



THE PATENTS RULES, 2003

CHAPTER VI OPPOSITION PROCEEDINGS TO 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]

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.

[<<previous](#)

[next>>](#)