

1 **To:** The Hon. Controller General of Patents, Designs, and Trade Marks, Mumbai
2 **From:** Narendra R Thappeta, Patent Agent, Bangalore
3 **Sub:** Suggestions on Form-27 Under Section 146(2) of the Patents Act, 1970
4 Dated: April 13th 2018

5
6 Respected Sir:

7 The Hon. Controller General and India Patent Office (IPO) are respectfully thanked
8 for the stakeholders' meeting of April 6th 2018 (in addition to prior compilation and
9 dissemination of summary of submissions) and for providing the opportunity to make
10 this further submission in view of the discussions there. This submission overrides my
11 earlier submission dated March 13th 2018 to the extent of inconsistency.

12
13 The prayer by virtue of this submission is as follows:

14 1. The administration is respectfully urged to consider whether the practice under
15 sub-section 146(2)/Form-27 ought to be ceased in the current environment (by
16 appropriate amendment to the rules), in view of the detailed comments provided by
17 various stakeholders at the said meeting;

18 2. Should the administration choose to continue practice under sub-section
19 146(2)/Form-27, it is respectfully urged that form-27 rely on open questions to the
20 extent possible (shown as Version 1 for Form-27), or at least not mandate patentees
21 to divulge confidential information or spend excessive efforts for compliance
22 (Version 2 for Form-27); and

23 3. Irrespective of above, the administration is respectfully urged to invoke sub-
24 section 146(1) for specific and detailed information with respect to specific patents
25 of interest (particularly those related to public health and nutrition), instead of
26 burdening all the patentees under sub-section 146(2) as a matter of good
27 governance.

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29 **In Support of the prayer, the rest of the content is organized as:**

30 **Part A: Proposed Form 27 (Two Versions A and B); and**

31 **Part B: Note on Proposed Versions of Form-27.**

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33 I may be reached at thappeta@gmail.com or +91.98452.05343 if there are any
34 questions in this respect.

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36 Respectfully Submitted

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38 Narendra R Thappeta

39 Patent Agent

40 IN/PA 392

PART A: PROPOSED FORM 27 (Version A)

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In the matter of Patent No. _____, of _____

I/We _____

Nationality: _____, am/are a Patentee/Licensee under the above noted Patent.

I/We hereby furnish the following statement regarding the working of the patented invention referred to above on a commercial scale in India for the year _____.

(i): The patented invention:

{ } Worked { } Not worked [Tick (√) mark the relevant box]

(ii): if not worked: Reasons for not working: _____.

(iii) If worked: Provide pertinent information on the extent to which the patented invention has been worked on a commercial scale in India for satisfying the reasonable requirements of the public based on non-confidential available information (Use attachments as needed):
_____.

The Patentee is informed that the Controller may publish the information provided in this form (See section 146(3) of the Patents Act 1970). The Patentee is also informed that the Controller has the option to invoke sub-section 146(1) of the Patents Act 1970 for additional information.

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

Dated this

Signature.....

Name: ()

Agent for Applicant Regd. No.:

To:
The Controller of Patents,
The Patent Office, At

PART A: PROPOSED FORM 27 (Version B)

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In the matter of Patent No. _____, of _____

I/We _____

Nationality: _____, am/are a Patentee/Licensee under the above noted Patent.

I/We hereby furnish the following statement regarding the working of the patented invention referred to above on a commercial scale in India for the year _____.

(i): The patented invention:

{ } Worked { } Not worked [Tick (√) mark the relevant box]

(ii): if not worked: Reasons for not working: _____.

(iii) If worked: Provide pertinent information on the extent to which the patented invention has been worked on a commercial scale in India for satisfying the reasonable requirements of the public by answering any combination of the below options based on non-confidential available information:

- A. Manufactured in India (provide any details in attachment):
- B. Imported from other countries (provide any details in attachment):
- C. Licenses/sub-licenses (provide any details in attachment):
- D. Others (provide any details in attachment):

The Patentee is informed that the Controller may publish the information provided in this form (See section 146(3) of the Patents Act 1970). The Patentee is also informed that the Controller has the option to invoke sub-section 146(1) of the Patents Act 1970 for additional information.

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

Part B: Note on Proposed Versions of Form-27

It is noted that two versions, numbered A and B, are provided herewith.

If either version is used, the administration is respectfully urged to address the various concerns of the stakeholders (expressed at the stakeholders meeting) on unclarity of terms and expected practice with the new form.

In case of not worked, the text 'steps being taken for working of the invention' has been removed reflecting the fact that the public requirement or demand is non-existent for many of the patented inventions.

The significant addition in both versions is in asking the submitter to "Provide pertinent information on the extent to which the patented invention has been worked on a commercial scale in India for satisfying the reasonable requirements of the public based on non-confidential available information".

This 'open' query repeats statutorily required information. The Act does not mandate the extent to be expressed either quantitatively or qualitatively. The option is left to the patentee to provide pertinent information that informs administration of the satisfaction of the statutory requirement.

In addition, the language confirms that the queries should be answered on non-confidential available information. The word 'available' is carried forward from the paper version of current form-27, and the word 'confidential' is proactively added because answering with that response (text 'confidential') itself may vitiate the underlying purpose of confidentiality.

The text --The Patentee is informed that the Controller may publish the information provided in this form (See section 146(3) of the Patents Act 1970). The Patentee is also informed that the Controller has the option to invoke sub-section 146(1) of the Patents Act 1970 for additional information.-- has been added for informing the pertinent provisions of law.

Version B facilitates the patentee to provide information under any combination of four options. For example, if the patentee has manufactured 100 units in India, imported 75 units, licensed to five entities and has anything further to add, all four options can be availed for providing the pertinent information. On the other hand, if the patentee wishes to answer using 'Others', that option is also expressly provided for.

This is different from current electronic version of Form-27, which forces a patentee to pick either manufactured or imported, if worked is selected.

The open query and flexible approach to answers are necessitated by the need to address in a single uniform form, all segments of science/technology, including pharmaceuticals (pharma) which has been the exclusive consideration in current form-27.