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ONLINE HEARINGS BEFORE THE INTELLECTUAL PROPERTY APPELLATE BOARD (IPAB) - PRACTICE AND PROCEDURE

10 June 2020

The Intellectual Property Appellate Board (IPAB) vide three office orders dated 11 May 2020, 12 May 2020 and 26 May 2020 has set out the framework for future hearings and filings during the ongoing COVID-19 pandemic. The said orders bring about the much needed clarity regarding the functioning of the IPAB in the present times, especially considering that many urgent matters could not be filed or listed due to the non-functioning of the IPAB.

RESUMPTION OF THE FUNCTIONING OF THE IPAB

The public was first informed regarding the resumption of the functioning of the IPAB on 13 May 2020 vide IPAB's office order dated 6 May 2020 which was later expanded and merged with the order dated 11 May 2020. As per the 11 May order, the IPAB announced that it would only conduct its judicial functions through video conferencing and the filing of urgent matters will only be done through e-filing. In addition to the above, the said office order also lays down the process to be followed in cases of urgent mentioning and requests for adjournment, which has to be made in advance by sending an email to the Deputy Registrar at ipab.tn@nic.in.

PROCEDURE FOR ONLINE HEARING

The step-by-step procedure that will be followed by the IPAB for conducting its hearings is laid down in the office order dated 11 May 2020, which is summarized as below:

- The hearings will be conducted over the NIC "Vidyo" platform.
- The lawyers/litigants who are desirous of participating in the video conference hearings are required to send their requests to ipab.tn@nic.in providing details such as their names, case title, case number, date of hearing along with their contact details well in advance of the hearing date.
- The link and pin for joining the online hearing along with the time slot of the hearing will be shared with the lawyers/litigants by the IPAB via email.

- The recipients will be required to download a plugin for the NIC Vidyo platform on their browser to join the video conference.
- In case there is a failure to appear within the requisite time slot, the matter may be adjourned to a future date.

PROCESS OF APPLYING FOR URGENT HEARING

The said office order dated 11 May also specifies the process of applying for urgent hearing to the IPAB, which is as follows:

- The litigants/lawyers will be required to file the complete scanned copy of the Appeal or Application along with all relevant documents such as annexures, fee receipts, miscellaneous petition for urgent hearing etc. through email to the IPAB.
- The complete set of filings will then be perused by the Chairman who will decide whether the matter is to be listed before the IPAB for an urgent hearing.
- The decision regarding the listing of the matter for an urgent hearing will be communicated to the concerned litigants/lawyers through their respective email addresses.

PROCESS OF E-FILING OF FRESH CASES

The procedure to be followed for e-filing of fresh cases is laid down in the office order dated 12 May 2020. The order states that fresh cases which were being filed after 2 May 2020 are to be filed through email to the Deputy Registrar at ipab.tn@nic.in for listing before the IPAB. The said requirement has been slightly modified by the IPAB vide its office order dated 26 May 2020, which now requires the filing to be done by email to the email addresses of all five registries at their respective jurisdictions. The 26 May 2020 order further directed the listing of all the withdrawal applications filed in all zones except for Delhi.

The 12 May 2020 order requires the Petitioner/Appellant to serve a copy of the pleadings to the Respondent via email and exempts the parties from scanning their petitions on green sheets, allowing them to file their pleadings on A4 size papers until further orders.

The latest order dated 26 May 2020 additionally requires the advocates to forward all documents already filed with the IPAB, since e-filing is permitted, to the respective registries to enable segregation of documents according to the jurisdiction. The lawyers/litigants are required to file an undertaking stating that the physical copies of the documents shall be submitted to the IPAB once the IPAB resumes normal functioning.

COMMENT

In the recent times, the IPAB has been facing difficulties with regard to its functioning due to the unavailability of its members, which has led to more than 4000 matters being pending before the board. In such a background, the decision to conduct online hearings and e-filing during the ongoing pandemic is welcomed as the same will lead

to the hearing of matters which have been pending for a long time instead of the pendency of matters being further deepened due to the non-functioning of the IPAB.

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