

Registration Number : DOIPP/E/2016/00170
Name Of Complainant : Bharat Bhogilal Patel
Date of Receipt : 09 May 2016
Received by : Department of Industrial Policy & Promotion
Forwarded to : Patent Office Mumbai
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Grievance Description : This email is reference to the affidavit filed by Custom Department on 28-04-2016 in FAO(OS) No 361 of 2013 at Delhi High Court and on the issue of validity of my patents number 188787 189027, in Para 22 they have said that Dy. Controller Of Patent Designs replies dated 31-12-2015 17-02-2016 are found to be Contradictory and does not establish that the patent is in force and due to it they have referred to the Jt Secretery and legal advisor,Ministry Of Law justice,Mumbai as advise to them By CBEC VIDE LETTER DATED 02-02-2016.Custom Department is now and then raising the issue of validity of my patent number 188787 189027 and delaying the enforcement proceeding to help importers. I would like to know from DIPP, PATENT OFFICE AND MINISTRY OF COMMERCE status of my patent number as on today on validity and enforceability. I also request DIPP, PATENT OFFICE AND MINISTRY OF COMMERCE to give clear direction and issue a letter to me and CBEC on validity of my patent number 188787 189027 for enforcing my rights at customs as per IPR enforcement rule 2007 and trip agreement. i have explained Custom department that as per Patent Act 1970 Section 113 (1) my patent are valid as Bombay High Court By its Order Dated 03-09-2015 have squashed and set aside the revocation of IPAB and by Section 147(2) of patent act 1970 my patent are valid as Controller has said that my Patents are legally in force and has entered it in e-register which is also admissible as evidence in all courts but in spite of this they want to get confirmation from DIPP,PATENT OFFICE AND MINISTRY OF COMMERCE .Custom Department to Help Importers to import infringing products are willfully and deliberately raising issue of validity of patents again and again and even after court orders due to this i am most affected party and aggrieved party. Due to above said issue i once again request respectable yourself to look into above and give clear instruction to CBEC and Custom Department on my patent validity and enforceability.

Current Status : CASE CLOSED

Date of Action : 12 May 2016

Details : With reference to the grievance number DOIPP/E/2016/00170, this is to inform you that according to order dated 03/09/2015 passed by Hon'ble High Court of Bombay in the matter of WP (L) 2867 of 2014 the order passed by them on 13/11/2014 (in the same WP) will continue till 3rd Respondent (IPAB) passes final order in the matter of TRA/05/2008/PT/MUM TRA/06/2008/MUM (copies of both orders are attached for ready reference) Facts : IPAB revoked the patents 188787 and 189027 vide order dated 12/06/2012. IPAB order dated 12/06/2012 was challenged by Mr.Bharat Bhogilal Patel by writ petition Number 18565 and 18566 of 2012 at Honourable Madras High Court, in which the Honourable Madras High Court vide order dated 19/11/2012 had granted Interim stay for six weeks on the order of IPAB regarding revocation of the patents. The said stay order was further continued by Hon'ble High Court of Bombay (see order dated 13/11/2014) and the final order issued on 03/09/2015 (i.e. High Court of Bombay) in the matter of WP (L) 2867 of 2014 by saying that "the order passed by them on 13/11/2014 (in the same WP) will continue till 3rd Respondent (IPAB) passes final order". In view of the above facts, the statuses of the said Patents are "In force".