



THE PATENTS RULES, 2003

Rule 6

Leaving and serving documents

(1) Any application, notice or other document authorised or required to be filed, left, made or given at the patent office, or to the Controller or to any other person under the Act or these rules, may be tendered by hand or sent by a letter addressed to the Controller at the appropriate office or to that person through post or registered post or speed post or by electronic transmission duly authenticated. If it is sent by post or registered post or speed post or by electronic transmission duly authenticated, it shall be deemed to have been filed, left, made or given at the time when the mail containing the same would have been delivered in the ordinary course of post or registered post or speed post, or by electronic transmission duly authenticated, as the case may be. In proving such sending, it shall be sufficient to show that the mail was properly addressed and transmitted.

(1A) Notwithstanding anything contained in sub-rule (1), a patent agent shall file, leave, make or give all documents only by electronic transmission duly authenticated: Provided that any document, if asked to be submitted in original, shall be submitted within a period of fifteen days, failing which such documents shall be deemed not to have been filed.

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

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

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

(5) In case of delay in receipt of a document or a communication sent by the patent office to a party to any proceedings under the Act or these rules, the delay in transmitting or resubmitting a document to the patent office or doing any act by the party may be condoned by the Controller if a petition for such condonation of delay is made by the party to the Controller immediately after the receipt of the document or a communication along with a statement regarding the circumstances of the fact and evidence in support of the statement:

Provided that the delay condoned by the Controller shall not exceed the period between the date on which the party was supposed to have received the document or communication by ordinary course of mail or electronic transmission and the actual date of receipt of the same.

(6) Without prejudice to sub-rule (5) and notwithstanding anything contained in sub-rule (2) of rule 138, the Controller may condone the delay in transmitting or resubmitting a document to the patent office or performing any act by a party, if a petition for such condonation of delay is made by the party to the Controller along with a statement regarding the circumstances of the fact and evidence in support of the statement, to the satisfaction of the Controller, that the delay was due to war, revolution, civil disorder, strike, natural calamity, a general unavailability of electronic communication services or other like reason in the locality where the party resides or has place of business, and that such situation was of such severity that it disrupted the normal communication in that area and that the relevant action was taken as soon as reasonably possible not later than one month from the date when such situation had ceased to exist: Provided that the delay condoned by the Controller shall not exceed the period for which the national emergency was in force, or six months from the expiry of the prescribed period, whichever is earlier.

(7) Any liability or burden of proof regarding the authenticity of any document filed, left, made or given under these rules, including electronically transmitted documents, shall lie only with the party filing, leaving, making or giving the document.

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