

Pages 20, 21 and 22  
p. 12 and 13.

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
SPECIAL ORIGINAL JURISDICTION

W.P.NO. 1256 OF 2011

Shamnad Basheer  
Ministry of HRD Chair Professor in  
Intellectual Property Rights  
West Bengal National University of Juridical Sciences,  
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Salt Lake City, Sector III,  
Kolkata-700098,  
India.

..... Petitioner

Versus

1. Union of India  
Represented by its Secretary,  
Department of Industrial Policy and Promotion  
Ministry of Industry & Commerce,  
Government of India,  
Udyog Bhavan,  
NEW DELHI – 110 011.

2. Intellectual Property Appellate Board  
Represented by its Registrar,  
Annex-I, Guna Complex, II Floor  
443, Anna Salai, Teynampet  
CHENNAI -600018

..... Respondents

REPORT OF THE CHAIRMAN, INTELLECTUAL PROPERTY APPELLATE  
BOARD AS PER THE ORDERS OF THE HON'BLE HIGH COURT OF  
MADRAS DATED 06.06.2011

*True Copy*

**G. Vijayaraghavan**  
Deputy Registrar  
D.D.O. and Head of Office  
Intellectual Property Appellate Board  
Chennai

Selection Committee

*prtd*  
*@ Party*  
*@ ~~DT~~ DMT/1000*  
*now heads by a the judge*

# REPORT

This report is being filed as per the directions of this Hon'ble Court. The writ petitioner has filed the petition for declaring Chapter 11 of the Trade Marks Act, 1999 and Chapter 19 of the Patents Act, 1970 as *ultra vires*. As the Chairman of the Intellectual Property Appellate Board I am restricting this report to the factual aspects and whether the statutory provisions are complied with but not the constitutional issues.

2. With regard to the contentions raised in the writ petition, a brief history and background may be necessary.

3. The Intellectual Property Appellate Board (IPAB) is a creation of the Trade Marks Act, 1999. The then Trade and Merchandise Marks Act, 1958 was thoroughly revisited when a distinct need was felt to align the statutes governing the intellectual property rights with those of the other countries in view of the globalization of trade and industry. As the need for an alternative efficient and speedy mechanism for resolution of disputes relating to intellectual property rights was essential to have an effective IPR regime, IPAB was set up transferring the jurisdiction of the High Courts in specific matters relating to adjudication of intellectual property rights for speedy disposal. So to that extent the Board is vested with the jurisdiction earlier exercised by the High Courts.

The IPAB is an alternate judicial forum exercising certain specific judicial powers. The Hon'ble Supreme Court has upheld the competence of the Parliament to make laws creating Tribunals to deal specific disputes. In Union of India v. R. Gandhi which dealt with the creation of the National Company Law Tribunal, The Hon'ble Supreme Court referred to The Leggatt Committee Report.

4. In 2001, Sir Andrew Leggatt filed a report reviewing the delivery of justice through tribunals other than ordinary courts of law. The object of the review was to recommend a system that is independent, coherent, professional, cost effective and user friendly; to make a system the members can be proud of, and to render the tribunals independent of their sponsoring department. This report gives a valuable guidance on how tribunals should function.

**"2.18 There should be one guiding principle.....Tribunals are alternative to Court not administrative processes."** Therefore, the report suggests that the Tribunals will have the confidence of the users only if they possess the same qualities of independence and impartiality as Courts. As regards relations with government, the report says " but it cannot be said with confidence that they are demonstrably independent. Indeed the evidence is to the contrary." The Report records that in the case of most Tribunals it is the Department which provides administrative support, pays the salaries, expenses, provides accommodation etc. Even while developing policies since the input of the Members is sought

for the Leggatt Committee Report suggests "A culture develops in which the tribunal members can be seen by department and ministers as an integral part of the process of policy development and its specification delivered by the policy department. This can compromise their independence severely." The Committee suggested that the responsibility for administration of tribunals should be centralized under the Lord Chancellor we find that "what we have found however is that the present collection of tribunals has grown up to in an almost entirely haphazard way and the result is collection of tribunals mostly administered by departments with wide variations of practice and approach and almost no coherence."

5. In *Union of India v. R. Gandhi*, the Hon'ble Supreme Court observed that large number of Tribunals that have come into existence have the authority of law "pronounce upon valuable rights" "they act in judicial manner" "they share the exercise of judicial power of the State" and "that both the Courts and Tribunal are constituted by the State" and "are invested with judiciary as distinguished from purely administrative or executive function." The Hon'ble Supreme Court specifically stressed that only "if continued judicial independence is assured Tribunals can discharge judicial functions and that they should resemble courts and not bureaucratic boards and that even the dependence of Tribunals on the sponsoring or parent department for infrastructural facilities or personnel may undermine the independence of the Tribunal." (Emphasis supplied) The

Hon'ble Supreme Court referred to the Leggatt Committee's report regarding how to make the independence of the Tribunals a reality. The Hon'ble Supreme Court also observed that unfortunately the Tribunals in India have not achieved full independence because of the dependency on the sponsoring department and that unless wide ranging reforms are implemented tribunals will not be considered independent. In the above judgement which has referred to this report, the Hon'ble Supreme Court had clearly later declared that Ministry of Law and Justice will alone provide the administrative support for all tribunals.

6. While summarizing, the Hon'ble Supreme Court clearly stated whenever existing jurisdiction of High courts is transferred to a tribunal it is a Judicial tribunal. The fact that IPAB is called a Board does not make it less than a judicial tribunal. The Hon'ble Supreme Court stressed the nature of persons who should be appointed to man such judicial institutions, when matters are transferred from High Courts for dispute resolution to these tribunals. The Hon'ble Supreme Court held strictly that dilution of independence cannot be permitted.

7. In this judgement the Hon'ble Supreme Court has crystallized several points that arise in case of Tribunals or any other alternate dispute resolution fora specifically mentioning those where the High Court's jurisdiction had been transferred to the newly created Tribunal / Forum. As far as IPAB is concerned, under section 100 of the Trade Marks Act, all cases pertaining to rectification of

register pertaining to rectification of Register pending before any High Court and all cases of appeals against Registrar's order or decision pending before any High Court shall stand transferred to the Appellate Board from the date notified and under section 117 G of the Patents Act, 1970, all cases of appeals against any order or decision of the Controller and all cases pertaining to revocation of patent other than on a counter-claim in a suit for infringement and rectification of register pending before any High Court, shall be transferred to the Appellate Board from such date as may be notified by the Central Government in the Official Gazette and the Appellate Board may proceed with the matter either *de novo* or from the stage it was so transferred. The nature of jurisdiction that the Board exercises therefore, is akin to that of High Court in its appeal jurisdiction. (Emphasis supplied) The Board has the power to devise its own procedures, subject of course to the provisions of the Act.

8. The IPAB has been created to bring adjudication to disputes regarding intellectual property rights both under the constitutionally compliant regime as well as in consonance with the international governance to which the country is a party. The importance of this field of jurisprudence hardly needs mention and it will be one of the most crucial fields of litigation involving not only national players but international ones too. The Board which deals with the disputes relating to Patents, Trade Marks and Geographical Indications will have to decide questions that arise not only under the municipal law but questions which pertain to laws of other countries as well. It is not known whether a proper study of the

same document it is stated that "The Intellectual Property infrastructure is one of the key elements of competitiveness in the new globalised international economic system." So obviously the Ministry realises that the physical infrastructure, the human resources and other components required to make the IPAB a vibrant and effective one, have not been made available. The Ministry of Law and Justice must be made responsible for providing all the facilities that are required by the IPAB as prayed for by the writ petitioner and as already declared by the Hon'ble Supreme Court in the case of Union of India Vs. R.Gandhi.

10. In the Salem Bar Association case the Supreme Court gave a direction to the government to make judicial impact assessment an essential component of the Financial Memorandum of legislative proposals. Judicial Impact Assessment is a process whereby the government can anticipate the likely cost of implementing a legislation through the courts and help deliver timely justice to litigants. Dr. N.R.Madhava Menon in his article "Judicial Impact Assessment and timely delivery of Justice" has written that "litigation demand depends on a variety of facts, most of which are not factored in the making of laws. This results in the court system being left with little or no extra resources to cope with additional cases generated by new laws." By the same analogy it is respectfully submitted that, when new tribunals are set up with little or no resources, without factoring in the economic impact it will have, then the tribunals can never deliver timely justice. The object of setting up of tribunals is speedy disposal. It is impossible to achieve that if IPAB has to face a battle for survival everyday.

11. Now this report will deal with the actual situation that prevails in this forum dealing with IPR matters and the specific problems. I may be permitted to bring it to the notice of this Hon'ble Court not just the contentions raised in the writ petition but all the issues that have to be dealt with for making the IPAB an effectively functioning one. Since the petition is a public interest litigation, this may not be out of place. In the following paragraphs I will deal only with those difficulties which the IPAB faces along with corresponding annexures to elaborate the point which makes the functioning of the IPAB difficult.

12. The tribunal presently functions in an area of 5500 sq.ft which is extremely inadequate. The library facilities are nil, the parking facilities are nil. Advocates from all over India come by flight and the lack of parking space makes the Board inaccessible by car. Therefore, this is also brought to the notice of this Hon'ble Court. The records room is inadequate. **The difficulties faced by the Board and the minimum space that is actually required is given in Annexure-A (page 1-10) along with photographs.**

13. When the Board was established, there were no recruitment rules. Officers and staff were selected after wide publicity and in accordance with the eligibility conditions that were prescribed. It is in the interest of the Board that they are absorbed. **The difficulties faced by the Board in this regard is dealt with in Annexure-B (page 11-15)**



relating to composition of the Search-cum-Selection Committee is dealt with below:

### SELECTION OF MEMBERS

For selection of Members there is a selection committee which till now did not even include the Chairman. It appears that recently the Chairman, IPAB has been made a Member of the Committee which will be headed by the Secretary.

When setting up a Search – cum-Selection Committee for selecting persons for appointment to the post of Vice-Chairman and Technical Member, the Chairman must be Head of the Selection Committee. It is only in 2009 that OM No.7(5)/09-IPR.I (IPAB) dated 8<sup>th</sup> September, 2009 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry the Search-cum-Selection Committee has been constituted. The committee has been constituted as under:-

- |    |                              |   |          |
|----|------------------------------|---|----------|
| 1. | Secretary, IPP               | - | Chairman |
| 2. | Secretary, D/O Legal Affairs | - | Member   |
| 3. | Chairman, IPAB               | - | Member   |
| 4. | Director General, CSIR       | - | Member   |

As the Chairman is a High Court Judge (Retired), the Chairman must be the Chairman of the Committee and cannot be a Member while the Secretary of the Department is the Chairman. If the Selection Committee headed by a Supreme Court Judge as in the case of ITAT or National Green Tribunal, the Chairman / President of the Tribunal / Board can be a Member. But in the case of IPAB

end of their mercy . This hardly enhances the prestige and position of IPAB. The Board has now addressed letters to the respective Chief Justices at Mumbai, Kolkata, Delhi and Ahmedabad to secure some place since sittings are planned sufficiently in advance.

20. The manner of appointment of Chairman, Vice-Chairman and Technical Members have been raised in the writ petition and the writ petitioner states that these should be in accordance with the judgement in Union of India Vs. R.Gandhi. (With this I respectfully agree.)

21. The writ petitioner has raised issues regarding the manner in which the impartiality and integrity of the Members of the Board should be ensured. (With this too I respectfully agree.)

22. One of the grievances of the petitioner is that the rate of disposal is very low. The reason for this is primarily this Board has been fully functional , capable of forming two Benches simultaneously, only for a short period. The writ petitioner states that low rate of disposal is because the IPAB was not fully functional. The writ petitioner has given a tabular column regarding the number of sittings the IPAB has held, number of sittings per month in the year 2010. The details regarding number of cases disposed by the IPAB since 2003 are enclosed as Annexure-E (page 24-32)

23. There are certain circumstances wherein the **terms and conditions of Intellectual Property Appellate Board (salaries and allowances payable to, and other terms and conditions of service of Chairman, Vice-Chairman and Members) Rules, 2003** are not followed. This is dealt with in Annexure-F. (page 33-36)

24. In conclusion, I respectfully submit that the IPAB has to be in conformity with the law declared by the Hon'ble Supreme Court in the NCLT case and all the directions given therein. I respectfully pray that directions may be issued to ensure that the independence and dignity of the IPAB, its Chairman, Vice-Chairman and Members are protected.)

25. I respectfully submit this report to the Hon'ble Court for its consideration and issuance of directions.

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..... Petitioner

**Versus**

1. Union of India  
Represented by its Secretary,  
Department of Industrial Policy and Promotion  
Ministry of Industry & Commerce,  
Government of India,  
Udyog Bhavan,  
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Represented by its Registrar,  
Annex-I, Guna Complex, II Floor  
443, Anna Salai, Teynampet  
CHENNAI -600018

..... Respondents

**ANNEXURES TO REPORT**

Sl.No.	Subject	Annexure	Page Number
1	Requirement of Space	A	1-10
2	Proposal for Absorption of Court Officers and Private Secretaries	B	11-15
3	Upgradation of pay scales of officials of IPAB	C	16-19
4	Proposal for creation of posts in IPAB	D	20-23
5	Bench Sittings	E	24-32
6	Terms & Conditions of Service of Chairman & Vice-Chairman	F	33-36

categories of intellectual property rights being brought under the jurisdiction of the IPAB. The Board needs more space to stock books, Acts, journals with back numbers. We need to subscribe to All England Reporters and US decisions as well. Therefore, we would require atleast 4000 Sq.ft for library alone. However, since CPWD norms indicate only 1000 Sq.ft we are enclosing the statement according to CPWD specifications. But it is reiterated that this will not be sufficient.

From the above it is clear that the Board is functioning in a very small area of 5500 sq.ft (1/4<sup>th</sup> of total required area) as compared to the space requirements as worked in terms of CPWD guidelines.

The proposal has been taken up with the Ministry in April 2010 and is still pending.

- ❖ Presently this office is functioning in an area of 5500 Sq.ft.
- ❖ Space required 22330 Sq.ft
- ❖ Present space is congested and totally insufficient
- ❖ Impedes smooth functioning of the Board
- ❖ Sufficient space may be made available to the Board by taking into account the future expansion needs of the Board and meet the international standards as this Board is only one of its kind
- ❖ The requirement of more space is all the more justified as there is every likelihood of other subjects under the jurisprudence intellectual property rights being brought under the purview of the Board

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LIBRARY.



ROOM OF TECHNICAL  
MEMBER.

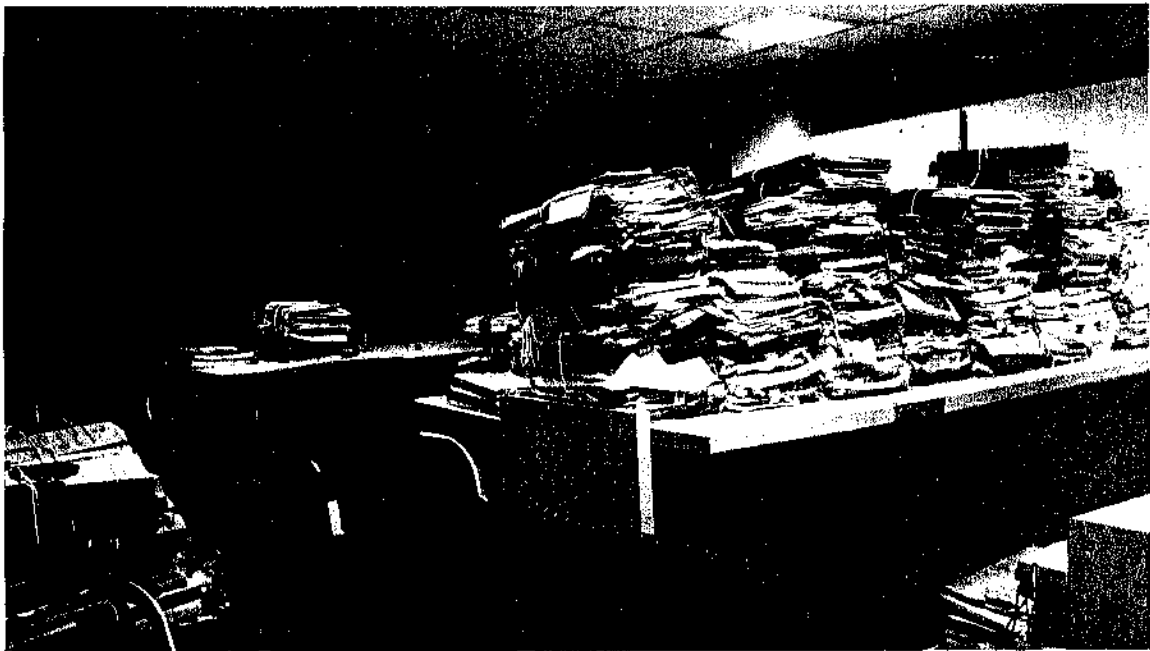


OFFICE HALL



OFFICE HALL





COURT HALL - II



COURT HALL - II

**REQUIREMENT FOR OFFICERS AND STAFF OF IPAB**

S.No	Category	No. Posts Sanctioned	No. of posts Already filled	No. of posts expected to be Filled during next 6 months	Requirements on the basis of the prescribed scales	Remarks	
					In respect of Col. 3	In respect of Col. 4	Total
1	Chairman Drawing Rs.90000 fixed	1	1	-	500	6	7
2.	Vice Chairman Drawing Rs.80000 fixed	1	1	-	350	-	500 sq.ft
3	Technical Member HAG Scale	3	2	1	300 x 2	300 x 1	350 sq.ft
4	Officers drawing Grade Pay Rs.6600/- and above but less than Rs.12000/-	1	1	-	1 x 120	300 X 1*	1200 sq.ft
5	Gazetted Officers drawing pay less than Rs.6600/- per month excluding section officer	8	6	2	6 x 60	2 x 60	120 sq.ft
6	Ministerial Staff such as Superintendent, Head Clerks, Assistant, Clerks, Daftries etc.	17	15	2	15 x 40	2 x 40 4 x 40 *	600 sq. ft
						<b>Total</b>	<b>3610 Sq. ft.</b>

8

Entitlement worked out as per accommodation entitlement for their equivalent officers in Central Administrative Tribunal As in Annexure II

Entitlement worked out as per accommodation entitlement for their equivalent officers in Central Administrative Tribunal As in Annexure II

Provision for one more Technical Member for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB

Provision for one PS and one CO for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB

Provision for 1 Assistant, 1 UDC, 1 LDC and 1 Peon for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB

**REQUIREMENT FOR OFFICERS AND STAFF OF IPAB**

S.No	Category	No. Posts Sanctioned	No. of posts Already filled	No. of posts expected to be Filled during next 6 months	Requirements on the basis of the prescribed scales	Remarks		
					In respect of Col. 3	In respect of Col. 4	Total	
1	Chairman Drawing Rs.90000 fixed	1	1	-	500	6	7	8
2.	Vice Chairman Drawing Rs.80000 fixed	1	1	-	350	-	350 sq.ft	Entitlement worked out as per accommodation entitlement for their equivalent officers in Central Administrative Tribunal As in Annexure II
3	Technical Member HAG Scale	3	2	1	300 x 2	300 x 1	1200 sq.ft	Entitlement worked out as per accommodation entitlement for their equivalent officers in Central Administrative Tribunal As in Annexure II
4	Officers drawing Grade Pay Rs.6600/- and above but less than Rs.12000/-	1	1	-	1 x 120	-	120 sq.ft	Provision for one more Technical Member for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB
5	Gazetted Officers drawing pay less than Rs.6600/- per month excluding section officer	8	6	2	6 x 60	2 x 60	600 sq. ft	Provision for one PS and one CO for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB
6	Ministerial Staff such as Superintendent, Head Clerks, Assistant, Clerks, Daftries etc.	17	15	2	15 x 40	2 x 40	840 sq. ft.	Provision for 1 Assistant, 1 UDC, 1 LDC and 1 Peon for future expansion as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB
						<b>Total</b>	<b>3610 Sq. ft.</b>	

**OTHER SPECIAL REQUIREMENTS**

(Full details should be indicated justifying the demands, the accommodation at present occupied against these demands should also be indicated in the following forms).

Nature of Demand	Accommodation at present Occupied	Accommodation required	Justification for additional space
Extra Space for over and above the allotment on the basis of prescribed scale for officers drawing above HAG Scale	NIL	3000 sq.ft (@ 500 sq.ft per officer)	All the officers (6) are entitled for an ante room and in built toilet.
Space for court rooms		Court Room I 1600 Court Room II 1600 Court Room III 1600 Court for Registrar 800 1000 sq.ft	One more Court Room as Protection of Plant Varieties & Farmers' Right is also being transferred to IPAB apart from Designs & Copy rights etc.
Space for Library			This office deals with various Intellectual Property matter like Trade Marks, Patents, Geographical Indications and other matters like Designs, Copy Rights and Protection of Plant Varieties & Farmers' Right are likely to be brought under the Jurisdiction of the IPAB. It is therefore necessary to store Books, ACTs, Rules, Journals, Law books along with their back issues for reference purposes.
Space for Records Rooms		4000 sq.ft.	This office has to maintain records for all old decided cases as well as new cases filed directly over and above the transferred cases from various High Courts. Provision for future expansion is necessary since filing of applications and appeals would be a continuous process. More over, the files along with the documents and evidence filed are much bigger when compared to other tribunals. (An average volume of a single case file is approximately 1.5 cubic ft.). Total No. of files at present stored in office is appx. 3900 as 31.3.2010.
Space for Bar room		500 sq.ft	As per norms prescribed for CAT
Space for Bar Association Library		400 sq.ft	As per norms prescribed for CAT
Space for Telephone Exchange		<del>200</del> Sq.ft	As per norms prescribed for CAT
Reception and Filing Counter		100 sq.ft.	As per norms prescribed for CAT

Nature of Demand	Accommodation at present Occupied	Accommodation required	Justification for additional space
Inspection of files		200 sq.ft.	As per norms prescribed for CAT
Hall for Litigants		400 sq.ft.	As per norms prescribed for CAT
Stationary Room		300 Sq.ft.	As per norms prescribed for CAT
Recreation Room		200 sq.ft.	As per norms prescribed for CAT
Ladies Common Room		300 sq.ft.	As per norms prescribed for CAT
Laboratories		1000 sq.ft.	As per norms prescribed for CAT
Extra Space for Office		1500 Sq.ft.	For future expansion.
<b>Total Special Requirements</b>		<b>18720 Sq.ft.</b>	

18720  
 3610  
 22330

## ANNEXURE-B

### PROPOSAL REGARDING ABSORPTION OF COURT OFFICERS AND PRIVATE SECRETARIES IN IPAB

1. The Appellate Board has been constituted object for adjudicating intellectual property related matters, it is imperative that there is no impediment to its functioning due to non-availability of experienced and talented staff.
2. When the Board was set up on 15.09.2003 by virtue of the notification of the Government of India, recruitment rules were not notified for recruitment of the staff members and officers of the Board. However, as the Board could not exist in vacuum, eligibility conditions were prescribed by the Ministry and applications were invited from eligible candidates by wide publicity by inserting advertisements in the Employment News as well as through vacancy circulars to various departments of Government of India and High Courts. The officers and the staff members were accordingly selected by the Ministry purely on the basis of their track record and suitability. The recruitment Rules were framed only in 2008 i.e. almost five years after the constitution of the Board. The officers who were thus appointed on deputation basis came to acquire experience in the functioning of the Board. If the experienced and talented officers are now not absorbed, the smooth functioning of the Board will be severely affected. In fact, the Board has become functional only now after nearly six months when no Board sittings could be held due to the existence of vacancies in the posts of Chairman and Technical Members. The Chairman and Technical Member have now been appointed. The Board is awaiting the appointment of other Technical member in the near future. So the Board will resume hearing in full strength. But the functioning of the Board will be handicapped if there are no experienced staff members to support especially at this stage when the Board is required to function to its full capacity.

3. It is also relevant to mention that unlike other Tribunals, the Board is required to have its Bench sittings at specified places namely, Ahmedabad, Chennai, Delhi, Kolkata and Mumbai. In order to ensure disposal of the cases in a time-bound manner, nearly fifteen Bench sittings are conducted every year outside Chennai. As there are no permanent infrastructural facilities available at the above places, excluding at its headquarters at Chennai, the Board has to make arrangements in respect of court hall/conference hall, transportation of case papers and travel plans of the Hon'ble Members with the necessary staff such as private secretaries, court officers and the supporting staff. It would not be overstating if emphasise is upon the need to have a zero-error approach with regard to bench sittings by the Registry of the Board as even a small mistake might derail the entire process of a given sitting. This process of ensuring smooth conduct of Bench sittings naturally involves a high degree of expertise required on the part of the officers to meet the above goal.

4. It was felt that the absorption of the above officials who have gained experience in the functioning of the Board will be in public interest. Hence, the proposal for their absorption in relaxation of the rules was taken up with the Ministry. They were requested to take up the proposal with the UPSC since as per the recruitment rules notified in May 2008 UPSC was to be consulted for selection of Group A & B officers in IPAB. It is relevant to mention here that the normal inclusion of the provision regarding one-time relaxation in respect of initial appointees for absorption was left out in the recruitment rules and hence the Ministry could not absorb the initial appointees against the posts though all the officials fulfilled the eligibility conditions stipulated in the recruitment rules.

5. The proposal for absorption of two Court Officers and four Private Secretaries presently on deputation in the Intellectual Property Appellate Board (IPAB) was agreed to by the Department of Personnel and Training (DoPT) and the same was taken up with the Union Public Service Commission (UPSC) for

their concurrence. However, even though the matter was taken up with the UPSC for reconsideration the same was not accepted. The contention of the UPSC is that since the initial appointment of the above officials on deputation basis was not made in consultation with the Commission, the proposal cannot be agreed to. They have relied on the orders of the Department of Personnel and Training dated 03.10.1989 which has already been relaxed by the DoPT. It is suggested that the advice of the UPSC in this regard may not be accepted and the officials may be absorbed in the special circumstances of the case as detailed below.

6. The Union Public Service Commission was approached by the Ministry for absorption of the officers in the year 2008 by way of one-time relaxation. However, the proposal was returned after a gap of about eight months with the remark that the approval of DOPT might be obtained in the first instance before placing the proposal before the Commission. Accordingly, the matter was taken up with the DOPT which conveyed its approval for absorption of the six officers as a one-time measure. Thereafter, the proposal, complete with the CR dossiers and prescribed annexure, was once again submitted to the UPSC in May, 2010 clearly stating that DOPT had given one-time relaxation for absorption. Though the proposal for absorption was sent for reconsideration the same was not agreed to by the UPSC. Thus, the proposal had been under consideration for the last three years before it was finally rejected by the UPSC on 10.03.2011.

7. If new appointments are to be made those can be made only after consultation with UPSC. This process is quite time-consuming as borne out on the past instances involving this Board. The proposals for filling up the post of Library Information Officer and the newly created post of Private Secretary (post notification of RRs) have taken nearly two years since reference to UPSC. The proposal with regard to filling up the post of Private Secretary is still pending with UPSC. It is also relevant to mention that though the above posts were advertised/circulated widely, the response from the applicants has been



lukewarm. The main reason for the same is the fact that the Grade Pay of the post is Rs. 4,600/- which is lower than the Grade Pay payable to the Officers performing identical and similar functions in other Tribunals. It is also relevant that most of the staff who are presently on deputation are holding posts with higher Grade Pay in their parent offices. Thus, even if they apply for the post, when the posts are circulated, there is little likelihood of their applications being forwarded since as per the orders on deputation persons holding higher Grade Pay are disqualified for applying posts with lower Grade Pay.

8. Though the matter for extension of deputation period of the above officials is being taken up by the Ministry, it is not clear how much time it will take to complete the whole recruitment process. This will necessitate repeated proposals for extension of deputation period of the officials. The officials whose cases for absorption was taken up have already completed more than five years of service. Incidentally, it may also be mentioned that of the six officers, one Private Secretary has already been relieved since he has been promoted in his parent office. Thus there are only five officers whose cases for absorption are to be considered.

9. Recently in the case of Shri P.Uppilisinivasan, Private Secretary the request for extension of deputation period for the sixth year was taken up with the Ministry of Environment and Forests (his parent Department) vide letter dated 28.4.2011. Since no reply was received, a letter was sent to the Additional Secretary seeking extension for a period of one year. In the meanwhile a letter dated 16.5.2011 was received from the Deputy Secretary requesting to relieve Shri Uppilisinivasan and directed him to join duty before 19.5.11. Again a letter dated 20.5.2011 was sent to the Deputy Secretary informing about the letter by the Hon'ble Chairman, IPAB to the Additional Secretary regarding the extension and a reply was sought on that. In reply to the letter of Hon'ble Chairman, IPAB a letter dated 26.5.2011 was received from the Joint Secretary, Ministry of Environment and Forests informing that the request for extension of deputation

period of Shri P.Uppilisinivasan beyond fifth year cannot be acceded to and directed Shri Uppilisinivasan to join the Ministry on completion of his tenure on 8.6.2011. The Hon'ble Chairman, IPAB took up the matter with Minister of State ( I/C), Ministry of Environment and Forests requesting him to reconsider the Ministry's decision and grant extension for a period of one year. Only after the matter was taken up with the Minister, extension has been granted for a period of six months upto 7.12.11 vide letter dated 7.6.2011. This illustrates the difficulties faced by this Board in getting extension of deputation period of the officers.

10. The rejection of the proposal for absorption by the UPSC even after the DoPT agreeing for one time relaxation of their orders dated 03.10.1989 as one time measure is not in the best interest of the smooth functioning of the Board and speedy disposal. While other Tribunals like Central Administrative Tribunal have been exempted from consultation with UPSC for recruitment under Schedule I (19(E)) of the UPSC (Exemption from Consultation) Rules, 1958, the recruitment of the officers of this Board has alone been brought under the UPSC(Emphasis supplied). This might result in the other tribunals being able to fill up the vacant posts according to the urgency of their requirement, while this Board would have to await recommendation of candidates by UPSC without having a definite time frame. I am afraid it would result in defeating the object & purpose for establishing the Board.

11. It is, therefore, felt that the decision for absorption of the above officials as a one time measure should be taken up with the DoPT considering the special circumstances of the case notwithstanding the advice of the UPSC.

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**ANNEXURE-C**

**Upgradation of Pay Scales/Grade Pay of officials of the Intellectual Property Appellate Board**

There is an unfair anomaly in the pay scales / grade pay of the officers of the IPAB, when compared to persons in similar positions, doing similar work in other Tribunals. Therefore the best talent will not get attracted either by direct recruitment or by deputation. This anomaly affects the basic principle of equality.

The level of personal staff assistance to Chairman and other members of IPAB are not in conformity with the instructions issued in this regard by the Department of Personnel and Training (DoPT). The Chairman of the IPAB is equivalent to the rank of the Cabinet Secretary, the Vice-Chairman is of the rank of the Secretary to the Government of India and the Technical Members are of the rank of Additional Secretary. It is not out of place to mention here that the DoPT have stipulated that officers of the level of Additional Secretary to the Government of India or equivalent and above in non-Secretariat Central Government Offices should be given stenographic assistance at the level of Senior Private Secretary in the pay scale of Rs.7,500-12,000 (pre-revised). As a matter of fact, similar Tribunals like CAT, ITAT, etc have already replaced the Grade Pay of the PS to Rs.4800/=, followed by the Grade Pay of Rs.5400/= on completion of four years of service. However, the Grade pay of the Private Secretaries in IPAB is only Rs.4600/- which is equivalent to the Grade Pay of Grade C steno in the Central Secretariat. Owing to this, the Registry finds it very difficult to fill up the posts of Private Secretaries for the following reasons:

- (i) As stated above the Grade Pay of the Private Secretaries in IPAB is less at Rs.4600 than the Grade Pay in similar Tribunals which is Rs.4800/-. Therefore, those who hold the

post of private secretaries may not be enthused to apply for the post of Private Secretary in IPAB.

- (ii) As per the extant orders of the DoPT those who are holding higher grade pay are not allowed to apply for posts carrying less grade pay.
- (iii) In 2003, Private Secretaries were appointed prior to the pay commission. At that time these officers were drawing pay in the pay scale of Rs.6500/- At that time there was no anomaly in their pay scale viz-a-viz Private Secretaries in CAT and Central Secretariat Stenographers Service.
- (iv) Subsequently implementation of the recommendation of the 6<sup>th</sup> Pay Commission, resulted in present anomaly whereby the Private Secretaries have been placed at a lower scale which has resulted in pecuniary loss. The officers performing similar functions and comparable duties in tribunals like CAT are drawing higher grade pay.
- (v) The present grade pay attached to the posts of and Private Secretaries are not good enough to attract the best talents from the various High Courts and other Tribunals as the officers placed in the same position in the High Courts and other Tribunals are drawing higher grade pay. As their grade pay is higher when compared to IPAB, they cannot be considered for appointment to the post of Private Secretary.

Further, it will also render natural justice if the Grade Pay of PS in IPAB is upgraded from Rs.4600 to Rs.4800 on par with the Grade Pay of similar posts in other Tribunals as the quantum of work handled by the Private Secretaries(PS) is atleast the same, if not more. Moreover, the upgradation will also result in the high ranking Hon'ble Members of the

Board being attended to by Private Secretaries whose grade pay is as stipulated by the DOPT.

As regards the proposal for upgradation of Grade Pay of the post of Court Officer(CO) is concerned, it may please be noted that the then basic pay and the present grade pay of the post Court Officer has been the same since the inception of IPAB. As such, the difficulties envisaged above with regard to filling up the posts of PS will be faced in the event of filling up the posts of Court Officer. Moreover, the post of CO in similar Tribunals like CAT, etc. carries the Grade Pay of Rs.4800/= followed by the Grade Pay of Rs.5400/= on completion of four years. The Board for Industrial and Financial Reconstruction (BIFR) has fixed the Grade Pay of Court Officer in that office as Rs.5400/=. Hence, it is highly imperative that the similar type of Grade Pay is extended to the post of CO in IPAB by upgradation of Grade Pay from Rs.4600/= to Rs.4800/=, followed by Rs.5400/= on completion of four years.

The Grade Pay attached to the post of Assistant in IPAB is Rs.2800/=. This has to be necessarily upgraded to Rs.4200/= to bring it on par with the Grade Pay of Assistant in similar Tribunals like DRT, DRAT, CAT etc. If the grade pay of Assistant is not increased, they will not be eligible to be considered for promotion to the post of Court Officer with the present pay scale. This will demoralize the Assistants in IPAB and they cannot be expected to perform better in the absence of any promotional avenue.

The pay scale of Senior Hindi Translator carries grade pay of 4200. As the grade pay of Senior Hindi Translator in other organizations is 4600/- we are finding it difficult to fill up the post for this reason only. The three attempts to fill up the post of Senior Hindi Translator have been futile and as such there is a likelihood of the post being abolished by

the Ministry of Finance. Therefore, there is an urgent need to upgrade the grade pay of post of Senior Hindi Translator.

The grade pay of Library and Information Officer has also to be upgraded to bring it at par with other gazetted officers in IPAB.

There can be no justification for not accepting this proposal.

It is respectfully submitted that the Hon'ble Court may give necessary directions in this regard.

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**ANNEXURE-D****PROPOSAL FOR CREATION OF POSTS IN  
THE INTELLECTUAL PROPERTY APPELLATE BOARD**

The filing of cases before the IPAB has increased since its inception. However, the staff strength has not been increased. There has been no long term planning or assessment of the needs of the IPAB.

The sanctioned staff strength of the IPAB is as follows:

1. 1 Post of Deputy Registrar (Grade Pay Rs.6600)
2. 2 Posts of Court Officers (Grade Pay Rs.4600)
3. 5 Posts of Private Secretaries (Grade Pay Rs.4600)
4. 1 Post of Library Information Officer (Grade Pay Rs.4600)
5. 1 Post of Senior Hindi Translator (Grade Pay Rs.4200)
6. 1 Post of Accountant (Grade Pay Rs.4200)
7. 2 Posts of Stenographer Grade C (Grade Pay Rs.4200)
8. 1 Post of Assistant (Grade Pay Rs.2800)
9. 1 Post of UDC (Grade Pay Rs.2400)
10. 2 Posts of UDC/LDC (Grade Pay Rs.2400/Rs.1900)
11. 2 Posts of Daftry (Grade Pay Rs.1800)
12. 4 Posts of Peon (Grade Pay Rs.1800)

The above posts were created at the time of constitution of the Board to meet the initial needs of the Board. However, the work load has increased manifold due to alarming increase in the number of cases filed. But the staff strength remains the same. The staff strength of the Board is not adequate in relation to the workload of the Board. The Board unlike other Tribunals bodies has jurisdiction over the whole of the country with its headquarters at Chennai.

As such, the Board has to conduct Circuit Bench Sittings at four places, viz. Delhi, Mumbai, Kolkata and Ahmedabad, besides at the Headquarters. On an average, the Board conducts nearly 15 to 16 Bench Sittings. While creating posts for the registry of the Board, perhaps the key aspect of human resources required for the Bench Sittings was not duly considered. This has resulted in the Registry functioning with skeletal staff whenever the Board conducts Sittings outside Chennai as Circuit Sittings are conducted with the bare-minimum assistance of four officials of the Registry for ensuring the logistics involved in movement of files to those locations, besides assisting the Board Members during the Sittings.

There is only one Class I officer in Board in the grade of Deputy Registrar (equivalent to Under Secretary to the Govt. of India). In the present set up the Deputy Registrar has to function as Head of Office, Head of the Registry and also DDO. It is also to be mentioned that there is no post of Section Officer in the Registry with the result that the dealing hands who handle accounts and administrative sections submit files directly to the Deputy Registrar, who is heavily burdened with the three responsibilities mentioned above. This puts enormous pressure on the Deputy Registrar.

The post of Chairman, IPAB is equivalent to that of Cabinet Secretary to Government of India and Judge of the High Court. The secretarial assistance should be provided to them are at the level of Principal Private Secretary (Grade pay 6600). It may be pertinent to mention here that in Tribunals like CAT, the Members who are of the rank of High Court Judge are provided with secretarial assistance at the level of Principal Private Secretary.

One can understand the level of understaffing in the Board, if a comparison is made with the other Tribunals. It may be relevant to mention that the a Central Administrative Bench, which has jurisdiction over a particular State and dealing only the Service matters of the Central Government employees has



one Registrar (who is equivalent to Director level officer), two Deputy Registrars (equivalent to Under Secretary) One Accounts Officer, Two Court Officers and Two Section Officers in it. It is also pertinent to mention that there are nearly 18 such Benches all over India. In Debts Recovery Tribunal, there is a post of Registrar and Asst. Registrar. There are nearly 30 such DRTs in the country.

The increase in workload necessitates creation of additional posts at all levels without which the efficient and smooth functioning of the Board will not be possible. In 2007 patent cases have also been brought under the purview of the Board in addition to trade marks and geographical indications. Only three posts were created for patents. However, as per the Patents Act, posts have to be created for handling the work relating to patents. The above staff strength provided is for handling the work relating to trade marks, patents and geographical indications, which itself is becoming more and more difficult due to increase in filing. There is every likelihood of other matters relating to intellectual property rights being brought under the purview of the Board. Every time any such subject is brought under the purview, realistic assessment of the staff requirements have to be made and accordingly posts have to be created.

Against the above backdrop, it becomes obvious that there is an urgent need for creation of the following additional posts in IPAB for ensuring smooth functioning:

1. 1 post of Registrar (of the rank of Deputy Secretary/Director)
2. 1 post of Deputy Registrar
3. 1 post of Principal Private Secretary (G.P. 6600)
4. 1 post of Accounts Officer
5. 1 post of Section Officer (in the Grade Pay of Rs.4800)
6. 2 post of Court Officer (in the Grade Pay of Rs.4800)
7. 4 posts of Assistants (in the Grade Pay of Rs.4600)
8. 4 posts of LDC (in the Grade Pay of Rs.1900)

9. 4 posts of Group C (in the Grade Pay of Rs.1800)
10. 6 posts of staff car driver

The Board is having national jurisdiction and the Board is only at Chennai and it has to cater to the requirements of the litigants from all over the country. In order to ensure speedy and effective disposal of the cases, creation of additional posts becomes all the more necessary.

**~~Presently even the single Deputy Registrar has to be relieved and therefore we will have nobody in the rank of Under Secretary in the IPAB and if either the Court Officer or the Private Secretary is directed to be in charge, then the IPAB will lose the services of that person to assist the Board at the time of Circuit Bench Sitzings. The situation therefore is really emergent.~~**

**ANNEXURE-E****BENCH SITTINGS**

The details regarding Bench sittings of the IPAB are given below:-

The IPAB was constituted on 15<sup>th</sup> September, 2003. The sittings could commence only in December, 2003 after the notification of The Intellectual Property Appellate Board (Procedure) Rules, 2003 and The Trade marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003 on 5<sup>th</sup> December, 2003.

**TRADE MARKS**

The details regarding constitution of Bench in the IPAB are as follows:-

- a) In 2004 two benches were constituted upto February, 2004, namely, Chairman and Member and the Vice-Chairman and Member (One Member)
- b) April 2004 to March, 2005 only one Bench could be constituted as the Member had gone on long leave and as per notification vide S.O 540(E) dated 28<sup>th</sup> April, 2004 – The Trade Marks (Removal of Difficulties) Order, 2004 (Chairman and the Vice-Chairman constituted the Bench) (Copy enclosed)
- c) From April, 2005 to February, 2006- No sittings could be held as the post of Vice-Chairman and Two Members were vacant Vice – Chairman and Member were appointed in February, 2006.
- d) March, 2006 to June, 2006 One Bench (Vice-Chairman and Member) as the Chairman retired in March, 2006
- e) July, 2006 to November, 2006 (Vice-Chairman & Two Members) as the post of Chairman was vacant and the post was filled in November, 2006.

- f) December, 2006 to March, 2008 – Two Benches (Chairman & Member, Vice-Chairman & Member)  
**CHAIRMAN RETIRED IN MARCH, 2008 AND VICE-CHAIRMAN APPOINTED AS CHAIRMAN- POST OF VICE -CHAIRMAN BECAME VACANT**
- g) April, 2008 to June, 2009 – Bench –Chairman & Two Members.  
**JUNE, 2009 MEMBER APPOINTED AS VICE-CHAIRMAN-POST OF MEMBER BECAME VACANT**
- h) July, 2009 to December, 2009 – Bench – Chairman & Member, Vice-Chairman and the same Member- as there was only one Member
- i) January, 2010 to April, 2010. – Only one Bench – Vice-Chairman & Member
- j) May, 2010 to July, 2010 – Chairman and Member, Vice-Chairman and Member.
- k) August, 2010 – January, 2011 – One Bench – Vice-Chairman and Member – Chairman retired in August, 2010.
- l) February, 2011- Only Member also retired and the posting of Members are awaited.
- m) **As on June, 2011 Two posts of Technical Member are vacant**

**PATENTS**

- i) April, 2007 – Patent Member took charge – Bench constitution – Chairman and Member
- ii) April, 2008 – Chairman (Vice-Chairman elevated Chairman) and Member
- iii) November, 2008 & December, 2008 – No sitting because of Novartis case in view of the Supreme Court direction – (both trade mark and patent). All sittings cancelled.

- iv) January, 2009 to December, 2009 – Chairman and Member
- v) January 2010 to April 2010 – Vice-Chairman and Member
- vi) May 2010 to August 2010 – Chairman and Member
- vii) August 2010 to November, 2010 – Vice-Chairman and Member
- viii) December, 2010 Technical Member retired
- ix) May, 2011 Technical Member (Patents) appointed.

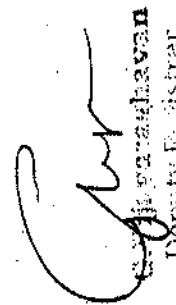
(The sittings in the month of March, April and December, 2010 were cancelled for want of funds)

PATENT CASES

Annexure-I

CASE DISPOSAL STATEMENT (TRANSFERRED APPEALS/APPLICATIONS) FOR THE MONTH OF MAY, 2011

Biahs	Number of cases received in the reporting month		Total number of cases received upto the previous month		Total of Column 1 & 2		Total number of cases disposed off upto the previous month		Total of 4 & 5		Cases disposed upto the reporting month								
	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)							
Chennai	0	0	5	14	19	5	14	19	0	0	5	13	18	5	13	18	0	1	
Delhi	0	0	5	3	8	5	3	8	0	0	1	2	3	1	2	3	4	1	5
Mumbai	0	0	4	8	12	4	8	12	0	0	1	1	2	1	1	2	3	7	10
Kolkata	0	0	1	2	3	1	2	3	0	0	0	0	0	0	0	0	1	2	3
<b>Grand Total</b>	<b>0</b>	<b>0</b>	<b>15</b>	<b>27</b>	<b>42</b>	<b>15</b>	<b>27</b>	<b>42</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>16</b>	<b>23</b>	<b>7</b>	<b>16</b>	<b>23</b>	<b>8</b>	<b>11</b>	<b>19</b>



**D. D. G. and Head of Office**  
 Deputy Registrar  
 Intellectual Property Appellate Board  
 Chennai

**PATENT CASES**

**Annexure-II**

**CASE DISPOSAL STATEMENT (ORIGINAL APPEALS/APPLICATIONS) FOR THE MONTH OF MAY, 2011**

Place	(1) Number of cases received in the reporting month		(2) Total number of cases received upto previous month		(3) Total of Column 1 & 2		(4) Number of cases disposed during the reporting month		(5) Total number of cases disposed off upto the previous month		(6) Total of 4 & 5		(7) Closing balance upto the reporting month				
	Appeal	Application Total	Appeal	Application Total	Appeal	Application Total	Appeal	Application Total	Appeal	Application Total	Appeal	Application Total	Appeal	Application Total			
Chennai	0	0	25	40	65	25	40	65	0	0	7	13	20	18	27	45	
Delhi	0	1	38	23	61	38	24	62	0	1	0	2	2	3	38	21	53
Mumbai	0	2	22	15	37	22	17	39	0	0	2	0	2	2	20	17	37
Kolkata	0	0	4	11	15	4	11	15	0	0	0	0	0	4	11	15	15
<b>Grand Total</b>	<b>0</b>	<b>3</b>	<b>89</b>	<b>89</b>	<b>178</b>	<b>89</b>	<b>92</b>	<b>181</b>	<b>0</b>	<b>1</b>	<b>9</b>	<b>16</b>	<b>25</b>	<b>80</b>	<b>76</b>	<b>156</b>	



**G. Vijayaraghavan**  
 Deputy Registrar  
 D.D.O. and Head of Office  
 Intellectual Property Appellate Board  
 Chennai.

Consolidated Disposal Statement upto the month of May 2011

Total No. of Transferred Appeals/Applications received Upto the reporting month	Total No. of Original Appeals/Applications received Upto the reporting month	Total No. of Transferred Appeals/Applications disposed Upto the reporting month	Total No. of Original Appeals/Applications disposed Upto the reporting month	Total Receipt	Total disposal	Closing Balance
42	181	23	25	223	48	175

CONSOLIDATED DISPOSAL STATEMENT FOR MISCELLANEOUS PETITIONS UPTO THE MONTH OF MAY 2011

Total No. of Miscellaneous Petitions received Upto the reporting	Total No. of Miscellaneous Petitions disposed Upto the reporting	Closing Balance
245	91	154

M.P. + COD

218 + 27

86 + 5

132 + 22

MPs received during the month 4

M.Ps disposed during the month 1

COD received during the month 0

COD disposed during the month 1



G. Vijayaraghavan

Deputy Registrar

Deputy Registrar's Office


Institutional &amp; Property Appellate Board



**Annexure-1**

**TRADE MARK CASES  
CASE DISPOSAL STATEMENT (TRANSFERRED APPEALS/APPLICATIONS) FOR THE MONTH OF MAY, 2011**

Place	Number of case received in the reporting month		Total number of cases disposed upto the reporting month		Total number of cases disposed during the reporting month		Total number of cases disposed upto the reporting month		Total of Column 1 & 2		Total number of cases disposed upto the reporting month		Total of 4 & 5		Closing balances upto the reporting month		
	(1)		(2)		(3)		(4)		(5)		(6)		(7)		(8)		
	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Total
Chennai	0	0	53	61	114	0	0	0	52	61	113	52	61	113	1	0	1
Delhi	0	0	209	107	316	1	0	1	188	85	273	189	85	274	20	22	42
Mumbai	0	0	19	7	26	0	0	0	13	5	18	13	5	18	6	2	8
Ahmedabad	0	0	49	21	70	0	0	0	47	12	59	47	12	59	2	9	11
Kolkata	0	0	29	4	33	0	0	0	21	3	24	21	3	24	8	1	9
<b>Grand Total</b>	<b>0</b>	<b>0</b>	<b>359</b>	<b>200</b>	<b>559</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>321</b>	<b>166</b>	<b>487</b>	<b>322</b>	<b>166</b>	<b>488</b>	<b>37</b>	<b>34</b>	<b>71</b>

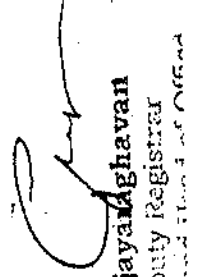
  
**G. Vijaynaghavan**  
 Deputy Registrar  
 Trademark Office  
 Intellectual Property Appellate Board

## TRADE MARK CASES

## Annexure-II

## CASE DISPOSAL STATEMENT (ORIGINAL APPEALS/APPLICATIONS) FOR THE MONTH OF MAY, 2011

Place	Number of cases received in the reporting month (1)		Total number of cases received upto previous month (2)		Total of Docket size (3)		Total number of cases disposed upto the reporting month (4)		Total number of cases disposed upto the previous month (5)		Closing balance upto the reporting month (6)								
	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application	Appeal	Application							
Chennai	6	3	9	266	304	570	272	307	579	0	0	0	162	95	257	162	110	212	322
Delhi	0	0	0	110	618	728	110	618	728	0	0	0	39	85	124	39	71	533	604
Mumbai	1	0	1	60	339	399	61	339	400	0	0	0	19	42	61	19	42	297	339
Ahmedabad	0	5	5	71	123	194	71	128	199	0	0	0	41	30	71	41	30	98	128
Kolkata	0	1	1	97	137	234	97	138	235	0	0	0	19	18	37	19	78	120	198
<b>Grand Total</b>	<b>7</b>	<b>9</b>	<b>16</b>	<b>604</b>	<b>1521</b>	<b>2125</b>	<b>611</b>	<b>1530</b>	<b>2141</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>280</b>	<b>270</b>	<b>550</b>	<b>280</b>	<b>331</b>	<b>1260</b>	<b>1591</b>

  
 G. Vijaya Raghavan  
 Deputy Registrar  
 D.D.O. and District Registrar

**TRADE MARK CASES**

**Annexure- III**

**Consolidated Disposal Statement upto the month of May 2011**

Total No. of Transferred Appeals/Applications received Upto the reporting month	Total No. of Original Appeals/Applications received Upto the reporting month	Total No. of Transferred Appeals/Applications disposed Upto the reporting month	Total No. of Original Appeals/Applications disposed Upto the reporting month	Total Receipt	Total disposal	Closing Balance
559	2141	488	550	2700	1038	1662

**CONSOLIDATED DISPOSAL STATEMENT FOR MISCELLANEOUS PETITIONS UPTO THE MONTH OF MAY 2011**

Total No. of Miscellaneous Petitions received Upto the reporting month	Total No. of Miscellaneous Petitions disposed Upto the reporting month	Closing Balance
1637	888	749

**MP + COD**

1552 + 85  
MPs Received During the month

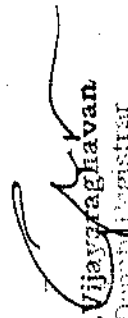
835 + 53  
MPs Disposed During the month

14  
COD Received during the month

717 + 32

0  
COD Disposed During the month

0

  
**G. Vijayaraghavan**  
 Deputy Registrar  
 D.D. & S. of Office  
 Intellectual Property Appellate Board  
 Chennai

ANNEXURE-F

**Intellectual Property Appellate Board (salaries and allowances payable to , and other terms and conditions of service of Chairman, Vice-Chairman and Members)Rules, 2003.**

The Chairman ,the Vice-Chairman and the Members are governed by the Intellectual Property Appellate Board (salaries and allowances payable to , and other terms and conditions of service of Chairman, Vice-Chairman and Members)Rules, 2003.

Rule 12(A) of the above rules as amended in 2007 reads as under:-

"12A Notwithstanding anything contained in rules 4 to 12, the conditions of services and other perquisites available to the Chairman or the Vice Chairman of the Intellectual Property Appellate Board shall be the same as admissible to a serving Judge of a High Court as contained in the High Court Judges (Conditions of Services) Act, 1954 and the High Court Judges (Traveling Allowances) Rules, 1956.

As per section 22 (B) of the High Court Judges (Conditions of Services) Act, 1954 every Judge shall be entitled to a staff car and 200 litres of fuel every month or the actual consumption of fuel, whichever is less.

The registry is required to provide the Chairman and the Vice-Chairman with staff cars.

Technical Members who are appointed in the Board are of the rank of Additional Secretary to the Government of India. Since the Additional Secretary

which it was stated that as a stop gap arrangement, the Hon'ble Chairman was using his personal car for attending the office and for Vice Chairman and Members vehicles had been hired on monthly basis. The Hon'ble Chairman was entitled for Maruti Esteem. Similar vehicles have been provided to other Tribunal Heads like President, Customs & Excise Service Tax Appellate Tribunal and Chairman, Income Tax Appellate Tribunal. The Vice Chairman was entitled for air-conditioned car. Members were also entitled for staff cars and it was requested that necessary approval be conveyed to enable this Board to purchase the vehicles and necessary action may also kindly be taken to create posts of staff car drivers. Vide letter dated 15.10.2003 the government has conveyed approval for hiring two Maruti Esteem cars instead of purchasing new ones for the Chairman and Vice-Chairman as per the guidelines issued by Department of Expenditure on fiscal prudence and austerity.

The present situation is no in conformity with Rule 12A extracted above.

**AMENDMENT IN RULES**

After recommendations of the 6<sup>th</sup> Pay Commission the salaries and allowances payable to the Chairman and Vice-Chairman and other terms and conditions of services in IPAB Rules had to be amended. A suitable amendment had to be made in the above Rules to incorporate the revised pay scales. The proposal to this effect is pending with the Ministry of Law & Justice for a long time. Till now the rules have not been amended

As per section 22 C of the High Court Judges (Salaries and Conditions of Services) Act, 1954 as amended recently in January, 2009, the sumptuary allowances payable to the Chief Justice of High Court will be Rs.15000/-. However, the Chairman, IPAB who is equivalent to the Chief Justice of High Court is paid sumptuary allowance of Rs.12000/-. The Pay and Accounts Office has interpreted the High Court Judges (Salaries and Conditions of Service) Act, 1954 in such a way to take a stand that the Chairman, IPAB is entitled to a sumptuary allowance of Rs.12,000/- only. Necessary directions have been sought from the Department of IP&P in this regard. However the matter is still pending with the Department since 2009.

The Chairman and the Vice-Chairman are entitled to all the conditions and perquisites as pervading the posts that they occupy.

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