PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART
II, SECTION 3, SUB-SECTION (i)
MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION)

NOTIFICATION

NEW DELHI, THE 5th DECEMBER, 2003

G.S.R 928(E).- Whereas the draft of the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003 were published, as required by section 157 of the Trade Marks Act, 1999 (47 of 1999) in Gazette of India, Extraordinary, Part-II, Section 3, sub-section (i) dated the 4th October, 2003 vide notification of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion number GSR 782 (E) dated 4th October,2003 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of fifteen days from the date on which copies of the Gazette containing the notification were made available to the public;

And whereas the copies of the Gazette containing the notification were made available to the public on 7th October, 2003;

And whereas the objections and suggestions received from the public have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 157 of the Trade Marks Act, 1999 (47 of 1999), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.- (1) These rules may be called the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003.

2. Applications and appeals.- The manner of making applications and the forms of appeals to the Appellate Board and the manner of verification thereof shall be as provided in the First Schedule to these rules.

3. Fees.- The fees for filing applications and appeals before the Appellate Board shall be as specified in the Second Schedule to these rules which shall be paid by way of bank draft payable at Chennai drawn in favour of the Deputy Registrar, Intellectual Property Appellate Board.

THE FIRST SCHEDULE

(See rule 2)

MANNER OF MAKING APPLICATIONS AND FORMS OF APPEAL

Serial No.	Section of the Trade Marks Act, 1999/ Rule of the Trade Marks Rules, 2002	Title	Form Number
1	2	3	4
1.	Section 47/57/125	Application under section 47 for removal of a trade mark from the register or for rectification of the register under section 57 or section 125.	Form 1
2.	Section 91	Appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in one class.	Form 2
3.	Section 91	Appeal from an order ordecision of the Registrar of Trade Marks in respect of goods or services falling in two or more classes.	Form 3
4.	Section 91 read with rule 162 of the Trade Marks Rules, 2002	Appeal from an order or decision of the Registrar of Trade Marks in regard to the registration or removal of a trade marks agent from the register of trade marks agents.	Form 4

5.	Section 91	Application for condoning the delay in filing appeal.	Form 5

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Fee: Rs. 5,000

FORM 1

Application for the removal of trade mark from the register or rectification of the register under section 47/ 57/125 of the Trade Marks Act, 1999

(To be filed in triplicate alongwith statement of case in triplicate and accompanied by as many copies of each of them as there are registered users under the registration)

In the matter of Trade Mark No…… registered in the name of …… in class……. I / We [1]…….hereby apply that the entry in the register in respect of the above mentioned trade mark may be (removed)[2] (rectified) in the following manner:-

……

……

The grounds of my / our application are as follows:-

……..

……

No action concerning the trade mark in question is pending in any court or before the Registrar of Trade Marks.

All communications relating to this application may be sent to the following address in India:-

……

……

(1. State full name, address and nationality. An address for service in India should be stated if the applicant has no place of business or of residence in India.

2. Strike out the word which is not applicable.)

Dated this _____ day of _____ Place:

……..SIGNATURE OF THE APPLICANT

(FULL NAME OF THE SIGNATORY) To

The Deputy Registrar
Intellectual Property Appellate Board,
Annexe -1, Guna Complex, II Floor,
443, Anna Salai, Teynampet,
Chennai-600018

FORM 2

APPEAL UNDER SECTION 91 OF THE TRADE MARKS ACT, 1999 IN RESPECT OF GOODS OR SERVICES FALLING IN ONE CLASS

(To be filed in triplicate)

Title of the Case:

INDEX

Sl.No.	Description of documents relied upon	Page No.
1.		
2.		
3.		
4.		

_____ Signature of the Appellant

For use in the Board Office Date of filing

Or

Date of receipt by post

Registration No.

Signature

for Deputy Registrar

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

A.B. (add description such as full name, nationality, address, registered office……)

APPELLANT

Vs.

C.D. (add description **such as full name, nationality, address, registered office** and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order).

RESPONDENT

DETAILS OF APPEAL :

1. Particulars of the order against which the appeal is made:

(Particulars of the order giving the details like the number, date and authority which has passed the order against which the appeal is made.)

2. Jurisdiction of the Board:

The appellant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Board.

3. Limitation:

The appellant further declares that the appeal is within the limitation period prescribed in section 91(1) of the Trade Marks Act, 1999.

4. Facts of the case:

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact.)

5. Grounds for relief with legal provisions:

6. Matters not previously filed or pending with any other court:

The appellant further declares that he had not previously filed any appeal, writ petition or suit before any court or any other authority regarding the matter in respect of which this appeal has been made.

(In case the appellant had previously filed any such appeal, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof.)

7. Reliefs sought:

In view of the facts mentioned above the appellant prays for the following relief(s):-

(Specify the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any relied upon).

8. Particulars of Bank Draft.

9. List of enclosures:

1.
2.
3.
4.

10. All communications relating to these proceedings may be sent to the following address in India:-

…….

…….

VERIFICATION

I…… (Name of the appellant) age…… of……. nationality, resident of ……do hereby verify that the contents of paras……. to……. are true to my personal knowledge and paras …… to …….. are believed to be true on legal advice and that I have not suppressed any material fact.

Dated, this……..day of ……. Place:

Signature of the Appellant

(FULL NAME OF THE SIGNATORY)

To,
The Deputy Registrar,
Intellectual Property Appellate Board
Annexe 1, Guna Complex, II Floor,
443, Anna Salai, Teynampet,
Chennai- 600 018

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD Fee Rs.10,000

FORM 3

APPEAL UNDER SECTION 91 OF THE TRADE MARKS ACT, 1999 IN RESPECT OF GOODS OR SERVICES FALLING IN TWO OR MORE CLASSES

(To be filed in triplicate)

Title of the Case:

INDEX

Sl.No.	Description of documents relied upon	Page No.
1.		
2.		
3.		
4.		

Signature of the Appellant

For use in the Board Office Date of filing

Or

Date of receipt by post

Registration No.

Signature

for Deputy Registrar

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

A.B. (add description such as full name, nationality, address, registered office……)

APPELLANT

Vs.

C.D. (add description **such as full name, nationality, address, registered** office and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order).

RESPONDENT

DETAILS OF APPEAL :

1. Particulars of the order against which the appeal is made:

(Particulars of the order giving the details like the number, date and authority which has passed the order against which the appeal is made.)

2. Jurisdiction of the Board:

The appellant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Board.

3. Limitation:

The appellant further declares that the appeal is within the limitation period prescribed in section 91(1) of the Trade Marks Act, 1999.

4. Facts of the case:

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact.)

5. Grounds for relief with legal provisions:

6. Matters not previously filed or pending with any other court:

The appellant further declares that he had not previously filed any appeal, writ petition or suit before any court or any other authority regarding the matter in respect of which this appeal has been made.

(In case the appellant had previously filed any such appeal, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof.)

7. Reliefs sought:

In view of the facts mentioned above the appellant prays for the following relief(s):

(Specify the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any relied upon).

8. Particulars of Bank Draft.

9. List of enclosures:

1.
2.
3.
4.

10. All communications relating to these proceedings may be sent to the following address in India:-

…….
……

VERIFICATION

I…… (Name of the appellant) age…… of……. nationality, resident of ……do hereby verify that the contents of paras……. to……. are true to my personal knowledge and paras …… to …….. are believed to be true on legal advice and that I have not suppressed any material fact.

Dated, this…….day of ……..

Place:

Signature of the Appellant

(FULL NAME OF THE SIGNATORY)

To,
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe 1, Guna Complex, II Floor
443, Anna Salai, Teynampet
Chennai- 600018

FORM 4

APPEAL UNDER SECTION 91 OF THE TRADE MARKS ACT, 1999 READ WITH RULE 162 OF THE TRADE MARKS RULES, 2002 IN RESPECT OF REGISTRATION OR REMOVAL OF A TRADE MARKS AGENT FROM THE REGISTER OF TRADE MARKS AGENTS

(To be filed in triplicate)

Title of the Case:

INDEX

Sl.No.	Description of documents relied upon	Page No.
1.		
2.		
3.		
4.		

Signature of the Appellant

For use in the Board Office Date of filing

Or

Date of receipt by post

Registration No.

Signature

for Deputy Registrar

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

A.B. (add description such as full name, nationality, address, registered office……)

APPELLANT

Vs.

C.D. (add description **such as full name, nationality, address, registered** office and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order).

RESPONDENT

DETAILS OF APPEAL :

1 Particulars of the order against which the appeal is made:

(Particulars of the order giving the details like the number, date and authority which has passed the order against which the appeal is made.)

2. Jurisdiction of the Board:

The appellant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Board.

3. Limitation:

The appellant further declares that the appeal is within the limitation period prescribed in section 91(1) of the Trade Marks Act, 1999.

4. Facts of the case:

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact.)

5. Grounds for relief with legal provisions:

6. Matters not previously filed or pending with any other court:

The appellant shall declare that he had not previously filed any appeal, writ petition or suit before any court or any other authority regarding the matter in respect of which this appeal has been made.

In case the appellant had previously filed any such appeal, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof.

7. Reliefs sought:

In view of the facts mentioned above the appellant prays for the following relief(s): (Specify the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any relied upon).

8. Particulars of Bank Draft

9. List of enclosures:

1.
2.
3.
4.

10. All communications relating to these proceedings may be sent to the following address in India:-

……

……..

VERIFICATION

I…… (Name of the appellant) age……

of……. nationality, resident of ……do hereby verify that the contents of paras……. to……. are true to my personal knowledge and paras …… to …….. are believed to be true on legal advice and that I have not suppressed any material fact.

Dated, this…….day of ……..

Place:

Signature of the Appellant

(FULL NAME OF THE SIGNATORY)

To,
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe 1, Guna Complex, II Floor
443, Anna Salai, Teynampet
Chennai- 600018

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Fee Rs.2,500 For delay of per month
Or part thereof

FORM 5

APPLICATION FOR LEAVE TO CONDONE THE DELAY IN FILING APPEAL UNDER SECTION 91(2) OF THE TRADE MARKS ACT, 1999

(To be filed in triplicate together with statement of case in triplicate)

In the matter of order or decision of the Registrar of Trade Marks in trade mark application / Registered trade mark No……

I / We hereby apply for leave to condone the delay in filing the appeal.

The grounds for making this application are set forth in the accompanying statement.

(To be enclosed on separate sheet duly signed by the applicant)

All communications relating to this application may be sent to the following address in India

……

……..

Dated this……..of……

Place:

Signature of the Applicant

(FULL NAME OF THE SIGNATORY)

To,
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe 1, Guna Complex, II Floor
443, Anna Salai, Teynampet
Chennai- 600018

THE SECOND SCHEDULE

(See rule 3)

FEES

Entry No.	On What Payable	Amount Rs.	Corresponding Form Number
(1)	(2)	(3)	(4)
1.	On application under section 47, 57 or 125 for removal of a trademark from the register or rectification of the register.	5,000	Form 1
2.	On appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in one class.	5,000	Form 2
3.	On appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in two or more classes.	10,000	Form 3
4.	On appeal from an order or decision of the Registrar of Trade Marks in regard to the registration or removal of a trade marks agent from the register of trade marks agents.	3,000	Form 4
5.	On application for condoning delay for filing appeal.	2,500for delay of per month	Form 5
		or part thereof	

[F.No.8/11/03-IRS]

A.E.AHMAD, Jt. Secy