

The Trade Marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003¹

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

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

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

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

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

(2) They shall come into force on the date of their publication in the Official Gazette.

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

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

THE FIRST SCHEDULE

(See Rule 2)

Manner of Making Applications and Forms of Appeal

Sl. No.	Section of the Trade Marks Act, 1999/ Rule of the Trade Marks Rules, 2002	Title	Form Number
(1)	(2)	(3)	(4)

1. Ministry of Commerce and Industry (Deptt. of Industrial Policy and Promotion), Noti. No. G.S.R. 928(E), dated 5 December, 2003, published in the Gazette of India, Extra., Part II, Section 3(i), dated 5th December, 2003, pp. 19-36, No. 585.

1.	Section 47/57/125	Application under Section 47 for removal of a trade mark from the register or for rectification of the register under Section 57 or Section 125	Form 1
2.	Section 91	Appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in one class	Form 2
3.	Section 91	Appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in two or more classes	Form 3
4.	Section 91 read with Rule 162 of the Trade Marks Rules, 2002	Appeal from an order or decision of the Registrar of Trade Marks in regard to the registration or removal of a trade marks agent from the register of trade marks agents	² [Form 3]
5.	Section 91	Application for condoning the delay in filing appeal	Form 5

³[FORM 1

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Application for Removal/Rectification

ORA No.

Data Seal

(In the matter of)

1. Name of Applicant :

2. Address :

3. Name of Counsel and address :

4. Name(s) of Respondent(s) with address :

[In case of foreign respondent(s), the address for service in India, if any, may be furnished]

5. Relief claimed and relevant sections :

6. Particulars of parallel or collateral Proceedings :

7. In application for rectification of Trade Mark :

(details of impugned trade mark/logo, if any, date of application, date of advertisement, date of registration (if available))

8. Details of Trade Mark, if any, applied/registered in the name of applicant herein. :

9. Facts of case :

(set out facts in brief along with the evidence and the documents relied on)

2. Subs. for "Form 4" by G.S.R. 313(E), dated 16-5-2013 (w.e.f. 16-5-2013).

3. Subs. by G.S.R. 313(E), dated 16-5-2013 (w.e.f. 16-5-2013).

10. Grounds on which relief is sought for (in brief) :
11. Details of fees :
12. Prayer :
13. Affidavit as below, in support thereof

Dated this Day of,

Place

Signature of the applicant

List of documents:

The proof affidavit along with the documents shall be filed.

[For example,

Annexure-1: Copy of registration certificate obtained
by the respondent in respect of the
impugned mark.

Annexure-2:

Date as to when the applicant started
using the mark and the date of incorporation
of company

Annexure-3 and so on:

Other documents.]

AFFIDAVIT

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Case No.

(In the matter of)

.....

Cause title:

... Appellant

vs.

... Respondent

.....

Shri son of aged at residing at
..... do solemnly affirm and declare as under—

Xxx

Xxx

Deponent

Verification

I (name of deponent/of Nationality, resident of
.....) do hereby verify that the contents of paras to Are true to
my/our personal knowledge and paras to are believed to be true on legal advice and that
I have not suppressed any material fact.

Dated this day of

Place

Signature of the Deponent]

⁴[FORM 2

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

APPEAL

O.A. No.

Data Seal

(Appeal arising out of)

.....

Cause title:

... Appellant/(rank of party before the Registry, if any)

vs.

... Respondent/(rank of party before the Registry, if any)

.....

The appellant above named, prefers the appeal under Section 91, against the order datedfor the following among other grounds:

(a)

(b)

(c)

(d)

Limitation—

For the above reasons, it is prayed

Affidavit, as below, in support thereof:

Dated this Day of

Place

Signature of the Appellant

AFFIDAVIT

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Case No.

(In the matter of)

.....

Cause title:

... Appellant

vs.

... Respondent

.....

Shri son of aged at residing at do solemnly affirm and declare as under—

Xxx

Xxx

Deponent

Verification

I (name of deponent/of Nationality, resident of)
do hereby verify that the contents of paras to are true to my/our personal knowledge
and paras to are believed to be true on legal advice and that I/we have not suppressed
any material fact.

Dated this day of

Place

Signature of the Deponent]

⁵[Form 3

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

[Application for condoning the delay in filing Appeal under
Section 91(2) of the Trade Marks Act, 1999]

M.P. No.

Data Seal

(In the matter of)

1. Name of Petitioner/Appellant :
2. Address :
3. Name of Counsel and address :
4. Name(s) of Respondent (s) with address :
[In case of foreign respondent(s), the address for
service in India, if any, may be furnished]
5. Period of delay :
6. Grounds :
7. Prayer :

Affidavit, as below, in support thereof

Dated this Day of

Place

Signature of the petitioner

AFFIDAVIT

BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD

Case No.

(In the matter of)

.....

Cause title:

... Appellant

vs.

... Respondent

5. Subs. by G.S.R. 313(E), dated 16-5-2013 (w.e.f. 16-5-2013).

.....
Shri son of aged at residing at
..... do solemnly affirm and declare as under—

Xxx

Xxx

Deponent

Verification

I (name of deponent/of Nationality, resident of)
do hereby verify that the contents of paras to are true to my/our personal knowledge
and paras to are believed to be true on legal advice and that I/we have not suppressed
any material fact.

Dated this day of

Place

Signature of the Deponent]

⁶[THE SECOND SCHEDULE
FEES

Sl. No.	Description	Fees (Rs)	Corresponding Form Number
(1)	(2)	(3)	(4)
1.	Application under Section 47, 57 or 125 for removal of a trademark from the register or rectification of the register.	5000	Form 1
2.	Appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in one class.	5000	Form 2
3.	Appeal from an order or decision of the Registrar of Trade Marks in respect of goods or services falling in two or more classes.	10,000	Form 2
4.	Petition for condoning delay in filing appeal.	2500 for delay per month or part thereof	Form 3]