

Photocopies of documents pertaining to Ms. S.
Usha , Vice –Chairman,IPAB

Number of pages of Notesheet: 64

Number of pages of Correspondence : 42

(PARTICULARS/BIO-DATA FOR THE POST OF TECHNICAL MEMBER IN THE IPAB)

1. Name : S.USHA
2. Father's Name : S.SATHIAMOORTHY
3. Date of Birth : 05.10.1962
4. Educational Qualifications : B.A..B.L
5. Whether SC/ST/OBC : -
6. Date of Enrolment as an Advocate : 26.11.1986
7. Present Assignment : Practising as advocate in Chennai - Specialising in Intellectual Property Rights -Trade Marks and had appeared in number of Trade Marks cases before High Court, Madras and Also before the Registrar Of Trade Marks and the Intellectual Property Appellate Board.
8. Address :
- (a) Official : No.10, II Main Road, C.I.T.Colony, Mylapore, Chennai - 600 004.
- (b) Residential : S10-A, Mahalakshmi Flats, No.7, Srinivasan Street, Mandaveli, Chennai - 600 028.
- (c) E-Mail : ussat05a@yahoo.co.in
- (d) Telephone No. : 24939638
- (e) Fax No. : -

105/PR-17
27/7

26/7
21/07

F.No.7(11)/2007-IPR.I (IPAB)
Government of India
Ministry of Commerce & Industry
Department of Industrial Policy and Promotion

**MINUTES OF MEETING OF THE SELECTION COMMITTEE HELD ON 29TH
JULY, 2008 AT 5.00 P.M IN ROOM NO.157, UDYOG BHAVAN, NEW DELHI**

PRESENT

- | | | | |
|-----|--|---|----------|
| (1) | Shri Ajay Shankar
Secretary
Department of Industrial Policy
and Promotion | - | Chairman |
| (2) | Shri T.K. Viswanathan
Secretary
Department of Legal Affairs | - | Member |
| (3) | Shri Satyanand Mishra
Secretary
Department of Personnel & Training | - | Member |

**SELECTION FOR THE POST OF VICE-CHAIRMAN IN INTELLECTUAL
PROPERTY APPELLATE BOARD(IPAB), CHENNAI IN THE SCALE OF PAY
OF Rs. 26,000/-**

1. The Committee was informed that at present the post of Vice-Chairman is vacant consequent upon the appointment of Shri Z.S. Negi, Vice-Chairman to the post of Chairman, IPAB on 20th March, 2008. The Committee noted that that as per Section 85(2) of the Trade Marks Act, 1999, the qualifications for appointment to this post were as under:-

"A person shall not be qualified for appointment as the Vice-Chairman, unless he:-

(a) has, for at least two years, held the office of a Judicial Member or a Technical Member; or

... of the Indian Legal Service and has held a ... at five years."

तार : सेन्टेडट्रिब
GRAMS : CENTADTRIB



SPEED POST

केन्द्रीय प्रशासनिक अधिकरण

दूरभाष 2714391
PHONE 2709750
2709227
2709738
फैक्स 0172-2709931
FAX

CENTRAL ADMINISTRATIVE TRIBUNAL

चण्डीगढ़ न्यायपीठ, चण्डीगढ़
CHANDIGARH BENCH, CHANDIGARH

सैक्टर 17, चण्डीगढ़ . 160 017
SECTOR 17, CHANDIGARH - 160 017

संख्या /No. 3352.....

दिनांक/Dated 4/9/08.....

D.O.No.PS(1)/2008-J-II/

03.09.2008

Dear *Shri Prasad*

Please refer to your D.O. No.7 (11)/07-IPR.I (IPAB), dated 25.8.2008, regarding appointment to the post of Vice Chairman, Intellectual Property Appellate board (IPAB), Chennai.

In this regard I may mention that it will not be possible for me to join in case I am offered the post of Vice Chairman.

With regards,

Yours sincerely,

(DR. D.P.SHARMA)
Judicial Member

Dir (MSD)

Mr. N.N. Prasad, *on ton*
Joint Secretary,
Government of India,
Ministry of Commerce & Industry
(Department of Industrial Policy & Promotion),
Udyog Bhawan,
New Delhi-110011.

601/JS(NNP)08
08/9/08
3629/DIR/MSI/08
8/9/08
1375/MSI/08
9/9/08

570/SPR/08

F.No.7(11)/2007-IPR.I (IPAB)
Government of India
Ministry of Commerce & Industry
Department of Industrial Policy and Promotion
(IPR.I Section)

New Delhi, 19th June, 2009

ORDER

The President is pleased to appoint Ms. S. Usha, Technical Member, Intellectual Property Appellate Board (IPAB) as Vice-Chairman in IPAB, Chennai in the pay scale of Rs. 80,000/- (fixed) with effect from the date of assumption of charge of the post of Vice-Chairman.

2. The tenure of appointment of Ms. S. Usha as Vice-Chairman in the Intellectual Property Appellate Board will be for a period of 5 (five) years from the date of assumption of charge of the post or until she attains the age of 65 years, whichever is earlier

3. The salaries and allowances payable to Ms S. Usha as Vice- Chairman in the Intellectual Property Appellate Board and the conditions of service by which she will be governed, shall be in accordance with the provisions of 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 and Amendment Rules, 2007".

Sh
19/6/09
(M.S. Dhakad)
Director

Tele No.23061688

1. Ms. S. Usha , Technical Member, IPAB.
2. Shri Z.S. Negi, Chairman, IPAB
3. Deputy Registrar, IPAB
4. Deptt. Of Personnel & Training , North Block, New Delhi with reference to their O.M. No.13(2)/2009-EO(SM.II) dated 17th June, 2009.
5. O/o CGPDTM, Mumbai
6. Trade Marks Registry, Ahmedabad/Chennai/Delhi/Kolkata/Mumbai
7. The Assistant Registrar, GIR, Chennai
8. E.III. Section, D/IPP along with a copy of O.M. No.13(2)/2009-EO(SM.II) dated 17th June, 2009.
9. .Guard file.

Immediate/Confidential

No. 13/2/2009-EO(SM.II)
Government of India
Secretariat of the Appointments Committee of the Cabinet
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, dated the 17th June, 2009

Reference correspondence resting with Department of Industrial Policy & Promotion's OM No. C-30019/1/2005-E-III, dated 30.3.2009.

2. The Appointments Committee of the Cabinet (ACC) has approved appointment of Ms. S. Usha to the post of Vice-Chairman, Intellectual Property Appellate Board, Chennai in the pay scale of Rs. 80,000/- (fixed) for a period of 5 years with effect from the date of assumption of charge of the post or until she attains the age of 65 years, whichever is earlier.

1782/1/2005-E-III
18/6/09

1782/1/2005-E-III
Secretary (IPR)
By No. 2302
Date 18/06/09

(Signature)
(Prabhat)
Director (ACC)

Department of Industrial Policy and Promotion,
(Shri Ajay Shankar, Secretary),
Udyog Bhavan,
New Delhi.

(Signature)
In (ASD)


(Signature)
18/6/09
~~US(B/AM)~~ *(Signature)*
18/6/09
~~So (PR-I)~~

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
Intellectual Property Appellate Board

.....

ASSUMPTION OF CHARGE

In accordance with the Ministry of Commerce & Industry, Department of Industrial Policy and Promotion, order No. 7(11)/2007-IPR.I (IPAB) dated 19th June, 2009 I, S.Usha do hereby assume the charge of the Office of the Vice- Chairman, Intellectual Property Appellate Board, Chennai, this forenoon of June 22, 2009.


(S.USHA)

Chennai

Date: 22.06.2009

Speed Post

To
 The Hon'ble President of India
 Through
 The Secretary,
 Ministry of Commerce & Industry,
 Deptt. of Industrial Policy & Promotion,
 Udyog Bhawan,
 New Delhi-110001.



MISC
 12/10/10
 3870

In re : Misbehaviour and Derogatory Attitude of
 ' Vice-Chairman ' of ' Intellectual Property
 Appellate Board ' (as established under Section
 83 of the Trade Marks Act, 1999) towards the
 Advocates while dealing with the matters
 enlisted for Hearings.

Most Respectfully Showeth :

With profound sorrow, I, Kamal Kishore Arora Advocate, write to narrate herein the strange, surprising, unexpected, unusual & unpleasant chain of events, which took place at the time of Hearing of a case of **Review-Petition** [No.S.R.195/10/TM/DEL under Diary No.2407/2010 in Appeal No.OA/24/2009/TM/DEL] of my Clients on 24-9-2010 on or about 10:30 a.m. onwards before the ' **Hon'ble Intellectual Property Appellate Board** ' (as established under Section 83 of the Trade Marks Act, 1999) at its Camp sitting at ' Baudhik Sampada Bhawan, Plot No.32, Sector 14, Dwarka, New Delhi-110075 ', in the sense, that immediately at the outset of Hearing on 24-9-2010 but before addressal of his ' oral submissions/arguments ' in support of the aforesaid Review-Petition, my son Mr.Gaurav Arora Advocate (who also accompanied me by virtue of having duly been authorized by the concerned Clients pursuant to the related Vakalatnama) most humbly pointed out the mistake of the Board in not sending the

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formal ' Notice of Hearing ' by ' post ' to our Law-Firm ' M/s.Arora Registration Service ' as well as to our Clients ' M/s.Sachdeva & Sons Industries Private Limited ' consequent upon accrual of great difficulty to us in seeking proper instructions from our Clients (especially in pursuance to our Request dated 13-7-2010 on the prescribed Form-5 accompanied by the requisite fee of Rs.1000-00 seeking adjournment of previous Hearing from 6-8-2010 to another date) and simultaneously requested to be apprised of ' valid reasons ' of non-dispatch of the impugned Hearing-Notice by ' post ' in not following the Board's own/regular practice in sending such Notices to all the contestants, to which and instead of acceding to his such genuine & legal request in thoroughly looking into the matter of ' non-dispatch ' of any formal ' Notice of Hearing ' by ' post ' in respect of the date of Hearing on 24-9-2010, the Hon'ble Board's Vice-Chairman Ms.S.Usha adopted a very adamant and quarrelsome attitude and rather questioned his authority to comment upon functioning of the Board and then surprisingly stated to have no need to send such a Hearing-Notice by ' post ' by the Board and then directed him to immediately address and ' complete ' oral submissions/arguments ' if so desired, as otherwise, the matter would be decided *ex-parte*. Consequently and feeling no other alternative and having come all the way from Amritsar to New Delhi to attend the said Hearing and after coming to know about such Hearing only from the Board's Website a few days back and as an abundant-caution, he showed his willingness to argue the case. At this juncture, as and when he started to address his arguments by relying upon some ' judicial pronouncements ' of the Hon'ble Supreme Court as well as of different Hon'ble High Courts in support of the

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impugned Review-Petition, the said Vice-Chairman then, by showing herself as 'above and/or superior to law' and in a dictatorial manner, declared him as a 'Junior Advocate' (i.e. "an Advocate not authorized to argue the case before the Board") by causing us undue harassment, embarrassment, humiliation and agony and rather amounting to defamation & derogation of an Advocate in obstructing him to exercise his legal rights to practise 'legal profession' for and on behalf of his concerned Clients. Besides, and after his requesting her to show/clarify any provision of any law prohibiting him to appear & argue before the Board and/or to show any 'definitions' of 'Junior Advocate' and 'Senior Advocate' under the Advocates Act, 1961 and/or any 'discrimination' thereunder, she once again adopted same adamant attitude and scolded him not to raise such queries from her and resultantly declined to permit him even to address & complete his arguments instead of acceding to his said just requests and instead of inspiring/encouraging him to argue the case irrespective of fact of his being a fresh/junior Advocate and also instead of providing proper time/opportunity to argue the case, for which, we had already come far away from Amritsar to New Delhi. Not content with her such derogatory, strange, surprising, unexpected, unusual, unpleasant, unconstitutional and quarrelsome attitude and misbehaviour, she then went a step further even to decline to allow myself to address and complete 'oral submissions/arguments' (in place of him although without any fault on his/our part but solely to avoid any controversy in this matter) and also utterly declined to take on record even the 'written-submissions/arguments' as

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then prayed to be taken into consideration under **Order 18 Rule 3(a) of the C.P.C.** in addition to and/or in lieu of oral submissions/arguments ' and then closed the official-file and rose immediately from her seat in anger by hurriedly pronouncing the **order as reserved** ' in respect of the impugned Review-Petition (which has not at all finally been heard and concluded), without showing any respect to Advocates and also without going through the ' ratios ' of the aforesaid some of the case-laws, all amounting also to ' contempt of its own court '.

It is added herein that as an abundant-caution and as provided under **Order 18 Rule 3(A) of the C.P.C.**, we have duly sent our **written-submissions dated 25-9-2010** ' by separate ' speed post '.

We, although having not received any ' Notice of Hearing ', came all the way from Amritsar to New Delhi to address and complete our submissions in support of our Clients' case and not at all for being humiliated/insulted and for being declined full exercise of our legal/professional rights to appear & argue for and on behalf of our Clients. It is not understood as to what is the purpose/object of fixation of ' Hearings ', by incurring huge expenses for bringing the related case-files from Chennai to New Delhi and/or to other places as well as to incur various traveling and other miscellaneous expenses, if the cases are not to be heard by the concerned Hearing-Officers but are to be hurriedly disposed off in such a dictatorial & unconstitutional manner and that too by way of prohibiting the Counsels to exercise their legal rights to address & complete ' oral submissions ' by way of calling them as ' Junior Advocates ', as

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has surprisingly happened so in the present case, especially at a stage, when only this case had been listed for Hearing on 24-9-2010 (and not at all any other case on 24-9-2010) without service of any formal ' Notice of Hearing ' by ' post ' to us and to our Clients ?

It is submitted herein that the concerned adjudicating-authorities have always to adjudicate the issues between the contestants as well as to dispose off all the petitions/applications/appeals etc. in the interest of ' natural justice, equity and good conscience ' and after giving full & proper opportunity to all the concerned Counsels to address and complete their respective ' arguments ' and not all by humiliating the Advocates by calling them as ' Junior Advocates ', especially at a stage, when every ' Advocate ' is an ' Advocate ' within the meaning of the Advocates Act, 1961 and is hence fully empowered to plead/argue the respective cases for & on behalf of his Clients, and thus can't be declined to exercise his such legal rights.

I now proceed to narrate all the other events in the background of this case, in the sense :

- a) that an appeal dated 3-4-2009 filed by the appellant before the said Board against the Order/Decision dated 20-1-2009 of the learned Asstt.Registrar of Trade Marks, New Delhi, vide which, the appellant's opposition no.DEL-158431 (to application no.918094 in Class 29) was dismissed;
- b) that the aforesaid appeal comprised of various grounds including inter alia the ground of advertisement of the impugned application as ' defective advertisement ' and of

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non-disclosure of any 'association condition' therein, since the goods 'rice' actually fall in **Class 30** and not at all in **Class 29**, i.e. wholly contrary to law;

- c) that alongwith the said appeal, the appellant simultaneously filed one **Miscellaneous-Petition** dated **3-4-2009** praying for stay of operation of the impugned Order dated 20-1-2009 of the Asstt.Registrar of Trade Marks until final adjudication of the said appeal;
- d) that vide its official **Notice** dated **12-5-2009** (a photo copy whereof is sent herein, duly marked as **Annexure P-1**), the Board confirmed to have duly **registered and admitted** the said Appeal (under No.OA/24/09/TM/DEL) and the said Stay-Petition (under No.M.P.83/09);
- e) that by following its own usual practice in firstly listing the Stay-Petitions, the Board then fixed the Hearing in respect of the impugned M.P.No.83/09 on **14-12-2009** vide its **Hearing-Notice** **20-11-2009** (a photo copy whereof is sent herein, duly marked as **Annexure P-2**);
- f) that the appellant then filed the suitable Request on the prescribed **Form 5** dated **29-11-2009** (a photo copy whereof is sent herein, duly marked as **Annexure P-3**) alongwith the requisite fee of Rs.1000-00, seeking adjournment of the said Hearing of 14-12-2009 in respect only of the said M.P. No.83/09;
- g) that to our utmost surprise, we then received the fresh **Hearing-Notice** dated **4-1-2010** (a photo copy whereof is sent herein, duly marked as **Annexure P-4**), vide which, the

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Board informed about fixation of Hearing of both the matters (viz. Miscellaneous-Petition and Main Appeal) on 2-2-2010 but without informing to us the reasons of immediately rushing to fixation of both these matters (contrary to the usual practice in firstly fixing the Hearings in respect only of the contestants' respective ' Miscellaneous Stay Petitions ' and in thus deferring final disposal of main appeals at the subsequent stages;

- h) that both the matters (viz. Main Appeal and M.P.), as came to be finally & hurriedly listed for Hearing & concluded on 2-2-2010 and purportedly at the insistence only of the respondent and/or with a view to give undue favour to the respondent, by over looking the factum of pendency of many appeals as lying pending/matured for Hearings by the Board since long;
- i) that despite having particularly been pointed it out about erroneous fixation of both the matters (viz. the Main Appeal and M.P.) at the time of Hearing held on 2-2-2010, the same Vice-Chairman stressed for addressal & conclusion of the appellant's arguments in respect of both the matters, consequently heard and finally dismissed the impugned appeal, vide its **Order dated 19-3-2010** (a photo copy whereof is filed herein, duly marked as **Annexure P-5**), without adjudicating all the issues/pleadings/submissions/arguments as raised at the time of Hearing of Appeal (i.e. by acting wholly contrary to the law settled by the Hon'ble Supreme Court of India) and also without elaborately discussing the respective ' ratios ' and/or reasons of applicability

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or non-applicability of various judicial pronouncements of the Hon'ble Supreme Court and of High Courts ' (as duly referred to so by us at the time of Hearing held on 2-2-2010) and purportedly without requisitioning the entire records of the lower authority i.e. the learned Asstt.Registrar of Trade Marks, despite having specifically been prayed so;

- j) that we then made our specific Request dated 31-3-2010 (a photo copy whereof is sent herein, duly marked as Annexure P-6) to the Hon'ble Board to furnish to us the ' certified copies ' of all the ' case-laws and book references ' (as referred to so by us at the time of Hearing of the main appeal) according to ' Part A and Chapter 16 of Delhi High Court Rules ' and as provided under Rule 25(2) of IPAB (Procedure) Rules, 2002, but our such Request has surprisingly also been rejected, vide Board's letter dated 15-4-2010 (a photo copy whereof is sent herein, duly marked as Annexure P-7);
- k) that we, in the interest of maintenance of purity of the Registrar and feeling it our duty to seek rectification/correction all the aforesaid ' procedural defects ' and/or the ' mistakes/errors ' being apparent on the face of the record, then filed the suitable Review-Petition dated 11-5-2010 alongwith the requisite fee of Rs.3000-00, as provided Rule 23 of the I.P.A.B. Rules, 2003;
- l) that the Hearing of the said Review-Petition then firstly scheduled to be held on 6-8-2010, vide Hearing-Notice dated 29-6-2010 (a photo copy whereof is sent herein, duly marked as Annexure P-8);

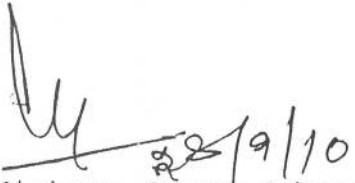
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- m) that we, then filed the Request dated 13-7-2010 on the prescribed **Form-5** (a photo copy whereof is sent herein, duly marked as **Annexure P-9**) alongwith the requisite fee of **Rs.1000-00** seeking adjournment of the aforesaid date of Hearing;
- n) that after receipt of the aforesaid Request for adjournment, the Board neither sent any formal Receipt in acknowledgement of the impugned Form-5 and Fee of Rs.1000-00 nor any formal ' Order ' thereon nor any formal ' Notice of Hearing ' by ' post ' ; and
- o) that the enlistment of this review-petition for Hearing on 24-9-2010 surprisingly came to our knowledge, only after surfing the Board's **website on 11-9-2010** and not at all from any other source nor by way of receipt of any ' Notice of Hearing ' by ' post ' in compliance with the Board's usual practice in sending all the documents/comments/hearing-notices by ' Registered Post '. A photo copy of the print out of the Board's website dated 11-9-2010 is filed herein, duly marked as **Annexure P-10**.

In view of above scenario, it is herein prayed that the whole matter may very kindly be investigated, the suitable action be taken in accordance with the relevant provisions of the law, and in the meanwhile, all our cases/matters, as going to be listed in future and as lying matured for Hearings, be heard by the Hon'ble Board comprising of any other Vice-Chairman, except by the said present Vice-Chairman, as we have lost confidence in her and do not expect any justice from her, and besides all our cases, as already heard by her, be re-listed for fresh hearings accordingly, all in the interest of

natural justice, equity and good conscience ' as well as for proper adjudication of the issues between the contestants, and oblige.

An early action would highly be appreciated.


 (Kamal Kishore Arora Advocate)
 M/s.Arora Registration Service,
 1158, Bazar Kanak Mandi,
 Amritsar-143006 (Pb.).

Encl. : a.a.

- C.C. :
- 1) The Registrar,
Hon'ble Supreme Court of India,
New Delhi.
 - 2) The Registrar,
Hon'ble Delhi High Court,
New Delhi.
 - 3) Bar Council of India,
225, Okhla Industrial Estate,
Phase III,
New Delhi-110020.
 - 4) Bar Council of Punjab & Haryana,
Law Bhawan,
Dakshin Marg,
Sector 37-A,
Chandigarh.
 - 5) Shri P.H.Kurian,
The Controller General of Patents, Designs and
Trade Marks,
Mumbai-400037.

INTELLECTUAL PROPERTY APPELLATE BOARD

Guna Complex Annexe-I, 2nd Floor, 443 Anna Salal, Teynampet, Chennai-600018

Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>

Miscellaneous Petition No.83/09 in Original Appeal No.OA/24/09/TM/DEL&

OA/24/09/TM/DEL /4132

BetweenAppellant

M/s.Sachdeva & Sons Inds, Pvt. Ltd.,
Village & Post Office Gilwali,
Near Sangrana Sahib,
Tarn Taran Road,
Amritsar-143 022.Punjab..

Representative

M/s. Arora Registration Service:

Vs

Respondent

1.M/s.Taco Bell Corporation,,
17901, Von Karman, Irvine,
California-92714 (U.S.A).
C/O. M/s.K& S Partners,
84-C,C-6, Street,
Sainik Farms,
BNew Delhi-110 062.
2.Registrar of Trademarks,
Trademarks Registry,
New Delhi.

Representative

To

M/s.Taco Bell Corporation,,
17901, Von Karman, Irvine,
California-92714 (U.S.A).

Whereas the appeal filed by the above named appellant under Section 91 of the Trade Marks Act, 1999, in **Opposition No.158431 to Application No.918094 in class 29, alongwith Stay Petition, as in the copy annexed hereto**, has been registered and admitted. Notice is hereby given to you that if you wish to contest the Appeal and the stay petition, you may file your counter statement in Form No. 1 along with a fee of Rs. 2000/-, in favour of Deputy Registrar, Intellectual Property Appellate Board payable at Chennai as prescribed under Intellectual Property Appellate Board (Procedure) Rules, 2003, in duplicate, in paper book form, along with documents including evidence in the form of affidavit, in support thereof within two months from the date of receipt of this notice. A copy of the counter statement, alongwith annexures, is to be served on the appellant or his legal practitioner or representative directly under intimation to this office.

The date of hearing of the Stay Petition registered and numbered as M.P.No. 83 /09 in OA/24/2009/TM/ DEL will be intimated separately.

Dated 12th May,2009

Deputy Registrar

Copy to :

1.M/s.Sachdeva & Sons Inds. Pvt. Ltd.,
Village & Post Office Gilwali,
Near Sangrana Sahib,
Tarn Taran Road,
Amritsar-143 022.Punjab..

They are directed to file the reply if they so desire, within two months from the date of receipt of the counter statement from the Respondent under Rule 11 of the Intellectual Property Appellate Board (Procedure) Rules, 2003.

2.Registyrar of Trademarks,
Trademarks Registry, New Delhi.

They are directed to file a Stateament, if any, on the enclosed Appeal & Stay Petition.

3.M/s. Arora Registration Service,1158, Bazar Old Kanak Mandi, Amritsar-143 006.Punjab.

[Signature]
Deputy Registrar

✓
Annexure - P-2 9A

INTELLECTUAL PROPERTY APPELLATE BOARD

Annexe-I, 2nd Floor, Guna Complex, 443 Anna Salai, Teynampet, Chennai-600018

Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>

(Circuit Bench sitting at DELHI)

Misc. Petition No.83/09 In OA/24/2009/TM/DEL 9346

Between

Applicant/Appellant

M/S.SACHDEVA & SONS INDS. PVT. LTD.,
VILLAGE & POST OFFICE GILWALI,
NEAR SANGRANA SAHIB,
TARN TARAN ROAD,
AMRITSAR-143 022.PUNJAB..

Representative

ARORA REGISTRATION
SERVICE,1158, BAZAR OLD
KANAK MANDI, AMRITSAR-
143 006.PUNJAB.

Respondent

1.M/S.TACO BELL CORPORATION,,
17901, VON KARMAN, IRVINE,
CALIFORNIA-92714 (U.S.A).
C/O. M/S.K& S PARTNERS,
84-C,C-6, STREET,
SAINIK FARMS,
BNEW DELHI-110 062.

Representative

M/S.K& S PARTNERS,
PLOT NO.109, SECTOR 44
GURGAON-122 002.


2.REGISTRAR OF TRADEMARKS,
TRADEMARKS REGISTRY,
NEW DELHI.



NOTICE

Take notice that the Misc. Petition mentioned above for stay is posted for hearing on 14.12.2009 at 10.30 Hrs before this Board at Conference Hall of Sampada Bhavan, Plot No.32, Sector-14, Dwarka, New Delhi-110 075, (Ø2808 2915/2808 2916). In case the Petitioner fails to appear at the above said date and time either in person or through an authorized representative, the Misc. Petition may be treated as abandoned for default. In case the respondent fails to appear, the Misc. Petition may be decided ex-parte.

By Order

7 
Deputy Registrar

Place: Chennai -18
Dated:28.11.2009

Amrinder-3

92

FORM 5 (in triplicate)

APPLICATION FOR ADJOURNMENT OF HEARING
(Rule 18 of the Intellectual Property
Appellate Board, 2003)

In the matter of Misc.Petition No.83/09 in Appeal
No.OA/24/2009/TM/DEL.

We; M/s.Sachdeva & Sons Industries Pvt.Ltd., Near
Sangrana Sahib, Village & Post Office Gilwali, Tarn Taran Road,
Amritsar-143022, Punjab State, being the ' appellants ' in the
above matter; hereby pray that the Hearing of the aforesaid case
(as scheduled to be held on 14-12-2009) may please be
adjourned to some other date, since the under-signed Counsels
are not in a position to attend the aforesaid date of Hearing on
14-12-2009 because of some personal difficulties.

Dated at Amritsar this 29th day of November, 2009.

for M/s.Sachdeva & Sons Inds.Pvt.Ltd.
(the appellants)

39/11/09
(Kamal Kishore Arora Advocate)
and
(Gaurav Arora Advocate),
c/o
M/s.Arora Registration Service,
1158, Bazar Kanak Mandi,
Amritsar-143006 (Pb.).

To
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe-I, Guna Complex,
IInd Floor, 443,
Anne Salai, Teynmapet,
Chennai-600018.

Remitted : Fee of Rs.1000-00 vide crossed Bank Draft
No.533255 dated 28-11-2009 on Union Bank of
India, Chennai.

C.C. : M/s.K & S Partners,
Plot No.109, Sector 44,
Gurgaon-122002.

4476
4477
R.P.R. 20/11/09

INTELLECTUAL PROPERTY APPELLATE BOARD

Annexe-I, 2nd Floor, Guna Complex, 443 Anna Salai, Teynampet, Chennai-600018
Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>
(Circuit Bench sitting at DELHI)

Misc. Petition No.83/09 in OA/24/2009/TM/DEL & OA/24/2009/TM/DEL /067

Between

Applicant/Appellant

M/S.SACHDEVA & SONS INDS. PVT. LTD.,
VILLAGE & POST OFFICE GILWALI,
NEAR SANGRANA SAHIB,
TARN TARAN ROAD,
AMRITSAR-143 022.PUNJAB..

Representative

ARORA REGISTRATION
SERVICE, 1158, BAZAR OLD
KANAK MANDI, AMRITSAR-
143 006.PUNJAB.

Respondent

1.M/S.TACO BELL CORPORATION.,
17901, VON KARMAN, IRVINE,
CALIFORNIA-92714 (U.S.A).
C/O. M/S.K& S PARTNERS,
84-C,C-6, STREET,
SAINIK FARMS,
BNEW DELHI-110 062.

Representative

M/S.K& S PARTNERS,
PLOT NO.109, SECTOR 44
GURGAON-122 002.

2.REGISTRAR OF TRADEMARKS,
TRADEMARKS REGISTRY,
NEW DELHI.

NOTICE

Take notice that the above Misc. Petition & Appeal were adjourned on 14/12/2009 are reposted for hearing on 2/2/2010 at 10.30 Hrs at the Conference Hall, Boudhik Sampada Bhawan, Plot No. 32, Sector 14, Dwaraka, NEW DELHI - 110 075. (Tel - 2803 1838, Fax - 2803 2381). In case the Appellant fails to appear at the above said date and time either in person or through an authorized representative, the Misc. Petition & Appeal may be treated as abandoned for default. In case the respondent fails to appear, the Misc. Petition & Appeal may be decided ex-parte on merits.

By Order

[Signature]
Deputy Registrar

Place: Chennai -18
Dated: 4/1/2010

(1)

Amroose P 5

94

INTELLECTUAL PROPERTY APPELLATE BOARD
Guna Complex Annexe-I, 2nd Floor, 443, Anna Salai, Teynampet,
Chennai-600018

(Circuit Bench Sitting at Delhi)

M.P.No.83/09 in OA/24/09/TM/DEL

And

OA/24/09/TM/DEL

FRIDAY, THIS THE 19TH DAY OF MARCH, 2010

Hon'ble Ms.S.Usha
Hon'ble Shri Syed Obaldur Rahaman

...Vice-Chairman
...Technical Member

M/s Sachdeva & Sons Indls.Pvt.Ltd.,
Village & Post Office Gilwali,
Near Sangrana Sahib,
Tarn Taran Road,
Amritsar-1430022 (Pb).

...Appellant

(By Advocates S/Shri Kamal Kishore Arora & Gaurav Arora)

Vs.



1.M/s Taco Bell Corporation,
17901, von Karman,
Irvine,
California-92714

C/o M/s K & S Partners,
84-C, C-6 Street,
Sainik Farms,
NEW DELHI - 110 062.

2. The Registrar of Trade Marks,
Trade Marks Registry,
Baudhik Sampada Bhavan,
Plot No.32, Sector 14,
Dwarka,
NEW DELHI - 110 075.

...Respondents

(By Advocate Kenneth Benjamin & Ms.Navpreet Panjra for R1)

ORDER No. 50 of 2010

Hon'ble Ms.S.Usha, Vice- Chairman:

Appeal arising out of the order dated 20th January, 2009 passed by the Assistant Registrar of Trade Marks dismissing the opposition No.158431 and allowing the application No.918094 in class 29 to proceed to registration as per the provisions of the Trade Marks Act, 1999.(hereinafter referred to as the Act). The appellant has also filed a miscellaneous petition for stay of operation of the impugned order dated 20.01.2009



2. The appellant herein is engaged in the business of processing, marketing and / or exporting of various kinds of 'Rice and / or such other cognate / allied goods' since long. The appellants are exporting the aforesaid goods to various major countries of the world. In the year 1980, the appellant honestly conceived and adopted the trade mark "BELLS" (word and / or device of Bells). By long and continuous use, the trade mark has been associated in the minds of the public to the extent that the products are deemed to belong to the appellant and none else. The mark has earned considerable goodwill and reputation. The appellant is the prior adopter, user and lawful proprietor of the trade mark. The mark "BELLS" has already been registered under No.676962 in class 30. the appellant's trade mark has become a well-known trade mark within the meaning of section 2(1) (zg) of the Act.

3. The first respondent filed an application for registration of the trade mark "TACO BELL" along with device of bell a label mark in respect of

Mexican foodstuffs including, but not limited to rice, beans, salsa, taco shells, tortillas and nacho chips included in class 29 under No.918094 dated 13.4.2000 as proposed to be used mark. The said application was advertised in the trade marks Journal mega 2 dated 25.09.2003 at page 4336. The application for registration was opposed by the appellant and had filed a notice of opposition. The first respondent filed their counter-statement. The appellant received the counter-statement and were directed to file their evidence within two months by letter dated 15.4.2005. The appellant as was not able to trace the relevant documents within the stipulated period had by letter dated 13.5.2005 informed the Registrar that they relied on the registration of the trade mark "BELS" under No.676962 and also the notice of opposition. The matter was finally fixed for hearing. The counsel filed Form TM-7 informing their intention to appear for the hearing. The matter was heard and the impugned order dated 20.01.2009 was passed by the Assistant Registrar dismissing the opposition under Rule 50(2) of the Trade Marks Rules, 2002 for non-compliance of the same. Aggrieved by the said order the appellants filed the appeal on the following grounds:-



- a) The impugned order is contrary to law and facts of the case.
- b) The second respondent erroneously dismissed the opposition
- c) The second respondent erred in not considering the letter dated 15.04.2005.
- d) The second respondent erred in not granting the relief prayed for during the hearing.
- e) The second respondent erred in dismissing the opposition as abandoned without giving any valid reason.
- f) ~~The second respondent erred in treating the impugned identical trade mark as accepted subject to association with the registered~~

trade mark No.477181 while no such condition was notified in the related Mega Trade marks Journal when the impugned mark was advertised.

- g) The impugned application has been wrongly accepted to proceed to registration.
- h) The second respondent erred in not considering the letters dated 7.4.2006 and 19.10.2006.
- i) The second respondent ought to have appreciated the fact that the impugned trade mark is devoid of any distinctive character.
- j) The second respondent erred in not considering that the impugned trade mark is identical with the appellant's registered trade mark.
- k) The second respondent failed to appreciate the dishonest adoption of the first respondent and as such the registration is barred by the provisions of sections 9, 11 and 12 of the Act.
- l) The second respondent ought to have appreciated that the first respondent is not the proprietor of the impugned trade mark.
- m) That in the interest of justice the appeal be allowed.



4. The first respondent herein filed their counter statement denying the various allegations made in the grounds of appeal. The first respondent carries on a worldwide restaurant chain manufacturing and marketing *inter-alia*, prepared Mexican food dishes under the trade name and trade mark 'TACO BELL & BELL DEVICE' since the year 1962. The trade mark has been registered under various classes. The first respondent filed an application for registration of the trade mark 'TACO BELL' along with the device of a bell on 13.04.2000 under No.918094 in class 29. The appellant filed notice of opposition to which the first respondent filed the counter-statement. As the appellant had not further complied with the requirements of the provisions of Rule 50 of the Trade

Marks Rules, 2002 (hereinafter referred to as the Rules) the hearing was fixed. The Registrar has therefore passed the impugned order. Though the appellant during the course of hearing had stated that he had sent a letter stating that he relied on a registration certificate and on the facts of the notice of opposition, the same was not received by the first respondent which is a requirement under the rules. The letter sent to the Trade Marks Registry also is denied as there is no proof of the same. The first respondent further denied the other averments made therein.

5. The appellant filed a rejoinder to the counter-statement. On completion of the procedures, the matter was set down for hearing on 02.02.2010 in the Circuit Bench sitting at Delhi where learned counsel Shri Kamal Kishore Arora along with Shri Gaurav Arora appeared for the appellant and learned counsel Shri Kenneth Benjamin and Ms.Navpreet Panjra appeared for first respondent.

6. Learned counsel for the appellant reiterated the facts of the case. The counsel submitted that he relied on the registration certificate under application No..676962 in class 29. The letter sent to the Registry relying on the certificate of registration and the notice of opposition were not considered by the second respondent even though it was received by their office. The counsel also relied on judgments in support of his claim.



7. Learned counsel for the first respondent in reply submitted that the requirements under rule 50 were not complied with. The rule prescribes that evidence in support of the opposition to be filed or to inform the Registrar and the applicant that he relies on the notice of opposition. In the instant case, it is not clear as to what was sent on 13.5.2005. Even assuming that the concerned letter was sent, no copy was sent to the first

respondent. The goods are different and so no possibility of confusion.
The first respondent is the registered proprietor of the trade mark. The appeal therefore deserves to be dismissed.

8. We have heard both the counsel and have also perused the documents placed before us. Here it is worthwhile to quote the provisions of rule 50(1) of the Rules.

***50. Evidence in support of opposition.** (1) Within two months from services on him of a copy of the counter statement or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request allow, the opponent shall either leave with the Registrar, such evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar and to the applicant in writing that he does not desire to adduce evidence in support of his opposition but intends to rely on the facts stated in the notice of opposition. He shall deliver to the applicant copies of any evidence that he leaves with the Registrar under this sub-rule and intimate the Registrar in writing of such delivery."

9. On a plain reading of the provisions of sub-rule (1) of rule 50 of the Rules, it is clear that the opponent shall file his affidavit of evidence in support of his opposition or inform the Registrar that he intends to rely on the facts stated in the notice of opposition. The opponent shall deliver the same to the applicant and inform the Registrar of such delivery.

10. In the instant case, there is no clear proof of delivering of the letter dated 13.5.2005 to the Trade Marks Registry. The receipt produced does not bear any clear date nor does it bear the date when the Trade Marks Registry received it. We have also perused the original receipt. As submitted by the counsel for the first respondent, the appellants have not served the letter dated 13.5.2005 – evidence in support of the opposition to the applicant i.e. the first respondent. (The appellants have not denied the same during the course of arguments.) Even if we take it that the



evidence relying on the facts of the notice of opposition has been sent to the Registrar but not to the applicant, the opposition stands automatically abandoned for non-compliance of the provisions of rule 50 of the Rules.

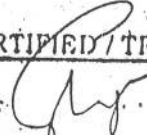
11. The judgments relied on by the appellants have no relevance to the case on hand. The judgments relate to matters under the Evidence Act as also with regard to the power of the Registrar to extend time for filing of evidence.

12. We are of the view that the Registrar has the power to extend time and that can be, only if the opponent has sought for an extension. Here no affidavit of evidence has been filed nor such extension is sought. The appellants have not complied with necessary requirements of sub rule (1) of rule 50 of the Rules. The opposition is automatically abandoned. We, therefore, find no infirmity in the order of the Assistant Registrar. The appeal is dismissed upholding the order of the Assistant Registrar dated 20.01.2009. There shall be no order as to costs. As the main appeal has been dismissed M.P.No.83/09 does not survive.

Sd/.
(Syed Obaidur Rahaman)
Technical Member

Vvrk

CERTIFIED TRUE COPY


Deputy Registrar
Tamil Nadu Property Appellate Board
Chennai - 16


Sd/.
(S.Usha)
Vice-Chairman

(ESTD. 1979)



Amrithose P-6
Offi. : 0183-2548039
2542806, 2547873
Resl. : 2504071
Mobile : 98140-55273



ARORA REGISTRATION SERVICE

Patent & Trade Mark Attorneys

1158, BAZAR OLD KANAK MANDI, AMRITSAR-143006 (Pb.) India

KAMAL KISHORE ARORA
M.A.LLB. ADVOCATE
Government Regd. Patent
and Trade Marks Agent

GAURAV ARORA
B.A.LLB. ADVOCATE
& Regd. Trade Marks Agent

Ref. No. ARS/IPAB/2K10/52927

Dated 31-3-2010

By Courier

URGENT

To
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe-I, Guna Complex,
IInd Floor, 443,
Anna Salai, Teynmapet,
Chennai-600018.

In re : M.P.No.83/09 in OA/24/09/TM/DEL
and OA/24/09/TM/DEL.

Sir,

This refers to your official letter no.2292 dated 19-3-2010,
regarding above.

Under Rule 25(2) of the Intellectual Property Appellate Board
(Procedure) Rules, 2002, and in continuation to our letter
dated 27-3-2010 followed by fax-message dated 29-3-2010 and our
today's telephonic-request, we now write to request herein for
furnishing to us the certified copies of all the
" case laws and/or references " (as relied on and/or submitted
by us in support of our aforesaid case at the time of Hearing
held at Delhi on 2-2-2010 and the said documents already forming
part of the Registry's official records), at an early date, and
oblige.

We are prepared to pay the necessary copying-fee therefor, if
any and/or if so required by the Registry, to this effect.

contd.p/2...

(ESTD. 1979)



Offi. : 0183-2548039
2542806, 2547873
Resi. : 2504071
Mobile : 98140-55273

ARORA REGISTRATION SERVICE

Patent & Trade Mark Attorneys

1158, BAZAR OLD KANAK MANDI, AMRITSAR-143006 (Pb.) India

KAMAL KISHORE ARORA
M.A.LL.B. ADVOCATE
Government Regd. Patent
and Trade Marks Agent

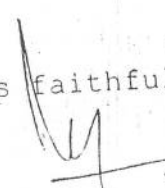
GAURAV ARORA
B.A.LL.B. ADVOCATE
& Regd. Trade Marks Agent

Ref. No.

Dated

It is herein added that since even the notes in the handwriting of the Judge as well as the order sheet, pleadings, judgements and all the documents received by the court form part of the court-records, according to Part A and Chapter 16 of Delhi High Court Rules (the photo copies of the relevant extracts whereof are sent herein and as the same are also available on the related Website of the Internet), the copies of the aforesaid/desired case laws and/or references can thus duly be furnished to us by the Hon'ble Board.

Yours faithfully,


(Kamal Kishore Arora Advocate)

Encl. : a.a.

Govt. 182266430
att. - 31/3/10

Annexure P 7

103

INTELLECTUAL PROPERTY APPELLATE BOARD

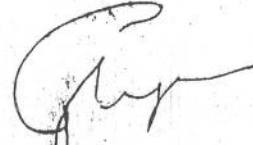
Guna Complex Annexe-I, 2nd Floor, 443 Anna Salai, Teynampet, Chennai-600018
Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>

M.P.NO.83/09 IN OA/24/09/TM/DEL & OA/24/09/TM/DEL / 2999

Dated 15.4.2010

TO,
M/S.ARORA REGISTRATION
SERVICE, SHRI.K.K.ARORA
1158, BAZAR OLD KANAK
MANDI, AMRITSAR-143 006 (PB.)

I am to refer to your letter dated 31.3.2010, regarding supply of certified copies of all the case laws/ or references referred to in M.P.NO.83/09 in OA/24/09/TM/DEL & OA/24/09/TM/DEL and to reiterate that certified copies of case laws/ or references placed before the Board during hearing are not supplied to the Counsel.



(G. VIJAYARAGHAVAN)
Deputy Registrar

Annexure P-8

104

INTELLECTUAL PROPERTY APPELLATE BOARD

Annexe-I, 2nd Floor, Guna Complex, 443 Anna Salai, Teynampet, Chennai-600018
Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>
(Circuit Bench sitting at DELHI)

Diary No.2407/2010 IN S.R.No.195/10/TM/IPAB IN /5781
OA/24/2009/TM/DEL - For Maintainability

Between

Applicant/Appellant

M/S.SACHDEVA & SONS INDS. PVT. LTD.,
VILLAGE & POST OFFICE GILWALI,
NEAR SANGRANA SAHIB,
TARN TARAN ROAD,
AMRITSAR-143 022.PUNJAB..

Representative

✓ ARORA REGISTRATION
SERVICE,1158, BAZAR OLD
KANAK MANDI, AMRITSAR-
143 006.PUNJAB.

Respondent

1.M/S.TACO BELL CORPORATION,,
17901, VON KARMAN, IRVINE,
CALIFORNIA-92714 (U.S.A).
C/O. M/S.K& S PARTNERS,
84-C,C-6, STREET,
SAINIK FARMS,
BNEW DELHI-110 062.

Representative

M/S.K& S PARTNERS,
PLOT NO.109, SECTOR 44
GURGAON-122 002.
(NOT TO ISSUED)

2.REGISTRAR OF TRADEMARKS,
TRADEMARKS REGISTRY,
NEW DELHI.

NOT TO
ISSUED



NOTICE

Take notice that the above referred Diary No.2407/2010 IN S.R.No.195/10/TM/IPAB IN OA/24/2009/TM/DEL - For Maintainability are posted before the Board for hearing on 6/8/2010 at 10.30 Hrs at the Conference Hall of Sampada Bhavan, Plot No.32, Sector-14, Dwarka, New Delhi-110 075, (☎2808 2915/2808 2916). In case the appellant fails to appear at the above said date and time either in person or through an authorized representative, the matter may be treated as abandoned for default.

By Order

7 
Deputy Registrar

Place : Chennai-18

Date : 29.6.2010

Annexure P-9

FORM 5 (in triplicate)

APPLICATION FOR ADJOURNMENT OF HEARING
(Rule 18 of the Intellectual Property
Appellate Board, 2003).

-.....-

In the matter of Review-Petition (Diary No.2407/2010 in
S.R.No.195/10/TM/IPAB in respect of Appeal No.OA/24/2009/TM/DEL.

We; M/s.Sachdeva & Sons Industries Pvt.Ltd., Near
Sangrana Sahib, Village & Post Office Gilwali, Tarn Taran Road,
Amritsar-143022, Punjab State, being the
appellants/review-petitioners in the above matter; hereby
pray that the Hearing of the aforesaid case (as scheduled to be
now held on 6-8-2010 and as intimated so vide Registry's Notice
dated 29-6-2010) may please be adjourned to some other date,
since the under-signed Counsels are not in a position to attend
the aforesaid date of Hearing on 6-8-2010 because of some
personal difficulties.

Dated at Amritsar this 13th day of July, 2010.

for M/s.Sachdeva & Sons Inds.Pvt.Ltd.
(the appellants)

(Kamal Kishore Arora Advocate),
and
(Gaurav Arora Advocate)
c/o
M/s.Arora Registration Service,
1158, Bazar Kanak Mandi,
Amritsar-143006 (Pb.).

To
The Deputy Registrar,
Intellectual Property Appellate Board,
Annexe-I, Guna Complex,
11nd Floor, 443,
Anne Salai, Teynmapet,
Chennai-600018.

Remitted : Fee of Rs.1000-00 vide crossed Bank Draft
No.533862 dated 13-7-2010 on Union Bank of
India, Chennai.

2159

Annexure P-10

INTELLECTUAL PROPERTY APPELLATE BOARD
Guna Complex Annexe-I, 2nd Floor, 443 Anna Salai, Teynampet, Chennai-600018

Tele: 24328902/03 Fax: 24328905 Website: <http://www.ipab.tn.nic.in>

CAMP SITTING AT NEW DELHI

Date: 24th September, 2010

Time: 10.30 Hrs.

Venue: Conference Hall
Boudhik Sampada Bhawan
Plot No. 32, Sector 14, Dwaraka,
NEW DELHI - 110 075., (Tel - 2803 1838, Fax - 2803 2381)

CORAM
HON'BLE MS. S. USHA Vice-Chairman
HON'BLE SHRI SYED OBAIDUR RAHAMAN Technical Member

CAUSE LIST

Sl. No	Application/ Appeal No.	Name of Parties	Name of Representative
1.	Diary No 2407/2010 IN S.R.No. 105/10/TM/IPAB IN OA/24/2009/TM/DEL - (For Maintainability)	M/S.SACHDEVA & SONS INDS. PVT. LTD VS M/S.TACO BELL CORPORATION	ARORA REGISTRATION K & S PARTNERS

DATED : 8.9.2010
PLACE : CHENNAI.

(G.VIJAYARAGHAVAN)
DEPUTY REGISTRAR

F.No.8(7)/2005-IPR-II
Government of India
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion

Filling up the post of Member Technical for Intellectual Property Appellate Board (IPAB)

S.No.1(Added)p.1/cor.

An Intellectual Property Appellate Board (IPAB) has been established under Section 83 of the Trade Marks Act, 1999 on September 16, 2003 to hear appeals against the Registrar of the Trade Marks as also of the Geographical Indications.

2. The IPAB consist of a Chairman, ~~A~~ Vice-Chairman and such number of other Members, as the Central Government may deem fit. The Central Government has decided that, at present, there shall be two Technical Members.

3. In this file, we are considering filling up the post of Member (Technical) in IPAB. The background of the case is that this Department had sent a proposal for appointment of Member Technical in IPAB for obtaining approval of the ACC. The EO Office returned the proposal for reconsideration. The matter was reconsidered in File No.8(29)/03-IRS (copy of relevant note at F/A) and it was decided with the approval of CIM that we may restart the entire process by advertising the post.

4. In view of the above, we may invite fresh applications for filling up the post of Member Technical in IPAB by advertising the post in the Employment News and in one leading newspaper in each of the four Metros. Draft letter requesting DAVP in this regard on the same line as was done previously is put up for approval.

~~1255/D/IRS/05~~
~~13/4~~

~~IRS (P2)~~

~~Chauhan~~
~~12/4/05~~

~~So (IPR-II)~~

~~Keena~~
~~12/4/05~~

~~1606-US (YPR)/05~~
~~13/4~~

~~US (YPR)~~

~~Beena~~
~~13/4/05~~

~~1922/25(SD)/05~~
~~15-4~~

~~JS (SD)~~

~~D/R (RSD)~~

~~Mr~~
~~13.04.05~~

~~D/R (RSD)~~

~~Mr~~
~~15/4/05~~

~~US (YPR)~~

~~Mr~~
~~15.04.05~~

~~15/4~~
~~So (IPR-II)~~

~~So (IPR-II)~~

(from pre-page)

-: 2 :-

We had written to DAVP requesting them to communicate estimated expenditure and mode of payment for publication of vacancy circular in "The Employment News" as desired on 12th April, 2005.

2. As desired by Director (RSJ) I have been following up the matter personally with the concerned officers in DAVP. After considerable efforts I could get an estimate which was quoted by Shri B.P. Meena as Rs.12,600/-. I had requested him to send written confirmation also. It was observed from the communication (page 6/cor.) that the estimate though pertaining to our Ministry was not the estimate in respect of our advertisement.

3. I have again contacted Shri Meena and now he has stated that the expenditure will be Rs.81,500/-.

4. The written confirmation has also been received from DAVP. The estimate is Rs.81,500/-. It may please be seen from the file relating to the earlier advertisement that the expenditure was Rs.79,000/-. The advertisement is to be published in "The Employment News" and one daily newspaper in the four metropolitan cities.

5. The expenditure on the publication of the vacancy circular in respect of the post of Member Technical is Rs.81,500/- as per Shri Meena. Keeping in view the urgency of the matter, we may refer to I.F. Wing for their concurrence.

Y.P. Vashishat
(Y.P. Vashishat)
Under Secretary
02.05.2005

Dir. (RSJ) for concurrence please.

Mr
02.05.05

Dir (UG)

hml
8.5.05

W (Vlog) wf
3/5

I.F. Wing.

Notes on p.1/N → above

The proposal is placed for Rs 81,500/- in favour of PAB, DAVP for issuing the requisite advertisement for filling up of the post of member I.P.A.B may kindly be concerned w/pl. The expenditure is to be met from our plan budget w/pl. for the year 2005-06. 03/05/2005

Dir (UG) Notes above explains. The estimated cost of publication has been worked out as Rs 81,500/- as mentioned at CP 7. in the file. This est. may kindly be agreed.

588/Bun/05
6-5-05

✓ D7/c
x p5/c
L/F
F No 8/25/03 IPR II
✓ P2/c

1725/W (Vlog)/05
2/5
1510/B (RSJ)/05
2/5
841/812 (UG)/05
2/5



6/5
D (IPR II)

Ref. Pre page Meetings

IF wing has given its concurrence for incurring an amount of Rs 11,500/- towards advertisement in Employment News and in one daily newspaper in each metro for one post of Technical Member. we may now issue sanction order.

Accordingly, a fair letter is placed below for signature block, if approval.

Chambay
9/5/05

SoCIPR-II

Beena
09/05/05

us(yprv)

So (FPR II)

Beena
9/5/05

Smo GCI 9-10/11/05

PAO, Chennai was asked to issue Letter of Authority in favour of PAO, DAUP, New Delhi for an amount of Rs 11,500/- for advertisement of one post of Technical Member, under intimation to this Deptt. we have not received any response from PAO Chennai. We may remind them. A fair letter is placed below for

Chambay
25/5/05

SoCIPR-II

Beena
25/05/05

us(VK)

Beena
26.5.05

IR-II

SoCIPR-II

Dept. of Advertising & Visual Publicity has
informed the Post of Technical Member has been
advertised in the Employment News and also in one
paper of four metros city. we may ask the library
to provide the cutting of advertisement. A draft
is in place.

Chauhan
28/6/05

Soan leano
WSTK

Done by
28/6/05 - JPR-II

The post of Technical Member in IPAB was advertised for inviting applications in the Employment News and in one leading newspaper in each of the four Metros on 18.6.05. Applicants were advised to apply within 30 (thirty) days from the date of the advertisement.

2. We have received 7 (seven) applications for the post of Technical Member. Scrutiny of applications has been prepared and is placed below.

3. Now, we may ask the applicants to submit requisite papers in support of experience/qualification for assessment of eligibility.

Chaubay
8/8/05

So CIPR II

Beene
8/8/05

us (JKS)

[Signature]
8/8/2005

DS(TCJ)

[Signature]
8/8/05

us (JKS)

1037-DSC(TCS)105
8/8

JIPR II
8/8

Shah

Fair letters to all applicants are placed below for signature please.

Chaubay
10/8/05

So CIPR II

Beene
10/8/05

us (JKS)

[Signature]
11.8.2005

IPR II

P. [Signature]
11/8

We had asked seven applicants to submit requisite papers in support of experience/qualifications for assessment of their eligibility for the post of Technical Member in IPAB. We have not received any papers from two applicants. We may, if approved, send reminder letters to them to expedite the requisite papers.

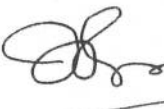
A d. a. please.

Chaubey
27/9/04

~~So CIPR~~

us (SRS)

Keena
27/11/05


27/9/2005

IPR-11

जारी किया
जाए
श्री रवि

Shri V.B.Mehrish and Shri J. Manikkam were asked by this Department reminder letter dated 27.9.05 to send the requisite papers in support of their eligibility for the post of Technical Member in IPAB. We have not received any response from them.

Submitted for orders whether we may send another reminders or process the other 5 applications.

Chauhan
17/10/05

So (FPA)

Keena
17/10/05

US (JKS) We may send another reminder & await response for 15 days, thereafter, seek orders/direction.
Yes.

DSC (EJ)

[Signature]
17.10.2005

USCJ (KS)

Ref: Notes above

[Signature]
18/10/05

We have received information from Shri V.B. Mehrish. We may send reminder to Shri J. Manikkam. A d.f.a please.

Chauhan
19/10/05

SO on leave

US (JKS)

[Signature]
19.10.2005

36/US (JKS) /05
18/10

IPR - II
2/10/10

1763-JS (TS) /05
18/10

IPR - II

Scrutiny of applications for the Post of Technical Member in IPAB has been prepared and is placed below.

Submitted please.

163/JSKS/05
31/10/05

~~Clauvery~~
31/10/05

~~S. C. IPR~~

~~Beena~~
31/10/05

~~JS (JSKS)~~

~~[Signature]~~
31.10.2005

DSCTCJ
1926/DS(TCJ)/05
2/11

~~DSCTCJ~~

One post of Technical Member under Trade Marks Act in the Intellectual Property Appellate Board (IPAB) vice Shri T.R. Subramaniam is to be filled up. Applications were invited for the same and in response seven applications have been received. These have been compiled in the statement placed below.

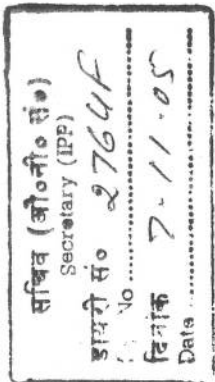
2. As per the procedure approved by C&IM for selections for the posts of Vice-Chairman and Technical Members in IPAB the selection is to be made by a Committee consisting of SIPP as Chairman and Secretaries, Departments of Legal Affairs and Personnel & Training as Members. A meeting of the Selection Committee for selecting a Vice-Chairman is being scheduled to be held at 5.00 p.m. on 22nd November, 2005 in SIPP's chamber. It is submitted that selection of Technical Member under Trade Marks Act be also included in the agenda for the meeting.

Submitted, please.

~~[Signature]~~
(T.C. JAMES)
Deputy Secretary
3rd November, 2005

1/X
3098/JS(NNP)/05
31/10/05

X



~~JS (NNP)~~

X - for approval M.

~~Deag. I/PF~~

~~[Signature]~~
2/11

~~[Signature]~~
4/11/05

~~JS (NNP)~~

~~[Signature]~~
Shukla

~~JS (TS) on form~~

9/11
IPR-II

~~JS (KS)~~

Ref: pre page noting

A draft d.o. letter to Secretary, Department of Legal Affairs and Secretary, Department of Personnel and Training, including the additional agenda for selection of Technical Member in IPAB is placed below for consideration of SIPP.

Chauhan
9/11/05

So (LPR)

Keena
9/11/05

4092/Secy(DP)
9/11

ML (VTR)

Prakash
9.11.05

DS (TCJ) on tour

JS (N/NP) NH
Mukherjee

Key, IPAB

Pl add the above agenda to

inform the members accordingly. Also
in do letter from JS

JS (or) P, ensure the signature is absent.
NH
Mukherjee

DS (LPR) - intm

US (VTR)

OH
10/11
IPAB

सचिव (जी.पी.सी.) Secretary (IPP)
डा. नं. 2887F
दिनांक 9.11.05
Date

Ref: Pre page noting

The meeting of Selection Committee is scheduled to be held on 22nd November, 2005 at 5.00 P.M. in the Chamber of Secretary (IPP) to select a candidate for the post of Technical Member, IPAB. The papers relating to the meeting are placed below (Additional Agenda)

Submitted please.

Chakrabarty
21/11/05

SoC IPAB

Beena
21/11/05

us (JKS)

DSC (T.C.J)

[Signature]
21.11.2005

226/US (JKS) /05
21/11

The meeting of the Selection Committee was held on 23.11.2005 at 11.30.A.M. in the Chamber of Secretary, IPP to select a candidate for the post of Technical Member (T.M), IPAB. Draft Minutes of the meeting are placed below for kind consideration & approval please.

DSC (T.C.J) away in Seminar

JS (N/P)

MU
mmhoo

[Signature]
23/11/2005

Secy, IPP
[Signature]

[Signature]
23/11

The proposal on this file relates to the filling up of the post of the Technical Member in IPAB, set up under the Trade Marks Act, 1999.

2. Department of Industrial Policy and Promotion had invited applications through advertisement in "The Employment News", dated 18-24 June, 2005 and in "The Times of India", "Indian Express", "The Hindustan Times" and "The Hindu" dated 18th June, 2005 for the post of Technical Member. Seven applications were received in response to Advertisement.

3. As per Section 85 (4) of the Trade Marks Act, 1999, the qualifications for appointment to this post are as under: -

"A person shall not be qualified for appointment as a Technical Member unless he-

- (a) has, for at least ten years, exercised functions of a tribunal under this Act or under the Trade and Merchandise Marks Act, 1958, or both, and has held a post not lower than the post of Joint Registrar for at least five years; or
- (b) has, for at least ten years, been an advocate of a proven specialised experience in Trade Mark law."

4. The Selection Committee comprising of Secretary (IPP) as Chairman and Secretary (Legal) and Secretary (DOPT) as Member which met on 23rd November, 2005 considered the particulars of the following seven candidates who had submitted their applications in response to the advertisement: -

1. Shri J. Manikkam
2. Shri Amal Paul
3. Shri Anil V Kukde
4. Ms. Kopparthi Sudha Rani
5. Shri Vidya Bhusan Mehrish
6. Shri Babu Ram Verma
7. Ms. S. Usha

5. The Committee noted that Ms. S. Usha has submitted proof of her experience whereas Mr. Vidya Bhusan Mehrish has only stated his experience. The Committee, after considering the qualifications and experience, etc. of the candidates, recommended the following panel in the order of merit for submission to C&IM for selection of the candidate and obtaining Appointments Committee of Cabinet's approval.

1. Ms. S. Usha
2. Shri Vidya Bhusan Mehrish

6. Minutes of the Selection Committee are submitted for kind approval of C&IM and for indicating the candidate from the panel recommended by the Selection Committee for appointment of Member Technical, IPAB. After C&IM's approval, character & antecedents of the candidate selected for appointment will be got verified before proposal is sent to ACC for approval.

4804-3(NMP)05

481/US (JKS) 105
2/12

15/11/05
87 A

249/US/105/05
24/11

C & I Minister Office
Dy. No. 3748/05
Date 25/11/05

2446-DSC(TC)105
24/11

Sl. No.	1
Name	Shri J. Manikkam
Designation	Secretary (IPP)
Office	24/11/05
Date	24/11/05

DSC(TC) JS(NMP)

[Signature]
24.11.2005

It may be preferable to recommend only one name for consideration of ACC. For orders of C&IM we may recommend Ms. S. Usha to ACC for appointment as Technical member, IPAB or Chemist member.