

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 Indian Patent Application No. 7203/DELNP/2012 which was filed as a national phase entry in India on August 17, 2012 out of International Application No. PCT/AU2011/000092 dated February 01, 2011;
2. That such application was placed on file claiming priority dates of February 05, 2010 and October 01, 2010 from Australian Patent Application Nos. 2010900457 and 2010904416, respectively, in respect of which we were the applicants;
3. That the filing of the corresponding Australian application in our name without any objection thereto being raised by the Australian Patent Office is conclusive proof that the Australian Patent Office was satisfied that we possessed the right to the invention and as a result, the right to make other applications in respect of the said invention;
4. That in making the present Indian Application No. 7203/DELNP/2012, we did do so NOT by virtue of any assignment to us of the right to apply in India since we already possessed such right;
5. That this was the prevailing principle followed in India ever since the Patents Act, 1970 came into force;

6. That by virtue of a decision dated October 28, 2013, the Intellectual Property Appellate Board has expressed a differing view as a result of which we submitted the proof of right document on May 28, 2019, from the inventor to the applicant, WEIR MINERALS AUSTRALIA LTD, and whereby the right to make the application in India was vested in us;
7. That for the reasons mentioned, the “proof of right” document was not submitted within the period prescribed by Rule 10 of the Patents Rules, 2003 (as amended);
8. That failure to submit such document could be deemed to constitute an irregularity in procedure;
9. That such irregularity was not intentional;
10. That the irregularity referred to may be obviated without detriment to the interests of any person;
11. That under Rule 137 of the Patents Rules, 2003 (as amended), the Controller has the general power to obviate such irregularity in procedure;
12. That there has been no wanton delay or laches on our part in complying with the requirements of Rule 10 of the Patents Rules, 2003 (as amended).

In the circumstances narrated, we respectfully request the Controller to obviate the irregularity described herein and to accept on record the proof of right document from the inventor to the applicant, WEIR MINERALS AUSTRALIA LTD., establishing that we possessed the right to file the present application in India.

For this kindness, the petitioners shall be ever grateful.

Dated this 30th day of August, 2021.

WEIR MINERALS AUSTRALIA LTD.
by their Attorneys

Aashique Chakraborty

Aashique Chakraborty
[Registered IN/PA No. 2117]
of Groser & Groser
Agent for the Applicants

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