



Confederation of Indian Industry

ANNEXURE B

**COMMENTS ON THE FORM 27 OF THE PATENTS ACT AND SIMPLIFICATION**

1. **Freedom available to the Controller General:** Under Section 146(1) the CG may seek information from patentees and licensees on working of patents in India in respect of patents granted to the patentees. We understand that the CG provides a choice to the CG that he can exercise his discretion in selecting patentees and nature of information being sought. We suggest that CG may consider exercising the choice which is closely in tune with the technological developments taking place at a rapid rate. For example, the same yardstick can be applied to drug related patents and patents related to artificial intelligence.
2. **Extent of information:** There should be a cap on the extent of the information to be published since the information pertaining to licenses, Country wise importation details, quantum and value of working of invention is very competitive and sensitive in nature. This kind of detailed information may compromise on business information and trade secrets of companies.
3. **DEADLINE TO FILE FORM 27:** Instead of calendar year the Statement of Working of invention should be filed for every financial year as it is to do with the financial data of a particular invention. The deadline i.e. 31<sup>st</sup> March should be mentioned in the Form itself.
4. **ENLIST REASONS OF NON – WORKING:** Conversion of patents into technology may require long time frame work and hence, during the intervening period the information will be nil and someone may seek compulsory license on account of non-working of patents. There should be distinct provision for sharing this kind of information. Therefore reasons for Non-working of an Invention can be enlisted in the Form such as Inadequate Capital Investment; Inadequate Technological Support; Inadequate Infrastructure; Inadequate cost; Inadequate effective labour; Unfavourable Environment; Social & Political Factors; Others factors.
5. **REASONABLE PUBLIC REQUIREMENT (UNDER SEC 84(7)):** Criteria's to determine whether public requirement is met or not is not properly defined. Various

criteria's like Commercial Scale; Fullest Extent that is reasonably practicable; adequate extent should be provided.

6. **OTHER POINTS:**Form 27 is designed for pharmaceutical inventions where you are either dealing with one molecule or a formulation for a disease. This establishes a direct relationship with a patent and its working. In case of engineering applications, one patent is generally not sufficient for conversion into known product. Sometimes the working of a patent may depend on other products. This aspect may be taken care of.
7. **MISCELLANEOUS:** The form 27 should be computerized.

**A draft "sample form 27" modified\_with comments for a better understanding of the grievances is given below:**

## SAMPLE FORM 27 WITH COMMENTS

FORM- 27  
THE PATENTS ACT, 1970  
(39 of 1970)  
&  
THE PATENTS RULES, 2003  
STATEMENT REGARDING THE WORKING OF THE PATENTED INVENTION ON  
COMMERCIAL SCALE IN INDIA  
[ See section 146 (2) and rule 131 (1) ]

In the matter of Patent No. ....of .....

I/We .....*name*..... of .....*address*....., the patentee(s) or licensee(s) under Patent No. .... hereby furnish the following statement regarding the working of the patented invention referred to above on a commercial scale in India for the **year** .....

**(Year: This has to be for the financial year and not for the calendar year as stipulated by the Controller)**

(i) The patented invention:

Worked  Not worked

(a) if not worked: reasons for not working and steps being taken for working of the invention.

(b) If worked: **quantum and value** (in Rupees), of the patented product: \_\_\_\_\_

**(For a patentee it's not possible to provide the "quantum and value", since one patent does not always equal one product. A product may have over one hundred patents some of which are owned and some licensed. This statement may apply to one blockbuster drug, and therefore relevant to some forms of pharma patents and NOT to all patents applied in other fields of technology)**

(i) manufactured in India – Yes/No

(ii) **Imported from other countries.** (give country wise details)

**(A clarification to the extent, if "importation" amounts to working of Patents. Logically it should not as there is evidence of employment through distributorship, packaging etc.)**

(iii) the licences and sub-licenses granted during the year; - Yes/No

(iv) state whether **public requirement has been met** partly/adequately/to the fullest extent at reasonable price.

**(The public requirement needs to be defined properly. With no clear cut definition, this can lead to frivolous admission since there is no approved way to quantify this. For example in case of a pharmaceuticals, how is one going to determine whether public requirements is met or not. In case of a tablet, where the market is created through advertising, how does one establish that there was a public requirement in the first place?)**

The facts and matters stated above are true to the best of my/our knowledge, information and belief.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20

Signature

To,  
The Controller of Patents,  
The Patent Office, at \_\_\_\_\_.