



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 343]

नई दिल्ली, बृहस्पतिवार, जून 6, 2019/ज्येष्ठ 16, 1941

No. 343]

NEW DELHI, THURSDAY, JUNE 6, 2019/JYAISTHA 16, 1941

वाणिज्य और उद्योग मंत्रालय

(उद्योग संवर्धन एवं आंतरिक व्यापार विभाग)

अधिसूचना

नई दिल्ली, 6 जून, 2019

**सा.का.नि. 410(अ).**—पेटेंट (संशोधन) अधिनियम, 2002 (2002 का 38) की धारा 1 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा 06 जून, 2019 को उस तिथि के रूप में नियत करती है, जिससे उक्त अधिनियम की धारा 2 के पेटेंट अधिनियम, 1970 (1970 का 39) की धारा 71 को संशोधन करने संबंधी प्रावधान प्रवृत्त होंगे।

[फा. सं. 10/44/2012-आईपीआर-III (अंश-I)]

राजीव अग्रवाल, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department for Promotion of Industry and Internal Trade)

NOTIFICATION

New Delhi, the 6th June, 2019

**G.S.R. 410(E).**—In exercise of the powers conferred by sub-section (2) of the section 1 of the Patents (Amendment) Act, 2002 (38 of 2002), the Central Government hereby appoints the 6<sup>th</sup> June, 2019 as the date on which section 2 of the Patents (Amendment) Act, 2002 (38 of 2002), in so far as it amends section 71 of the Patents Act, 1970 (39 of 1970), shall come into force.

[F. No. 10/44/2012-IPR-III (Part-I)]

RAJIV AGGARWAL, Jt. Secy.



  
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सं. 42] नई दिल्ली, मंगलवार, जून 25, 2002/ आषाढ़ 4, 1924  
No. 42] NEW DELHI, TUESDAY, JUNE 25, 2002/ ASADHA 4, 1924

इस भाग में पत्र खण्ड संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

*New Delhi, the 25th June, 2002/Asadha 4, 1924 (Saka)*

The following Act of Parliament received the assent of the President on the 25th June, 2002, and is hereby published for general information:—

THE PATENTS (AMENDMENT) ACT, 2002  
(No. 38 of 2002)

[25th June, 2002.]

*An Act further to amend the Patents Act, 1970.*

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Patents (Amendment) Act, 2002.

Short title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.



Substitution of certain words for the words "High Court" and "Court".

Amendment of section 2.

2. In the Patents Act, 1970 (hereinafter referred to as the principal Act), for the words "High Court" wherever they occur in sections 21, 43 and 71 and the word "Court" occurring in sections 21 and 71, the words "Appellate Board" and "Board" shall respectively be substituted.

39 of 1970.

3. In section 2 of the principal Act, in sub-section (1),—

(a) for clause (a), the following clauses shall be substituted, namely:—

'(a) "Appellate Board" means the Appellate Board referred to in section 116;

(ab) "assignee" includes an assignee of the assignee and the legal representative of a deceased assignee and references to the assignee of any person include references to the assignee of the legal representative or assignee of that person;

(ac) "capable of industrial application", in relation to an invention, means that the invention is capable of being made or used in an industry;'

(b) for clause (d), the following clause shall be substituted, namely:—

'(d) "convention country" means a country or a country which is member of a group of countries or a union of countries or an Inter-governmental organisation notified as such under sub-section (1) of section 133;'

(c) for clause (g), the following clause shall be substituted, namely:—

'(g) "food" means any article of nourishment for human consumption and also includes any substance intended for the use of infants, invalids or convalescents as an article of food or drink;'

(d) in clause (i),—

(i) in sub-clause (i), for the words "Union territory of Delhi", the words "National Capital Territory of Delhi" shall be substituted;

(ii) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) in relation to the State of Arunachal Pradesh and the State of Mizoram, the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh);"

(iii) in sub-clause (v), for the words "Union territory of Goa, Daman and Diu", the words "State of Goa, the Union territory of Daman and Diu" shall be substituted;

(e) after clause (i), the following clause shall be inserted, namely:—

'(ia) "international application" means an application for patent made in accordance with the Patent Cooperation Treaty;'

(f) for clause (j), the following clauses shall be substituted, namely:—

'(j) "invention" means a new product or process involving an inventive step and capable of industrial application;

(ja) "inventive step" means a feature that makes the invention not obvious to a person skilled in the art;'

(g) for clause (m), the following clause shall be substituted, namely:—

'(m) "patent" means a patent granted under this Act;'

(k) after clause (o), the following clause shall be inserted, namely:—

'(oa) "Patent Cooperation Treaty" means the Patent Cooperation Treaty done at Washington on the 19th day of June, 1970 as amended and modified from time to time;'



manner and also such other documents as may be prescribed relevant to the subject matter:

Provided that in the case of a licence granted under a patent, the Controller shall, if so requested by the patentee or licensee, take steps for securing that the terms of the licence are not disclosed to any person except under the order of a court.

- (5) Except for the purposes of an application under sub-section (1) or of an application to rectify the register, a document in respect of which no entry has been made in the register under sub-section (3) shall not be admitted by the Controller or by any court as evidence of the title of any person to a patent or to a share or interest therein unless the Controller or the court, for reasons to be recorded in writing, otherwise directs.

**70. Power of registered grantee or proprietor to deal with patent.**—Subject to the provisions contained in this Act relating to co-ownership of patents and subject also to any rights vested in any other person of which notice is entered in the register, the person or persons registered as grantee or proprietor of a patent shall have power to assign, grant licences under, or otherwise deal with, the patent and to give effectual receipts for any consideration for any such assignment, licence or dealing:

Provided that any equities in respect of the patent may be enforced in like manner as in respect of any other movable property.

**71. Rectification of register by Appellate Board.**—(1) The Appellate Board may, on the application of any person aggrieved—

- (a) by the absence or omission from the register of any entry; or
- (b) by any entry made in the register without sufficient cause; or
- (c) by any entry wrongly remaining on the register; or
- (d) by any error or defect in any entry in the register,

make such order for the making, variation or deletion, of any entry therein as it may think fit.

- (2) In any proceeding under this section the Appellate Board may decide any question that may be necessary or expedient to decide in connection with the rectification of the register.
- (3) Notice of any application to the Appellate Board under this section shall be given in the prescribed manner to the Controller who shall be entitled to appear and be heard on the application, and shall appear if so directed by the Board.
- (4) Any order of the Appellate Board under this section rectifying the register shall direct that



notice of the rectification shall be served upon the Controller in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

- 72. Register to be open for inspection.**—(1) Subject to the provisions contained in this Act and any rules made thereunder, the register shall at all convenient times be open to inspection by the public; and certified copies, sealed with the seal of the patent office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.
- (2) The register shall be *prima facie* evidence of any matters required or authorised by or under this Act to be entered therein.
- (3) If the record of particulars is kept in computer floppies or diskettes or in any other electronic form, sub-sections (1) and (2) shall be deemed to have been complied with if the public is given access to such computer floppies, diskettes or any other electronic form or printouts of such record of particulars for inspection.