



# THE PATENTS ACT, 1970

## Section 52

### **Grant of patent to true and first inventor where it has been obtained by another in fraud of him.**

(1) Where the patent has been revoked under section 64 on the ground that the patent was obtained wrongfully and in contravention of the rights of the petitioner or any person under or through whom he claims, or, where in a petition for revocation, the Appellate Board or court, instead of revoking the patent, directs the complete specification to be amended by the exclusion of a claim or claims in consequence of a finding that the invention covered by such claim or claims had been obtained from the petitioner, the Appellate Board or court may, by order passed in the same proceeding, permit the grant to the petitioner of the whole or such part of the invention which the Appellate Board or court finds has been wrongfully obtained by the patentee, in lieu of the patent so revoked or is excluded by amendment.

(2) Where any such order is passed, the Controller shall, on request by the petitioner made in the prescribed manner grant to him—

(i) in cases where the Appellate Board or court permits the whole of the patent to be granted, a new patent bearing the same date and number as the patent revoked;

(ii) in cases where the Appellate Board or court permits a part only of the patent to be granted, a new patent for such part bearing the same date as the patent revoked and numbered in such manner as may be prescribed:  
Provided that the Controller may, as a condition of such grant, require the petitioner to file a new and complete specification to the satisfaction of the Controller describing and claiming that part of the invention for which the patent is to be granted.

(3) No suit shall be brought for any infringement of a patent granted under this section committed before the actual date on which such patent was granted.

[<<previous](#)

[next>>](#)