

IN THE MATTER OF  
The Patents Act, 1970

and

IN THE MATTER OF  
The Patents Rules, 2003

and

IN THE MATTER OF  
An Application for Patent  
No. 7203/DELNP/2012  
Filed on: August 17, 2012

By

**WEIR MINERALS AUSTRALIA LTD.**

**PETITION UNDER RULE 137**

We, **WEIR MINERALS AUSTRALIA LTD.**, an Australian company, of 1 Marden Street, Artarmon, New South Wales 2064, AUSTRALIA, the applicants in respect of the above-identified application and the petitioners herein present as follows:

1. That we are the applicants in respect of the above-identified application for Patent No. 7203/DELNP/2012 filed on our instructions in the Patent Office Branch, Delhi on August 17, 2012;
2. That the said Patent Application No. 7203/DELNP/2012 forms part of an International patenting programme instituted by us in order to protect the invention forming the subject of such application in large number of countries;
3. That Section 8 (1) of the Patents Act, 1970 requires an applicant for a patent to file along with his application a statement setting out names of countries, application numbers and filing dates of corresponding patent applications being prosecuted in foreign countries;
4. That the details of corresponding foreign applications already on file which were available to us were conveyed to the Controller at the time of filing this application in a Form 3 dated August 17, 2012 ;
5. That at least some of such foreign applications were already on file on the date this Indian application was filed but there was no way we could have come to know of that or of the relevant filing particulars;

6. That in the circumstances, we came to know of the filing details of corresponding foreign applications only after this application was filed and then conveyed them to the Controller;
7. That Section 8 (1) of the Patents Act, 1970 also imposes on an applicant the obligation to keep the Controller informed in writing from time to time of detailed particulars as identified in the prescribed Form 3 concerning developments of the corresponding applications being prosecuted in foreign countries including the status thereof;
8. That the large body of corresponding foreign patent applications were applied for in a corresponding number of countries employing the services of patent attorneys in such countries;
9. That the patenting procedure and intimation of details of filings and of developments in filed patent applications vary in a disparate manner between such countries where the attorneys responsible cannot reasonably be expected to be aware of or even familiar with such requirements of Section 8 (1) of the Patents Act, 1970;
10. That in the circumstances, it has been an extremely difficult task for us to obtain and collate information concerning the filing and individual development of each of the corresponding applications filed in the large number of foreign countries referred to herein;
11. That our inability to provide details of corresponding foreign applications and their developments has been occasioned as a result of the singular situation described herein over which we have been unable to exercise any control;
12. That failure to convey within the prescribed period details of corresponding foreign applications as well as, from time to time, details of developments in the status of such foreign applications constitutes an irregularity in procedure;
13. That such irregularity in procedure was not intentional on our part;
14. That under Rule 137 of the Patents Rules, 2003, the Controller has the general power to obviate such irregularity if he thinks fit and if in his own opinion the irregularity can be obviated without detriment to the interests of any person;
15. That the reference to "the interests of any person" in the said Rule 137 must include the interests of the applicants as well who would certainly suffer detriment if the irregularity in procedure were not obviated by the Controller under the general powers he possesses;
16. That there has been no wanton delay or laches on our part in complying with the requirements of Section 8 (1) (a) of the Act.

In the circumstances narrated, we respectfully request the Controller to obviate the irregularity described herein and to accept on record the information on corresponding foreign patent applications and their developments conveyed through the Form 3 dated May 23, 2019.

For this kindness, the petitioners shall be ever grateful.

Dated this 28<sup>th</sup> day of May, 2019.

**WEIR MINERALS AUSTRALIA  
LTD.**

by their Attorney



**RAJESH KUMAR**  
[Registered IN/PA No. 1107]  
of GROSER & GROSER  
AGENT FOR THE APPLICANTS

To: -  
The Controller of Patents  
The Patent Office  
Delhi.