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C I R C U L A R N O.13 O F 2009

The Patent Office Procedure attached to this circular is hereby issued for implementation in the Indian Patent Offices with effect from **1st July, 2009.**

(P.H.Kurian)

Controller General of Patents, Designs and Trademarks

To



**INTELLECTUAL
PROPERTY INDIA**

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Geographical Indications



Patent Office Procedure **(POP)**

2009

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INTRODUCTION

Controller General

I. Receipt, EDP, Classification and Screening Section (RECS)

This section deals with the receipts, sorting & distribution, digitization, verification, screening and classification of all applications and other related documents received in the Patent Office. The section will be under the overall supervision and control of the Technical Head. The section will be headed by an Examiner/Assistant Controller assisted by required supporting staff. The functions and responsibilities of each unit under this section are detailed below:

RECS 1 - Receipt, sorting & distribution – This unit will be manned by an Office Superintendent/ Assistant and other staff as per requirement.

1. The unit shall receive Patents and Designs applications and other related documents after ascertaining the jurisdiction and provide the receipts.
2. The fee and non-fee documents shall be received by staff at separate counters which will be known as Fee Counter (FC) and Non-Fee Counter (NFC) respectively.
3. Both the counters will stand closed at **5 pm** for facilitating further processing and no paper shall be received after **5 pm**.
4. All documents by post/courier shall be received by the Office Superintendent/ Assistant at a separate counter. The fee bearing documents shall be sent to the Fee counter and the non-fee bearing documents shall be sent to the non-fee counter.
5. The staff at the fee counter shall make relevant entries in the module and generate the Cash Book Receipts (CBRs). The staff at the non-fee counter shall also make relevant entry in the receipt module.
6. In cases where the fee bearing document is not filed within the prescribed time along with the prescribed fee and the module does not accept the same, the staff at the fee counter shall send such document

along with the fee to Office Superintendent/ Assistant who in turn shall return the same to the applicant/agent.

7. The staff at the fee counter shall stamp the documents so received and enter the CBR number, date and the amount of fee received and if necessary the application number, patent number or other relevant entries. The staff at the non-fee counter shall also stamp the documents after making entries in the module.
8. Subsequently the documents from both the counters shall be sent on an hourly basis to the Office Superintendent/Assistant.
9. All documents by post/courier and documents received from the counters shall be sorted on an hourly basis by the Office Superintendent/Assistant including identifying the documents to be digitized.
10. The papers to be digitized shall be sent to **RECS 2** and other papers that are not required to be digitized shall be sent to the concerned sections after making necessary entries. This shall be done as far as possible on the same day.
11. The fee in cash and cheques/demand drafts along with the challan shall be handed over by the Office Superintendent/ Assistant to the Cashier.

RECS 2 - EDP - This unit will be manned by required number of data entry operators for electronic data processing of the documents received from **RECS1**. This unit shall consist of two groups. The group I shall perform digitization activities of new patent applications and group II shall perform the digitization activities of documents of amended patent applications and other documents.

Group I- New Applications

1. After receipt of the documents relating to new applications for patents from **RECS 1** the application number shall be punched thereon.

2. The punched documents shall be placed in the file wrappers.
3. The data entry of the documents shall be carried out in the fields prescribed in the electronic module provided by the patent office.
4. The documents shall be scanned and .tiff & .pdf formats prepared. The Optical Character Recognition of the scanned documents shall also be done.
5. After data entry, scanning of the documents and preparation of OCRs, 1st level verification and uploading of the data to the server shall be done.
6. After uploading the Application Filing Receipt (AFR) shall be generated and sent to the sorting unit of **RECS1** for distribution/dispatch.
7. In case of E-filed patent applications, hard copies of the documents shall be made and placed in the file wrappers after punching the application number.
8. The data entry as applicable of the documents of E-filed applications shall be carried out in the fields prescribed in the electronic module provided by the patent office.
9. The Optical Character Recognition (OCR) of documents of E-filed applications shall be done.
10. After data entry and preparation of OCRs, 1st level verification and uploading of the data to the server shall be done.
11. The pasting sheet 12230-3(er)-4(en)-47F37.89 383.59 01(s)-1394.9 25BT/F3 14.04 T

Group II- Amended applications and other documents

1. The data entry of the documents relating to amended applications and other documents shall be carried out in the fields prescribed in the electronic module provided by the patent office.
2. The documents shall be scanned and .tiff & .pdf formats prepared. The Optical Character Recognition of the scanned documents shall also be done.
3. After scanning of the documents and OCR, 1st level verification and uploading of the data to the server in the relevant module shall be done.
4. After uploading the data, the documents shall be sent to **RECS 3** Section

RECS 3 - Screening and Classification

This unit will be manned by supporting staff as required. The screening, classification and uploading of the final data shall be done by the Examiner/ Assistant Controller who shall be responsible for correctness of entire data.

1. 2nd level verification of data uploaded on server by **RECS 2** shall be done by the supporting staff and shall be checked by the Examiner/Assistant Controller. In case of any error, the data shall be referred back to **RECS 2** for necessary correction.
2. After correction of errors and verification by **RECS 2**, the data shall be again verified by the supporting staff and checked by the Examiner/Assistant Controller.
3. The verified and checked data shall be authenticated by the Examiner/ Assistant Controller.
4. The documents relating to the amended applications and other documents shall be sorted by the supporting staff of the unit and sent to **RMID, E&G** and **GPM** sections as applicable after making entries in File Tracking Module.

5. The new patent applications shall be classified in groups formed as per the field of technology and International Patent Classification (IPC) by the Examiner/ Assistant Controller.
6. The new patent applications shall be screened for reference to defence and atomic energy purposes by the Examiner/ Assistant Controller. If any application is found relevant, the file after entry in the File Tracking Module shall be referred to the Technical Head for further action.
7. The Technical Head shall communicate to the Ministry of Defence/Atomic Energy as the case may be for opinion and send the files to RMID1. On receipt of response from the concerned Ministry, the Technical Head shall inform the applicant accordingly.
8. In case of applications accompanied by provisional specification, the physical file shall be kept with the Examiner/Assistant Controller and such application shall be processed further only after the complete specification is filed.
9. If the complete specification is not filed within the prescribed time u/s 9(1), the application filed with provisional specification shall be treated as abandoned. The application shall not be allowed to enter the publication module and shall not be published.
10. The eligibility for publication shall be ascertained by the Examiner/ Assistant Controller responsible for classification by ascertaining the following:
 - a) Whether the specification is in English/Hindi
 - b) Whether the abstract conforms to provisions of Section 10(4)(d) and Rule 13(7)
 - c) Whether the application is accompanied by Power of Attorney, if applicable.

d) Whether the self attested copy has been filed in case of General Power of Attorney.

11. In case of the applications not found eligible, an invitation to fulfill the requirements within three months shall be sent to the applicant. The application shall be kept on hold for uploading and also withheld from entering the publication module till the compliance.
12. The eligible applications shall be allowed to enter the publication module to enable publication after the prescribed period and the file shall be sent to **RMID** section after entry in the File Tracking Module.
13. In case of an application where a request for withdrawal has been received prior to three months of publication date, such applications shall be withdrawn from the publication module after approval by Examiner/ Assistant Controller.
14. The request for withdrawal shall be sent to **RMID1** for returning the documents to the applicant/agent.

II. Record Management and Information Dissemination (RMID) Section

This section deals with storage & management of records and providing of information. The section shall be headed by an Assistant Controller/ Examiner assisted by required supporting staff and shall be under the overall supervision and control of the Technical Head. The functions and responsibilities of each unit under this section are detailed below:

RMID 1- Storage and maintenance of all Records including Patent Register

1. This unit shall make necessary entries regarding all the files and documents received from other sections.
2. The files and documents so received not requiring any further action shall be placed appropriately in the compactor.
3. The documents requiring further action shall be sent to other concerned units of this section along with the relevant file after entry in the File Tracking Module.
4. On receipt of requests for files from other sections, the files shall be sent to them after making entry in the File Tracking Module.
5. On receipt of requests for withdrawal from **RECS 3** and **E&G** the relevant documents shall be returned to the applicant/agent after entry in the File Tracking Module.

RMID 2 - Preparation of Certified Copy, Supply of copy of documents, Information under section 153 and Inspection of documents

1. This unit shall receive documents along with the relevant files from **RMID 1** and sort them on the basis of the requests
2. The copy/certified copy of the requested document shall be prepared and issued to the applicant after obtaining approval from the Examiner/ Assistant Controller.
3. In case of request for information under Section 153, after ensuring whether the information falls under Rule 134, the same shall be prepared and issued to the applicant after obtaining approval from the Examiner/ Assistant Controller.

4. In case of request for inspection of document, the relevant document shall be retrieved and enabled for inspection after ensuring whether such document is open to public.

RMID 3 – Inspection of Register, Renewal, Restoration, registration and recording of assignments of Patent and updating of Register or any other amendments in the Register

1. In case of request for inspection of Patent Register the supporting staff shall identify the relevant entry in the Register and facilitate the inspection of the same and provide copy/certified copy of the same if required.
2. In case of Renewal of Patents, the supporting staff shall enter the Renewal Fee details after checking the entries in the Register. After entering the Renewal fee details the Renewal Fee Certificate shall be generated and dispatched to the applicant/agent.
3. In case of request for Restoration, the supporting staff shall refer the request to Examiner/Assistant Controller after ensuring whether the request is filed within the prescribed period for further processing.
4. In case of request for registration and recording of assignments of Patent and updating of Register or any other amendments in the Register, the supporting staff shall refer such requests to the Examiner/Assistant Controller for further processing.

RMID 4-International Patent applications under PCT and Permission u/s 39

1. In case of International Applications under PCT the supporting staff shall make the data entry in the PCT module and generate the International Application number and filing date after conducting the minimum formality checks.
2. After generating application number and filing date the documents shall be placed in file wrapper.

3. After detailed check of formalities, the supporting staff shall prepare the Fee Calculation Sheet and communicate to the applicant to make the payment within the prescribed period.
4. If requested by the applicant, a certified copy of priority document for International Bureau shall be prepared.
5. The International filing fee, Transmittal fee and Search fee shall be received in respect of International application.
6. On receipt of the required fee, one copy of the application and International filing fee shall be transmitted to the International Bureau and one copy of application with Search fee shall be sent to the International Search Authority. A home copy of the application shall be sent to **RMID1**.
7. In case of permission u/s39 to file patent application abroad the supporting staff shall check the jurisdiction of the applicant.
8. After ensuring the jurisdiction the supporting staff shall prepare the permission letter and dispatch the same after approval of the Technical Head.
9. In case of any complaints regarding discrepancy in respect of payment of Renewal fees the supporting staff shall verify the entries in the Register, prepare suitable reply and dispatch the same to the complainant after approval of the Technical Head.
10. Every request processed by this section shall be disposed of strictly as per the chronological order of their filing.

III. General Patent Matters (G P M) section

This section shall deal with all general correspondence, information regarding working of patent on Form 27, legal matters, processing of post grant oppositions, statistical information, periodical reports, public grievances and any other matter not specifically mentioned in other sections. The section will function under the overall supervision and control of Technical Head. This section will be headed by an Assistant Controller/ Examiner assisted by the required supporting staff. The functions and responsibilities of each unit under this section are detailed below:

GPM 1 - Public Grievances, requests under RTI

1. This unit shall receive all papers/documents relating to public grievances from different sections/ officers/ CGPDTM.
2. The supporting staff shall send requisition for concerned files to the relevant sections.
3. The matter shall be put up to the Assistant Controller/ Examiner who shall prepare and send the appropriate reply promptly after taking steps to redress the grievance.
4. Replies to the RTI queries received from the Head of Office who is the Public Information Officer shall be sent promptly by the Assistant Controller/ Examiner after gathering the information from the concerned official.

GPM 2 - Statistics, Periodical Reports, working of patents and Parliament questions

1. All statistical information relating to patents required by CGPDTM shall be compiled and provided by this unit
2. All periodical reports shall also be compiled and provided to CGPDTM.

3. Notices seeking information on working of patents (Form 27) shall be sent to all patentees from this unit on or before 31st December every year. The information received shall be compiled and sent to CGPDTM for publication in Official Patent Journal by 15th April every year.
4. Answers to all Parliamentary questions shall be prepared by this unit.

GPM 3 - Legal matters including processing of post grant opposition and any other miscellaneous matter, conversion of complete specification to provisional specification, request to cognate applications, post dating, change of name by claimant u/s 20 etc.

1. All court/ IPAB matters in which the Controller is a party shall be dealt with by this unit. Information required for dealing with the court matter shall be collected from the concerned section/ officer.
2. GPM section shall receive notices of opposition and subsequently issue notices to the applicant as well as communicate with opponents and applicant for submission of documents.
3. Technical Head shall put up the file to CG for constitution of an Opposition Board and then forward papers to the Opposition Board so constituted.
4. After receiving the report of the Opposition Board, the Technical Head shall put up the file to CG for nomination of the Controller for disposal of the instant opposition case and, subsequently, forward the entire file to the nominated controller for hearing and disposing the case.
5. This unit shall also deal with Form 13 filed after grant (in case the amendments are related to subject matter, the case will be referred to the concerned group which granted the case), Form 16, form 27, and surrender of patents.

6. This unit shall deal with the communication received from all Ministries and Statutory bodies, papers relating to plan implementation and also the communication with other IPOs & stake holders.
7. This unit will also handle all other miscellaneous matters not mentioned elsewhere.

IV. Examination and Grant (E&G) Section

This section shall deal with all aspects of examination and grant of patents. The Controllers and examiners shall be grouped according to their specialization for ensuring quality of patent examination and grant. The groups so formed shall be supported by the required supporting staff. The designated Controllers under this section shall be disposing of oppositions filed u/s 25(2) of the Patents Act. These groups shall work under the over all supervision of the Group Leaders. The Group Leader shall be responsible for the overall functioning of the section.

A support unit of each group may consist of an Office Superintendent/ Assistant, UDC and other staff as may be required.

The group functions as follows:

The examination of the patent application for the grant of patent shall be done for those applications which have been published u/s 11(A) and request for examination has been filed.

1. On the last Friday of every month, a requisition for files required to be referred to examiners for examination in the next month shall be sent to RMID1 by the Group Leader. The files are to be collected in the chronological order in which the requests for examination have been filed as appearing in the electronic module of each Group Leader.
2. On first Monday of every month, the group leader shall hold a meeting of all the group members, discuss the content of each application and allocate them to the Controllers. The examiners to whom the files be referred to shall also be decided in the meeting. Such decisions shall be based on their experience and specialization. After electronic allocation, an allocation note duly signed by all the members of the group shall be sent to CGPDTM by the Group Leader
3. The Support units shall distribute the files received from **RMID1** as per the above allocation to the respective Controllers.

4. After allocation of the applications, the Controller shall refer the application to the examiner for making a report to the Controller in respect of matters provided u/s 12 within a period of one month from the date on which the application is referred to him.
5. After examination, a gist of objections shall be forwarded to the applicants/agents by the Controller ordinarily through electronic communication, duly authenticated. In case the email address of applicant/agent is not available, the support unit shall dispatch the hard copy.
6. All other correspondence including notices shall be sent to the applicant/opponent/agents by the Controller ordinarily by electronic communication, duly authenticated.
7. The complete specification and other documents shall not be forwarded along with the gist of objections. In case the Controller suggests lot of amendments in specification he may mark the same electronically and attach the concerned part of the specification along with the gist of objections.
8. All the documents received from **RECS** section shall be placed in the relevant file on the same day or latest by the next day by the Support unit. In no circumstances, the papers shall be piled up with him.
9. On grant of a patent, the Controller shall print in duplicate the Patent Certificate and sign the same in the left bottom corner.
10. The Support unit shall dispatch Patent Certificate with the CD containing the Complete Specification of the granted patent along with a covering letter signed by the Group Leader.
11. The Office Superintendent/Assistant of the Support unit shall be the custodian of all the files in the group. No file shall leave the group without the permission of the Group Leader and entry in the File Tracking Module by the Office Superintendent/Assistant.

12. After disposal of application through grant/refusal/abandonment/ withdrawal the files shall be sent by the Support unit to the **RMID** section without delay.

V. INDIAN PATENT OFFICE JOURNAL (IPOJ) SECTION

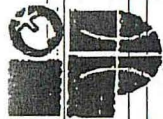
This section shall deal with publication of Patent Journal and function only in IPO, Kolkata. This section shall be managed by an Office Superintendent/Assistant with required supporting staff. The section shall be under the overall supervision and control of the Technical Head, Kolkata. As the activities in this section are limited the staff may also be given other duties by the Technical Head. The functions and responsibilities of this section are as follows:

1. The publication material appearing on the publication module shall be checked for any obvious error and in case of any error, such material should be withheld from publication. Such matters shall be referred back to the Technical Head for correction and authentication in the publication module.
2. The section shall organize the contents for publication in the prescribed format of the Patent Journal.
3. The section shall send a synopsis of the publication material to the CGPDTM by email latest by 12 noon on every Friday for approval.
4. The section shall publish the Journal by 6pm on every Friday and upload on the official website.

VI. GENERAL INSTRUCTIONS

1. Inter-sectional communication shall be through inter-office memos to the head of concerned sections.
2. The supporting staff shall work on rotation between different sections periodically and no staff shall work in the same seat for more than 3 years.
3. All documents relating to patent applications received in the office by email/fax shall be sent to the non-fee counter.

End of document



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CG/ Office Order/2013/ 193

Dated: 21.01.2013

Office Order No. 5 of 2013

Patent Office Procedure – Amendment

The Patent Office Procedure (POP) was formulated with the objective of bringing uniformity of practice in the Patent Office, effective utilization of manpower as well as timely delivery of services assuring quality, transparency and accountability and came into force on 1st July 2009.

It has been brought to my notice that the GPM Section is presently issuing corrected Patent Certificates, wherever errors are present. This practice has been adopted due to the reason that no particular section has been assigned this responsibility specifically and as per the POP, GPM 3 section is required to deal with all the miscellaneous matters. This issue has been analysed in detail. GPM section cannot be entrusted the responsibility of issuing corrected Patent Certificates merely on the ground that the application has been disposed of by the E & G Section by issuing a Patent Certificate containing errors.

The POP accordingly stands amended as follows:

In Section IV - Examination and Grant (E & G) Section, after provision 12, the following provision shall be inserted namely:-
"13. This section shall also be responsible for issuance of corrected Patent Certificates, where an error in the data entry was not noticed by the issuing Controller."

All such matters pending with the GPM Section stand transferred to the E & G Section.

(Chaitanya Prasad)
Controller General of Patents, Designs & Trade Marks

Copy to:

1. All Officers of Patent Office.
2. System Administrator, with a direction for making appropriate enabling provisions in the electronic module.