests a hearing within the prescribed one-month period,

the Controller must grant an opportunity of being heard. After the hearing, the Controller will decide whether to proceed with the application or refuse the application.

Rule 98

Notice of opposition under section 87(2)

(1) A notice of opposition under sub-section (2) of section 87 shall be given in Form 14 and shall be sent to the Controller within two months from the date of the publication 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 with the leave of or on requisition by the Controller.

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

Explanation:

As per Section 87(2), the patentee or any other person desiring to oppose the application, may, file a notice of opposition with a Controller within two months from the date of publication of the application in Form 14.

The notice of opposition must Include the terms and conditions of the licence (if any) that the opponent is willing to grant to the applicant (this shows a willingness to negotiate or mitigate opposition), and must be accompanied by evidence supporting the grounds of opposition.

The opponent must send a copy of the notice of opposition and evidence to the applicant, and notify the Controller about the same. Once the notice of opposition and evidence are filed, no further statements or evidence may be submitted by either party, except with the leave (permission) of the Controller, or in case of any requirement by the Controller. The Controller must fix a date and time for the hearing of the case, and give the parties at least ten days' notice of such hearing.

Rule 99

Manner of publication of the revocation order

The Controller shall publish the order made by him under sub-section (3) of section 85 revoking a patent.

Explanation:

The Controller, if satisfied that the reasonable requirements of the public with respect to the patented invention have not been satisfied or that patented invention have not been worked in the territory of India or that the patented invention is not available to the public at a reasonably affordable price, may make an order revoking the patent.

Rule 100

Application under section 88(4)

(1) An application under sub-section (4) of section 88 for the revision of the terms and conditions of a licence which have been settled by the Controller shall be in Form 20 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.

Explanation:

As per Section 88(4), where the terms and conditions of a licence have been settled by the Controller, the licensee may, at any time after he has worked the invention on a commercial scale for a period of not less than twelve months, make an application to the Controller for the revision of the terms and conditions on the ground that the terms and conditions settled have proved to be more onerous (difficult) than originally expected and that in consequence thereof the licensee is unable to work the invention except at a loss. Provided that no such application shall be entertained a second time.

When a licence has already been granted or settled by the Controller under the Patents Act, 1970 (for example, a compulsory licence granted under section 84), and a party seeks to revise its terms or conditions, an application may be filed under section 88(4) of the Act. The licensee shall make such request to the Controller on Form 20 and should include the facts and the relief the licensee seeks in the terms and conditions which were earlier made. The application should be supported by the evidence.

Upon receiving the application, the Controller examines the application and the supporting evidence submitted to determine if a prima facie case exists for revising the terms and conditions.

If the Controller concludes that no prima facie case has been made out he shall notify the applicant accordingly, and unless the applicant requests a hearing within one month from the date of such notification, the Controller may refuse the application.

If the applicant requests a hearing within the prescribed one-month period, the Controller must give the applicant an opportunity of being heard. After the hearing, the Controller will determine Whether the application should proceed or refused.

Rule 101

Procedure to be followed in case of applications under section 88(4)

(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 affected.
(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 14 within one month 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 affected.
(5) No further evidence or statement shall be filed by either party except with special leave of or on requisition by the Controller.
(6) On completion of the above proceedings, the Controller shall forthwith fix 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 62 shall, so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing in opposition proceedings.
(8) If the Controller decides to revise the terms and conditions of licence he shall forthwith amend the licence granted to the applicant in such manner, as he may deem necessary.

Explanation:

Rule 101 provides a process for revising the terms of a compulsory licence so that the interests of both the patentee and the licensee are protected. In case the Controller allows to proceed with the application, he shall inform the applicant to serve copies of the application and supporting evidence on the patentee, any other person shown in the register as interested in the patent, or any other person to whom the Controller considers that the copies should also be served. It is the responsibility of the applicant to inform the Controller of the date on which the copies of application and evidence were served to the patentee and other persons. The patentee or any person who has been served the copies of application and evidence, may oppose the application by filing a notice of opposition in Form 14, within one month from the date of such service, explaining grounds of opposition and attaching the evidence in support. The opponent serves copies of the notice of opposition and evidence on the applicant, and inform the Controller of the date on which the service has been completed. No further evidence or statements may be filed by either party except with special leave of or upon requisition by the Controller. On completion of the above process, the Controller shall fix a date and time for hearing, and give both parties not less than 10 days' notice of such hearing. The procedure for hearing shall, as far as may be, follow Rule 62(2)–(5) (procedure in opposition hearings). This includes filing of notice of opposition, submission of written statement of opposition, filing of reply statement by the applicant/claimant, filing and exchange of evidence, hearing before the Controller and the costs that may be awarded. If the Controller decides to revise the terms and conditions of the licence, he shall amend the licence accordingly.

Rule 102

Application for termination of compulsory licence under section 94

(1) An application for termination of compulsory licence under section 94(1) shall be made in Form 21 by the patentee or any other person deriving title or interest in the patent. The application shall be accompanied by the evidence in support of the application.

(2) The applicant shall serve a copy of the application and evidence on the holder of the compulsory licence and shall inform the Controller the date on which the service has been effected.

(3) The holder of the compulsory licence may file his objection along with evidence, if any, to the application within one month from the date of receipt of the application and evidence by him to the Controller and serve a copy thereof to the applicant.

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

(5) On completion of the above proceedings, the Controller shall forthwith fix 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.

(6) The procedure specified in sub-rules (2) to (5) of rule 62 so far as may be, apply to the procedure for hearing under this rule as they apply to the hearing in opposition proceedings.

(7) If the Controller decides to terminate the compulsory licence he shall forthwith issue an order giving terms and conditions, if any, of such termination and serve copies of the order to both the parties.

Explanation:

As per Section 94, In case an application is made by the patentee or any other person deriving title or interest in the patent, a compulsory licence granted under section 84 may be terminated by the Controller provided that the holder of the compulsory licence shall have the right to object to such termination. While considering an application under sub-section (1), the Controller shall take into account that the interest of the person who had previously been granted the licence is not unduly prejudiced.

An application for the termination of the Compulsory licence is to be made in Form 21 by the patentee or any other person interested in the patent. The application should be accompanied by an evidence supporting the application. It is the responsibility of the applicant to inform the Controller of the date on which the copies of application and evidence were served to the holder of the compulsory licence. The holder of the compulsory licence who has been served the copies of application and evidence, may oppose the application by filing a notice of opposition in Form 14, within one month from the date of such service, explaining grounds of opposition and attaching the evidence in support. The holder of the compulsory licence serves copies of the notice of opposition and evidence on the applicant, and inform the Controller of the date on which the service has been completed. No further evidence or statements may be filed by either party except with special leave of or upon requisition by the Controller. On completion of the above process, the Controller shall fix a date and time for hearing, and give both parties not less than 10 days' notice of such hearing. The procedure for hearing shall, as far as may be, follow Rule 62(2)–(5) (procedure in opposition hearings). This includes filing of notice of opposition, submission of written statement of opposition, filing of reply statement by the applicant/claimant, filing and exchange of evidence, hearing before the Controller and the costs that may be awarded. If the Controller decides to terminate the compulsory licence he shall issue an order giving terms and conditions, if any, of such termination and serve copies of the order to both the parties.

CHAPTER 14:
SCIENTIFIC ADVISERS

Rule 103
Roll of scientific advisers

(1) The Controller shall maintain a roll of scientific advisers for the purpose of section 115. The roll shall be updated annually. The roll shall contain the names, addresses, specimen signatures and photographs 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-
(i) holds a degree in science, engineering or technology or equivalent;
(ii) has at least fifteen years' technical, 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.

Explanation:
The Controller shall maintain a list of Scientific Advisers for the purposes of Section 115 of the Act which must be updated annually. The roll includes details of each Scientific Adviser, including name, address, specimen signature and photograph, designation, educational qualifications, specialisation and their technical, practical, and research experience.
A person is qualified to be entered in the roll of scientific advisers if he/she:

1. **Holds a degree in science, engineering, or technology (or equivalent field);**
2. **Has at least 15 years of technical, practical, or research experience; and**
3. **Holds or has held a responsible post in a scientific or technical department of the Central or State Government, or in any organisation.**

Rule 103A
Disqualifications for inclusion in the roll of scientific advisers

A person shall not be eligible to be included in the roll of scientific advisors, 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 this behalf, removed the disability; or
(v) has been guilty of professional misconduct.

Explanation:
Rule 103A gives the information of the person who is not eligible to be included in the roll of scientific advisers, if he/she is:

1. **of unsound mind,**
2. **financially irresponsible,**
3. **criminally convicted, or**
4. **professionally unethical.**

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Rule 104

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 by furnishing his bio-data.

Explanation:

Any person who is interested can apply to the Controller to consider his biodata for the roll of Scientific Advisor, provided he he/she has the following qualification:

1. **Holds a degree in science, engineering, or technology (or equivalent field);**
2. **Has at least 15 years of technical, practical, or research experience; and**
3. **Holds or has held a responsible post in a scientific or technical department of the Central or State Government, or in any organisation.**

Rule 105

Inclusion of the name of any other person in the roll of scientific advisers

The Controller may, notwithstanding anything contained in rules 103 and 104, enter the name of any person in the roll of scientific advisers, if he is of the opinion after such inquiry as he deems fit, that such person should be entered in the roll of scientific advisers.

Explanation:

Rule 105 gives the discretionary power to the Controller to exercise discretionary judgment to include qualified and reputable experts in the roll of scientific advisers, ensuring that the roll remains comprehensive and practically useful.

Rule 106

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 103 with respect to any person, if such person is otherwise well qualified.

Explanation:

Rule 106 gives the Controller the discretionary flexibility to include the most competent and capable experts, even when they don't fit rigid eligibility criteria for the roll of scientific advisers.

Rule 107

Removal of names from the roll of scientific advisers

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

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

(b) 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) such person 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; or

(d) such person is dead:

Provided that except in the cases falling under clause (a) and (d) above, 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.

Explanation:

The Controller can remove the name of any person from the roll of scientific advisers if

- **A person requests the Controller for removing his name,**
- **In case the name has been added in the roll by error,**
- **Due to misrepresentation or suppression of any material fact,**
- **Has been convicted of an offence and sentenced to imprisonment, or**
- **Has been guilty of professional misconduct**
- **When the person has passed away.**

Provided that except in the cases falling under clause (a) and (d) above, 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.

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CHAPTER 15:
PATENT AGENTS

Rule 108

Particulars to be contained in the register of patent agents

(1) 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, the date of registration of every registered patent agent and the details of their renewal of registration and any other particulars so specified by the Controller.

(2) Where the register of patent agents is in computer floppies, diskettes or any other electronic form, it shall be maintained and accessed only by the person who is duly authorised by the Controller and no entry or alteration of any entry or rectification of any entry in the said register shall be made by any person who is not so authorised by the Controller.

(3) (i) Copies of register of patent agents shall be maintained in each of the branch offices;

(ii) The register of patent agents shall also contain specimen signatures and photographs of the persons registered as patent agents.

Explanation:

As per section 125, the Controller shall maintain a register to be called the register of patent agents in which shall be entered the names, addresses, specimen signatures, photographs and other relevant particulars of the patent agents, as may be prescribed. The register should also maintain the date of registration of every registered patent agent and the details of their renewal of registration. Wherever the register of patent agent is maintained in electronic form, only the person authorised by the Controller is allowed to maintain and access it. The copies of register of patent agents should be available and maintained in every branch office.

Rule 109

Application for registration of patent agents

(1) Every person who desires to be registered as a patent agent shall make an application in Form 22.

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

(3) A person desirous to appear in the qualifying examination under rule 110 shall make a request to the Controller along with the fee specified in the First Schedule after announcement of such examination and within the period as may be specified in the announcement.

Explanation:

A person who desires to register as a patent agent is required to submit an application in Form 22 with all the information which is required by the Controller. For appearing in the patent agent exam, a person desirous to appear in the exam shall apply for the exam before the deadline and pay the fee as specified in First Schedule.

Rule 110

Particulars of the qualifying examination for patent agents

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

(2) The qualifying examination shall consist of the following papers and marks, namely:

Paper I -The Patents Act, 1970 (39 of 1970), The Patents Rules, 2003, The Designs Act, 2000 (16 0f 2000) and The Designs Rules, 2001

Paper II-Drafting and interpretation of patent specifications, design specifications and other documents.

Viva Voce.

(3) A candidate shall be required to secure a minimum of fifty marks in paper I and paper II and shall be declared to have passed the examination only, if he obtains an aggregate of sixty percent of the total marks.

(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.

Explanation:

As per section 126(1)(c)(ii), the qualifying exam comprises of:

- **A written test, and**
- **A viva voce examination.**

The qualifying examination comprises the following components:

Exam	Components
Paper I	The Patents Act, 1970; The Patents Rules, 2003; The Designs Act, 2000; The Designs Rules, 2001
Paper II	Drafting and interpretation of patent specifications, design specifications, and other related documents
Viva Voce	Oral examination assessing practical knowledge and understanding

To qualify, the candidate must secure at least 50 marks in each of Paper I and Paper II. The candidate will be declared to have passed the examination only if they obtain an aggregate of 60% of the total marks (including viva voce).

Rule 111

Registration of patent agents

After a candidate passes the qualifying examination specified in rule 110 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.

Explanation:

Once the candidate passes the qualifying exam and submits all the relevant documents as required by the office of the Controller and after paying the fee as specified in the First Schedule, the candidate's name is entered in the register of patent agents and the candidate is issued a certificate of registration as a patent agent by the Controller.

Rule 111A

Issue of duplicate certificate of patent agents

The Controller may issue a duplicate certificate of registration as patent agent on a request made by the person so registered as patent agent along with fee specified in the First Schedule and contain a statement setting out the circumstances in which the original certificate issued under rule 111 was lost, destroyed and cannot be produced.

Explanation:

A duplicate certificate may be issued by the Controller in case of a request made by the candidate and paying the fee as specified in the First Schedule. The request should include a statement stating that why the candidate needs a duplicate certificate.

Rule 112

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 also be made in Form 22.

Explanation:

A person entitled to be registered as a patent agent as per section 126(2) is required to make an application in Form 22.

Rule 113

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 112, 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.

Explanation:

Once the application for registration of a person as a patent agent is received by the office of the Controller and if the Controller is satisfied that the person fulfils all the requirements as mentioned in section 126, then the person's name is entered in the register of patent agents.

Rule 114

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 this 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.

Explanation:
Rule 114 gives the information of the person who is not eligible to be registered as a patent agent, if he/she is:

- **of unsound mind,**
- **financially irresponsible,**
- **criminally convicted, or**
- **professionally unethical**

Rule 115
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.

Explanation:
The patent agent has to pay the fee every year as specified in the First Schedule to maintain his/her name in the register of patent agents. The fee can also be paid for more than one year at the same time.

Rule 116
Removal 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 Controller 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 115, by more than three months after they are due; or
(e) if he ceases to be a citizen of India: Provided that except under clause (a) and (b), before removing the name of any person from the register of patent agents under this rule, such person shall be given a reasonable opportunity of being heard.
(2) The removal of the name of any person from the register of patent agents shall be published and shall be, where relevant forthwith communicated to the person concerned.

Explanation:
The Controller may delete from the register of patent agents the name of any patent agent:
(a) from whom a request for such removal has been received; or
(b) when the patent agent is deceased; or
(c) when the Controller has removed the name of a person under sub-section (1) of section 130 (for professional misconduct, etc.); or
(d) if the patent agent has defaulted in the payment of renewal fees as specified in Rule 115 by more than three months after they are due; or
(e) if the patent agent ceases to be a citizen of India.
Except under clauses (a) and (b) (voluntary removal or death), before removing the name of any person from the register under this rule, the person shall be given a reasonable opportunity of being heard.
The removal of the name of any person from the register of patent agents shall be published in the Patent Office Journal and, where relevant, communicated to the person concerned.

Rule 117

Restoration of name 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 Form 23 within two 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 communicated to the patent agent and also published on the official website

Explanation:

A patent agent whose name has been removed from the register of patent agents can apply for restoration within two months from the date of removal by making such request in Form 23. If the patent agent who has applied for the restoration is found eligible to be restored in the register of patent agents, his name will be restored for one year from the date on which his last annual fee was due. The patent agent will be informed and the name will also be published on the official website.

Rule 118

Alteration of names, etc., in the register of patent agents

(1) A patent agent may apply 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, e-mail address, telephone number, fax number or any other particulars under sub-section (1) of section 125. On receipt of such application and the fee specified therefor in the First Schedule for such request for alteration of particulars, 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 published.

Explanation:

A patent agent can apply for alteration of his name, address of business, qualifications, email address, phone numbers, fax numbers or any other particulars to be altered in the register of patent agents by paying the relevant fee as specified in the First Schedule. On receipt of application by the Controller, the Controller can allow necessary alterations to be made in the register of patent agents. Every change made in the register of patent agents is published.

Rule 119

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.

Explanation:

As per section 131(1), the Controller is empowered to refuse any person to recognise as patent agent in cases of misconduct, conflict of interest, or disqualification.

Rule 119 ensures that before taking such an adverse action, due process is followed:

- **The Controller must inform the person of the reasons for proposed refusal.**
- **The person must be given an opportunity to explain or defend himself.**
- **A hearing must be provided before final orders are passed.**

Rule 120

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.

CHAPTER 16:
MISCELLANEOUS

Rule 121

Period within which copies of specification etc. are to be filed

The period within which copies of specification or corresponding documents to be filed by the applicant under sub-section (1) of section 138 shall be three months from the date of communication by the Controller.

Explanation:

As per section 138(1), in case of a convention application the applicant shall furnish, when required by the Controller, in addition to the complete specification, copies of the specifications or corresponding documents filed or deposited by the applicant in the patent office of the convention country as referred to in section 133 verified to the satisfaction of the Controller, within three months from the date of communication by the Controller.

Rule 121A

Address of Communications

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

Explanation:

The communication related to any proceedings is to be addressed to the Controller at the appropriate office.

Rule 122

Correction of clerical errors

A request for the correction of a clerical error in any document referred to in section 78 shall be accompanied by a copy of the document highlighting the corrections clearly along with the fees payable therefor as specified in the First Schedule.

Explanation:

Whenever a request for the correction of a clerical errors in any document as per section 78 is made, it should be accompanied by copy of a document highlighting the corrections. The fee is to be paid as specified in the First Schedule.

Rule 123

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 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.

Explanation:

Rule 123 applies when someone requests the correction of a clerical error in a patent application, specification, or other official document. The Controller may decide that such a correction could affect the interests of competitors or co-applicants. In such cases, before allowing the correction, the Controller ensures transparency by advertising the proposed correction and requiring the applicant to notify to such persons who, in the opinion of the Controller, may be interested.

Rule 124

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 give notice of opposition to the Controller in 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 rules 58 to 63 relating to the filing of reply statement, leaving evidence, hearing and costs shall, so far as may be, apply to the hearing of the opposition under section 78 as they apply in the hearing of the opposition proceeding.

Explanation:

Any person who is interested to give the notice of opposition based on the advertisement of the request for the correction can give the same in Form 14 in duplicate within three months to the Controller from the date of the advertisement. The notice shall include a statement in duplicate, stating his interest and the relief which the opponent seeks. A copy of the notice is sent by the Controller to the person who has made a request to make the corrections. The same procedure as that for other oppositions (as per Rules 57–63) applies which includes:

1. **Filing of written statement (Rule 57)**
2. **Reply statement (Rule 58)**
3. **Submission of evidence (Rules 59–60)**
4. **Hearing (Rule 62)**
5. **Costs (Rule 63)**

Rule 125

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.

Explanation:

If any corrections are made in the relevant document, it is the responsibility of the Controller to notify the person making the request and the opponent.

Rule 126

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 duly sworn to in the manner as prescribed in sub-rule (3).

(2) 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.

(3) 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 (41 of 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.

(4) 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.

Explanation:

Affidavits required by to be filed at the Patent Office or furnished to the Controller shall be duly sworn to in the manner prescribed in sub-rule 3. Affidavits shall be confined to facts that the deponent (the person making the affidavit) is able to prove — except in interlocutory matters (i.e., interim or procedural matters), where statements of belief by the deponent may be admitted, provided that the grounds for such belief are clearly stated. Affidavits shall be sworn to as follows:

(a) In India — before:

1. **Any court or person having by law authority to receive evidence, or**
2. **Any officer empowered by such court to administer oaths or take affidavits.**

(b) Outside India — before:

1. **A diplomatic or consular officer, within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), or**
2. **A notary of the country/place recognised by the Central Government under section 14 of the Notaries Act, 1952 (53 of 1952), or**
3. **A judge or magistrate of that country or place.**

All alterations and interlineations (insertions or corrections) made in an affidavit before it is sworn to or affirmed shall be authenticated by the initials of the person before whom the affidavit is sworn.

Rule 127

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

Explanation:

In case there are any exhibits to be filed during an opposition or any other proceedings, a copy or impression of each exhibit should be provided to the other party at their request and expense. The exhibits in original if not already left with the Controller shall be produced at the hearing.

Exhibits refers to supporting materials filed in connection with proceedings before the Controller like documentary evidence, drawings or photographs, samples or models, test reports or laboratory data. The opposing party is allowed to access or inspect all materials relied upon by the other side.

If copies of the exhibits are not furnished, the originals are shall be left with the Controller for inspection by the person interested by prior appointment. The original exhibits must be produced at the hearing if not already filed which ensures authenticity and completeness of evidence.

Rule 128

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 the 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 a party to a proceeding desire to be heard or not heard, 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.

Explanation:
When the Controller is of the opinion that it is necessary for a party to such proceedings to perform any act, file any document, or produce any evidence, for which no provision has been made in the Act or the Rules, he may, by notice in writing, require such party to perform the act, file the document, or produce the evidence as specified in that notice. Where an applicant or party to a proceeding desires to be heard or not heard, the Controller can ask him to submit a statement in writing within the time specified by him.

Rule 129
Exercise of discretionary power by the Controller

Before exercising any discretionary power under the Act or these rules which is likely to affect an applicant for a patent or a party to a proceeding adversely, the Controller shall give such applicant or party, a hearing, after giving him or them, ten days notice of such hearing ordinarily.

Explanation:
The Controller exercises discretion in matters such as refusal of patent applications, amendment of specifications, opposition proceedings and restoration or revocation actions, etc. Whenever the exercise of such power adversely affects an applicant or party, the Controller gives an opportunity of being heard by giving the party ten days notice of such hearing.

Rule 129A
Adjournment of hearing

An applicant for patent or a party to a proceeding may make a request for adjournment of the hearing with reasonable cause along with the prescribed fee prescribed in First Schedule, at least three days before the date of hearing and the Controller, if he thinks fit to do so, and upon such terms as he may direct, may adjourn the hearing and intimate the parties accordingly:
Provided that no party shall be given more than two adjournments and each adjournment shall not be for more than thirty days.

Explanation:
Rule 129A provides a right to request adjournment of hearing with a reasonable cause before the Controller. A request can be made only if there is a reasonable cause e.g., illness, unavailability of counsel, need for additional time to prepare, etc. at least three days before the date of the hearing by paying the fee as prescribed in the First Schedule. The Controller has the discretionary power to accept or reject the request and he may direct, may adjourn the hearing and intimate the parties accordingly. No party shall be given more than two adjournments and each adjournment shall not be for more than thirty days.

Rule 130
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 24 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 Controller shall forthwith transmit a copy of each of the application and the statement to the other person concerned.

Explanation:
As per Section 77(1)(f), the Controller has a power to review his own decision in case an application is made by person interested to the Controller in Form 24 and the application must be filed within one month from the date the decision is communicated to the applicant or within a further period not exceeding one month, if the Controller allows it upon a request made in Form 4. The application must include a statement of grounds explaining why the review is sought. The Controller must send copies of the application and statement to all such persons immediately.
As per Section 77(1)(g), the Controller has a power to set aside an order passed ex-parte in case an application is made by an interested person to the Controller in Form 24 which must be filed within one month from the date of communication of the ex parte order or within a further period not exceeding one month, if the Controller allows it upon a request made in Form 4. The application must be accompanied by a statement of grounds on which the application is based. If other persons are affected, the Controller must immediately transmit copies of the application and statement to those persons.

Rule 131
Form and manner in which statements required under section 146(2) to be furnished

(1) The statements shall be furnished by every patentee and every licensee under sub-section (2) of section 146 in Form 27 which shall be duly verified by the patentee or the licencee or his authorised agent.
(2) The statements referred to in sub-rule (1) shall be furnished once in respect of every period of three financial years starting from the financial year commencing immediately after the financial year in which the patent was granted, and shall be furnished within six months from the expiry of such period. Provided that the Controller may condone the delay or extend the time in filing of such statement for a period up to three months upon a request made in Form 4.
(3) The Controller may publish the information received by him under sub-section (1) or sub-section (2) of section 146.

Explanation:
As per section 146(2), every patentee and every licensee is required to furnish the statement as to what extent the patented information has been worked on commercial scale in India in Form 27 once every three years from the financial year commencing immediately after the financial year in which the patent was granted, and shall be furnished within six months from the expiry of such period. In case the patentee requests for a delay by submitting Form 4, the Controller may extend the time for a period of upto three months.

Rule 132
Form of application for the issue of a duplicate patent

An application for the issue of a duplicate patent under section 154 shall contain a statement setting out the circumstances in which the patent was lost or destroyed or cannot be produced together with the fee as specified therefor in the First Schedule.

Explanation:
If a patent is lost or destroyed, the patentee under section 154 can submit an application to the Controller which shall contain a statement setting out the circumstances in which the patent was lost or destroyed or cannot be produced. Once the application is submitted and the fee is paid as prescribed in the First Schedule, the Controller may allow a duplicate to be sealed and delivered to the applicant.

Rule 133

Supply of certified copies and certificates under sections 72 and 147

(1) 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 including records in computer floppies, diskettes or any other electronic form kept there, may be furnished by the Controller on a request therefor made to him and on payment of the fee specified therefor in the First Schedule: Provided that certified copies shall be issued in the order in which the request is filed.

(2) Notwithstanding anything contained in sub-rule (1), certified copies shall be furnished within a period of one week if such request is made along with the fee specified therefore in the First Schedule.

Explanation:

Certified copies of any entry in the register are issued upon request and on payment of the prescribed fee mentioned in the First Schedule. Any person can make a request to issue certified copies of entries in the Register of Patents, certificates or extracts from patents, specifications, or other public documents, and any other records maintained at the Patent Office, including those stored in electronic formats. Certified copies are issued in the order in which the requests are received.

If the request is made along with the prescribed expedited fee, the certified copies will be issued within one week of the request.

Rule 134

Request for information under section 153

(1) A request for information in respect of the following matters relating to any patent or application for patent shall be admissible, namely:-

- (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; (aa) as to when the information under section 8 has been filed.
- (b) as to when publication of application has been made under section 11A;
- (c) as to when an application has been withdrawn under section 11B;
- (d) as to when a request for examination has been made under section 11B;
- (e) as to when the examination report has been issued under section 12;
- (f) as to when an application for patent has been refused;
- (g) as to when a patent has been granted; (h) as to when a renewal fee has been paid;
- (i) as to when the term of a patent has expired or shall expire;
- (j) as to when an entry has been made in the register or application has been made for the making of such entry; or
- (k) as to when any application is made or action taken involving an entry in the register, publication in the Official Journal or otherwise, 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 fee payable on a request to be made under section 153 shall be as set out in the First Schedule.

Explanation:

A person may request the Controller to provide information regarding specific matters related to a patent or patent application. The information as mentioned in Rule 134 can be requested by a person. A separate request shall be made for each information by paying fee as set out in the First Schedule.

Rule 135

Agency

(1) The authorisation of an agent for the purposes of the Act and these rules shall be filed in Form 26 or in the form of a power of attorney within a period of three months from the date of filing of such application or document, failing which no action shall be taken on such application or documents for further processing till such deficiency is removed.

(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 and 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-rule (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

Explanation:

The authorization must be submitted in Form 26 (as prescribed), or In the form of a Power of Attorney filed within 3 months from the date of filing the corresponding application or document, when an applicant, opponent, or any party to a proceeding appoints a patent agent acts on their behalf. If the authorization is not submitted within the prescribed time, no further action will be taken on that application or document until the deficiency is removed.

Where any authorisation (Form 26 or POA) has been filed, any document served on the agent is considered legally served on the applicant or party. All communication from the Patent Office may be addressed directly to the agent. All appearances before the Controller relating thereto may be made by or through such agent.

Even after authorizing the patent agent, 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.

Rule 136

Scale of costs

(1) In all proceedings before the Controller, he may, subject to rule 63, 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 matter set forth in the Fourth Schedule shall not exceed the amount specified therein.

(2) Notwithstanding anything contained in sub-rule (1), the Controller may, in his discretion award a compensatory cost in any proceeding before him which in his opinion is false or vexatious.

Explanation:

The Controller may award costs i.e. monetary compensation, subject to Rule 63, which deals with the Controller's power to require evidence and regulate proceedings, for expenses incurred as he considers reasonable, taking into account all the circumstances of the case.

The costs awarded must not exceed the maximum amounts specified for each matter in the Fourth Schedule of the Patents Rules.

Rule 137

Powers of Controller generally

(1) - 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.

(2) - The provisions contained in sub-rule (1) shall be not be applicable for matters related to- (i) extension of time or condonation of delay under sub-rule (5) of rule 12; (ii) clause (i) of sub-rule (4) and sub-rule (6) of rule 20; (iii) rule 21; (iv) sub-rules (1), (5) and (6) of rule 24B; (v) sub-rules (10) and (11) of rule 24C; (vi) sub-rule (4) of Rule 55; (vii) sub-rule (1A) of rule 80; (viii) sub-rules (1) and (2) of rule 130; (ix) sub-rule(2) of rule 131.

Explanation:

The Controller has the discretionary power to allow the amendment of any document for which no specific amendment procedure is prescribed in the Act or Rules; and correct any procedural irregularity, provided that such correction does not harm the interests of any person, and the Controller thinks fit and proper to do so. The Controller may impose terms or conditions as deemed appropriate while permitting such corrections or amendments.

The Controller's general discretionary powers is not applicable in the following specific cases:

(i) Rule 12(5): Extension of time/condonation of delay for filing documents beyond permissible limits.

(ii) Rule 20(4)(i) & 20(6): Procedures for international applications under PCT (entering national phase, etc.).

(iii) Rule 21: Filing of priority documents in international applications.

(iv) Rule 24B(1), (5), (6): Examination procedures and time limits for requesting examination or responding to FER.

(v) Rule 24C(10), (11): Expedited examination timelines and related requirements.

(vi) Rule 55(4): Time limits in pre-grant opposition proceedings.

(vii) Rule 80(1A) : Restoration of lapsed patents – time limit for filing restoration application.

(viii) Rule 130(1), (2): Submission of documents/translations and related procedural time limits.

(ix) Rule 131(2): Filing of statements regarding working of patents (Form 27) – time limits.

Rule 138

Power to extend time specified or condone delay

Notwithstanding anything contained in these rules, the time specified for doing any act or taking any proceeding thereunder may be extended or any delay may be condoned by the Controller for a period of up to six months, upon a request made in Form 4, where such request is made before the expiry of the said period of six months: Provided that such request may be made any number of times within the specified period of six months.

Explanation:

The Controller has the power to condone the delay or extend the time for doing any act or taking any proceeding forward for six months in case the request is made by the patentee/applicant on Form 4 before the expiration of specified time limit of six months. There is no limit to the number of requests made before the expiration of specified time limit of six months.

Rule 139

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.

Explanation:

When a hearing before the Controller involves a dispute between two or more parties relating to an application for a patent, or any matter in connection with a patent, and the hearing takes place after the publication of the complete specification, then such hearing shall be conducted in public. The Controller may, however, direct otherwise — i.e., decide to hold the hearing in private but only after consulting the parties who appear in person or through their representatives.

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Notes

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