

NOTICE

The High Court at Calcutta is in the process of framing the *INTELLECTUAL PROPERTY RIGHTS DIVISION RULES OF THE HIGH COURT AT CALCUTTA, 2023*. A draft of the proposed Rules is enclosed herewith. The members of the Bar, stakeholders are requested to send their comments/suggestions if any, within January 5th, 2024 through email at calhc.registrarcc@gmail.com

**INTELLECTUAL PROPERTY RIGHTS DIVISION RULES OF THE HIGH
COURT AT CALCUTTA, 2023**

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PREAMBLE

Whereas, upon the promulgation of the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 ("Ordinance"), now the Tribunal Reforms Act, 2021 and upon the recommendation of the Committee constituted to take steps further to the said legislation by creating an Intellectual Property Division ("IPRD") and the Intellectual Property Rights Appellate Division ("IPRAD") in the High Court at Calcutta to deal with matters relating to Intellectual Property subject matter ("IPR").

The substantive provisions governing Intellectual Property subject matter are contained in the Copyright Act, 1957, The Designs Act, 2000; The Geographical Indications of Goods (Registration and Protection) Act, 1999; The Information Technology Act, 2000; The Patents Act, 1970; The Protection of Plant Varieties and Farmers' Rights Act, 2001; The Semiconductor Integrated Circuits Layout-Design Act 2000; The Trade Marks Act, 1999 and also in common law.

In exercise of the powers conferred by Section 129 of the Code of Civil Procedure, 1908 and Clause 37 of the Letters Patent, 1865 and the powers conferred under the various Intellectual Property Statutes aforementioned and as amended by the said the Tribunal Reforms Act, 2021, the High Court at Calcutta makes the following rules hereinafter referred to as the '*INTELLECTUAL PROPERTY RIGHTS DIVISION RULES OF THE HIGH COURT AT CALCUTTA, 2023*' governing the matters listed before the Intellectual Property Rights Division and the Intellectual Property Rights Appellate Division with respect to practice and procedure for the exercise of its ordinary original, appellate and writ jurisdiction, and for other miscellaneous petitions arising out of intellectual property subject matter and related statutes including anything arising out of common law.

INTELLECTUAL PROPERTY RIGHTS RULES OF THE HIGH COURT AT
CALCUTTA, 2023

CHAPTER I
PRELIMINARY

1. Short title and commencement:

- (a) These Rules shall be called the “Intellectual Property Rights Rules of The High Court at Calcutta, 2023”.
- (b) The Rules shall come into force on the date of publication in the Official Gazette.

2. Definitions and interpretations:

In these Rules, unless the context otherwise requires,

- (a) “Acts” means The Copyright Act, 1957, The Designs Act, 2000, The Geographical Indications of Goods (Registration and Protection) Act, 1999, The Information Technology Act, 2000, The Patents Act, 1970, The Protection of Plant Varieties and Farmers' Rights Act, 2001, The Semiconductor Integrated Circuits Layout-Design Act 2000, The Trade Marks Act, 1999 and such other Acts as may be notified from time to time;
- (b) “Address for service” as mentioned in the Form(s) to Schedule II shall mean the address furnished by the parties including the currently authorized trade mark agent, patent agent or other agent, and the advocate or firm before the IPO at which service of summons, notices or other processes may be effected;
- (c) “Agent” shall mean agents referred to under each of the Acts specified in Rule 2(a) above;
- (d) “Appeal” unless the context otherwise requires, shall mean an appeal filed before the High Court under the Acts specified in Rule 2(a) above and appeals arising out of proceedings instituted under Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015.
- (e) “Application” unless the context otherwise requires, shall mean applications, complaints, disputes, petitions and references filed under the Acts specified in Rule 2(a) above;
- (f) “Department” means the Department to be set up for the administration and management of all proceedings under the Intellectual Property Rights Division and Intellectual Property Rights Appellate Division;

- (g) "Effective date" shall mean the date on which these Rules come into force;
- (h) "Fee" shall mean the fees prescribed in Schedule III to these Rules;
- (i) "Form" shall mean the form(s) prescribed in Schedule II to these Rules with such modifications or variations as the circumstances may require;
- (j) "High Court" shall mean the High Court at Calcutta;
- (k) "Intellectual Property subject matter proceedings" shall include all proceedings defined in Rule 2(o) below of the following subject matter:
- i. Copyrights, Designs, Geographical Indications, Patents, Plant Varieties, Semiconductor Integrated Circuit Layout-Designs, Trade Marks, Traditional Knowledge under the said Acts and common law rights, if any, relating thereto;
 - ii. Passing off, acts of unfair competition, disparagement of goods and businesses, comparative advertising and like matters;
 - iii. Protection of trade secrets, confidential information and related subject matters;
 - iv. Privacy and publicity rights arising out of intellectual property subject matter;
 - v. Data exclusivity, domain names and other matters relating to data protection arising out of intellectual property subject matter and/or arising under the Acts mentioned in Rule 2(a) above;
 - vi. Internet violations relating to any of the subject matters under Rule 2(k) (i) (ii), (iii), (iv) and (v) above;
 - vii. Rights and liabilities of intermediaries, online marketplaces, and e-commerce platforms as defined in Section 2(1)(w) of the Information Technology Act, 2000 arising out of issues relating to any of the subject matters mentioned in Rule 2(k) (i) (ii), (iii), (iv) (v) and (vi) above;
 - viii. Franchising, licensing and technology development agreements relating to any of the subject matters under clauses (i) through (vii);
 - ix. Any other matter that may be notified;
- (l) "IPAB" shall mean the "Intellectual Property Appellate Board";

- (m) “Intellectual Property Office” (IPO) shall mean appropriate offices specified in the Acts defined above;
- (n) “Pleadings” shall include complaints, written statements, counterclaims, replications, applications, memorandum of appeals, disputes, references, complaints, affidavits, counter affidavits, counter-statements, petitions, reviews, replies, rejoinders, rejoinder affidavit;
- (o) “Proceedings” shall mean and include:
- i. Intellectual Property subject matter suits and proceedings arising therefrom, including those instituted under the Commercial Courts Act 2015;
 - ii. All appeals arising out of orders/judgements passed in proceedings mentioned in (i) above and including those arising out of orders/judgements passed in Intellectual Property subject matter suits filed in Courts other than the High Court and proceedings connected therewith from which an appeal lies to the High Court;
 - iii. All original, appellate and other proceedings originally filed before the IPAB and transferred to the High Court consequent to the Tribunals Reforms Act, 2021;
 - iv. All applications and appeals required to be filed before the High Court consequent to the Tribunal Reforms Act, 2021 including revocation applications, cancellation applications, other original proceedings and petitions and all other proceedings which were hitherto maintainable before the IPAB under the provisions of the Acts as defined in Rule 2(a);
 - v. Appeals arising out of orders mentioned in (iii) and (iv) above;
 - vi. Writ Petitions under Article 226 and 227 of the Constitution of India involving, or arising out of, any action or inaction of the concerned IPOs or any orders/judgements passed in any suit and/or proceedings mentioned above in (i) to (v);
 - vii. All revision and review petitions arising out of orders/judgements passed in suits and proceedings mentioned above.
- (p) “Transferred IPAB proceedings” shall mean and include all applications, appeals and other proceedings pending before the IPAB and transferred to the High Court consequent to the Tribunals Reforms Act, 2021;

3. Applicability:

These Rules shall govern and apply to all intellectual property subject matter proceedings in the High Court after the effective date.

CHAPTER II **ESTABLISHMENT OF SEPARATE IP DIVISIONS**

4. Intellectual Property Rights Division

- (a) There shall be a Division in the High Court to be known as the Intellectual Property Rights Division (hereinafter referred to as the 'IPRD'), having two or more Benches consisting of Single Judges for the purpose of exercising the jurisdiction and powers conferred under these Rules.
- (b) The Chief Justice shall nominate such number of Judges of the High Court, as may be necessary, to preside over the IPRD. Such Judges shall preferably have experience in dealing with intellectual property subject matter.
- (c) The IPRD shall have exclusive jurisdiction over all Intellectual Property subject matter proceedings required to be heard by a Single Judge including:-
 - i. All Transferred IPAB proceedings;
 - ii. All Intellectual Property subject matter proceedings pending in the High Court on the effective date, except those required to be heard before a Division Bench.
 - iii. All Intellectual Property subject matter proceedings filed after the effective date except those required to be heard before a Division Bench.
- (d) All Intellectual Property subject matter proceedings required to be heard by a Single Judge shall be transferred to the IPRD.

5. Intellectual Property Rights Appellate Division

- (a) There shall be an Appellate Division in the High Court to be known as the Intellectual Property Rights Appellate Division (hereinafter referred to as the 'IPRAD'). The same shall have one or more Benches comprising of two judges for the purpose of exercising the jurisdiction and powers conferred under these Rules.
- (b) The Chief Justice shall nominate such number of Judges of the High Court, as may be necessary, to preside over the IPRAD. Such Judges shall preferably have experience in dealing with intellectual property subject matter.

- (c) All Intellectual Property subject matter proceedings required to be heard by a Division Bench shall be transferred to the IPRAD which shall have exclusive jurisdiction to hear the same.
- (d) The IPRAD shall hear all appeals against orders passed by the IPRD.

6. Intellectual Property Rights Division Department:

There shall be an Intellectual Property Rights Division Department for the administration and management of all proceedings under the IPRD and the IPRAD.

CHAPTER III
SPECIAL PROVISIONS FOR IPR PROCEEDINGS

7. Procedure in Transferred IPAB proceedings:

- (a) All such proceedings shall be re-numbered by the Department in accordance with Schedule I to the Rules.
- (b) Upon transfer, the same shall be caused to be listed by the Department expeditiously in a warning list before the same is listed before the IPRD. Such warning list shall be published every week from the effective date.
- (c) The IPRD shall proceed with the matter from the stage at which it was transferred to the IPRD.
- (d) Upon transfer, the provisions including the timelines prescribed in these Rules shall apply to those procedures that were incomplete on the effective date. On the date of first listing, the IPRD may, however, prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such proceedings. The IPRD shall take into account any event of default which may have occurred prior to the effective date while prescribing any new timelines or issuing any such direction.
- (e) At the time of first listing and/or soon thereafter, the IPRD shall consider grant of interim relief and/or pass such other orders and/or directions as may be necessary.
- (f) The IPRD shall endeavour to dispose of all such proceedings expeditiously.

8. Procedure in Intellectual Property subject matter suits filed prior to the effective date in the High Court and proceedings including appeals connected therewith

- (a) All Intellectual Property subject matter suits filed in the High Court prior to the effective date and all proceedings including appeals arising therefrom, shall be transferred to the IPRD or the IPRAD, as the case may be and renumbered as per Schedule I to these Rules.
- (b) Upon transfer, the same shall be caused to be listed by the Department expeditiously in a warning list before the same is listed before the IPRD or the IPRAD, as the case may be. Such warning list shall be published every week from the effective date.
- (c) Upon transfer of suit and/or proceedings including appeals in terms of Rule 8(a) above :-
 - i. The procedures and timelines prescribed in the schedule to the Commercial Courts Act, 2015 shall become applicable to such suits including those procedures that remained incomplete on the effective date.
 - ii. On the date of first listing, the IPRD may, however, prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such proceedings. The IPRD shall take into account any event of default which may have occurred prior to the effective date while issuing any new direction. The IPRD may issue directions to bring pleadings in all such suits in compliance with the requirements of the Commercial Courts Act, 2015.
 - iii. The IPRD or the IPRAD, as the case may be, shall proceed with the matter from the stage it was transferred pursuant to the notification of these Rules.
- (d) This rule shall apply to all proceedings including appeals filed after the effective date in suits filed before the effective date.
- (e) The IPRD and the IPRAD shall endeavour to dispose of all such suits and proceedings including appeals connected therewith expeditiously.

9. Procedure in Intellectual Property subject matter suits filed in the High Court after the effective date and proceedings including appeals connected therewith

- (a) All Intellectual Property subject matter suits filed in the High Court after the effective date and proceedings including appeals connected therewith, shall be filed before and heard by the IPRD or the IPRAD, as the case may be.
- (b) The IPRD and the IPRAD shall endeavour to dispose of all such suits and proceedings including appeals connected therewith expeditiously..

10. Procedure in appeals arising out of judgements and orders in passed in Intellectual Property subject matter suits filed in Courts other than the High Court and proceedings connected therewith from which an appeal lies to the High Court

- (a) All appeals filed in the High Court prior to the effective date against judgements and orders passed by other Courts in Intellectual Property subject matter suits and proceedings connected therewith shall be transferred to the IPRAD and shall be renumbered as per Schedule I to these Rules. Upon transfer, the same shall be caused to be listed by the Department expeditiously in a warning list before the same is listed before the IPRAD. Such warning list shall be published every week from the effective date.
- (b) After the effective date, all appeals from judgments and orders in Intellectual Property subject matter suits and proceedings against which an appeal lies to the High Court, shall be filed before and heard by the IPRAD.
- (c) The IPRAD shall endeavour to dispose of all appeals expeditiously.

11. Procedure in Intellectual Property subject matter Writ Petitions, Civil Revision Petitions and Review Petitions

- (a) All pending writ petitions, civil revision petition and review petitions arising out of orders relating to an intellectual property subject matter proceedings or in a matter arising under any of the Acts defined in these Rules which are pending on the effective date shall be transferred to the IPRD or the IPRAD, as the case may be. The same shall be renumbered as per Schedule I to these Rules. Upon transfer, the same shall be caused to be listed by the Department expeditiously in a warning list before same is listed before the IPRD. Such warning list shall be published every week from the effective date.
- (b) After the effective date, all writ petitions, civil revision petitions and review petitions arising out of orders passed in intellectual property subject matter proceedings or in a matter arising under any of the Acts, shall be filed before and heard by the IPRD or the IPRAD, as the case may be.
- (c) All such writ petitions, civil revision petition and review petitions shall comply with rules of the High Court applicable thereto.
- (d) Appeals from judgments and orders passed by the IPRD in such matters shall heard by the IPRAD;
- (e) The IPRD or the IPRAD, as the case may be, shall endeavour to dispose of all such proceedings expeditiously.

12. Procedure in Applications arising out of the Acts mentioned in Rule 2(a)

- a) All applications under the Acts mentioned in Rule 2(a) above shall be in conformity with the forms prescribed in Schedule II to these rules along with all evidence/ documents intended to be relied on.
- b) The concerned IPO and all contesting parties shall be impleaded as Respondents in all such applications.
- c) Such applications shall be served on all necessary and proper parties including the concerned IPO in accordance with the provisions of service prescribed in these Rules.
- d) The IPRD may direct the Registrar or Controller or any authorized representative of the IPO to be present or represented in accordance with the provisions of the Act(s).
- e) Copies of all substantive orders passed by the IPRD in all applications shall be communicated by the Department to the concerned IPO by email within seven (7) days from the date of such order being passed.
- f) If interim orders are sought, an application akin to an application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 as amended by the Commercial Courts Act, 2015 may be filed setting out the grounds for such interim orders.
- g) Upon service of the application, the respondents shall file a reply with all evidence/ documents intended to be relied on within 45 days from the date of service of the application unless the IPRD otherwise directs. However, in the case of applications under the Patents Act, 1970, the period for filing such Reply shall be 90 days.
- h) A copy of such reply shall be served on the other parties in accordance with the provisions for service prescribed in these Rules.
- i) Rejoinder, if any, shall be filed within 30 days from the date of service of reply unless the IPRD otherwise directs. However, in the case of applications under the Patents Act, 1970, the period for filing such Rejoinder shall be 45 days.
- j) Inspection of all original documents shall be provided, if called upon, within a period of 15 days from the request received by the party from whom inspection is sought or such other time as the IPRD may permit.
- k) The IPRD may permit oral evidence including cross examination, if necessary, only upon being satisfied of the necessity of oral evidence.

- l) Filing of any further affidavits or pleadings or any documents shall be permitted only with the leave of the IPRD.

13. Procedure in appeals arising out of the Acts mentioned in Rule 2(a)

- a) All appeals under the Acts mentioned in Rule 2(a) above shall be in conformity with the forms prescribed in Schedule II to these rules.
- b) A Memorandum of Appeal shall be filed along with a certified copy of the impugned order unless leave is obtained from the IPRD to file the appeal without a certified copy of the impugned order. The same shall ordinarily be accompanied by a Paper Book containing all documents forming part of the records of the IPO.
- c) The appellant shall be required to separately apply for condonation of delay, where necessary.
- d) The concerned IPO and all contesting parties shall be impleaded as Respondents in all such appeals.
- e) Such appeals shall be served on all necessary and proper parties including the concerned IPO in accordance with the provisions of service prescribed in these Rules.
- f) Filing of reply to the appeal shall be permitted only if necessary and upon seeking prior leave of the IPRD within such time as the IPRD may direct. Rejoinder, if any, may be filed within such time as the IPRD may direct. Filing of any further pleadings shall be permitted only with the leave of the IPRD;
- g) No party shall be entitled to rely on any new or additional document which did not form part of records of the original proceedings unless prior leave is obtained for such purpose by applying for leave with cogent grounds for failure and/or inability to disclose the same before the concerned IPO and the necessity for relying on such documents.
- h) The Appellant will be entitled to apply for suitable interim reliefs.
- i) The IPRD may direct the Registrar or Controller or any authorized representative of the IPO to be present or represented in accordance with the provisions of the Act(s).
- j) Copies of all substantive orders passed by the IPRD in all appeals shall be communicated by the Department to the concerned IPO by email within seven (7) days from the date of such order being passed.

CHAPTER IV

GENERAL PROCEDURE FOR PROCEEDINGS UNDER THESE RULES

14. Preliminary and Extent of applicability

While Rules 12 and 13 are specific to appeals and applications under the Acts mentioned in Rule 2(a) above, Rule 15 to Rule 27 shall be applicable to all Intellectual Property subject matter proceedings before the IPRD and IPRAD. The same shall also apply to appeals and applications mentioned in Rule 2(a) above to the extent there is no conflict.

15. Filing of pleadings:

- (a) All pleadings/documents shall be filed electronically in accordance with the e-filing Rules, 2021 of the High Court at Calcutta, as notified on 16th December 2021 and/or any subsequent amendment thereto.
- (b) The Department shall direct the party / its advocate to take steps for the removal of the defects, if any detected upon scrutiny, within a fixed time and the Department may for reasons to be recorded in writing, decline to register the proceeding until such defect is rectified. Time for compliance may be extended by the Department on sufficient cause being shown for non-compliance within the time originally fixed for removal of defects;
- (c) The Department shall number and/or renumber the proceedings in the manner provided in these Rules;

16. Service of Pleadings, Documents and Notices:

- (a) Unless otherwise directed by the IPRD or the IPRAD, an advance copy of the pleadings shall be served upon the parties directly or on the address for service by post and email at least two working days in advance of the date fixed for listing of the proceeding.
- (b) At the time of filing, the Plaintiff, Appellant or the Applicant, as the case may be, shall provide the Department and the contesting parties with the address, e-mail and contact number of the Advocate/Agent, as the case may be, authorised to receive pleadings, documents and correspondence on its behalf.
- (c) When the Defendant or Respondent, as the case may be, first enters appearance, it shall provide the Department and the contesting parties with the address, e-mail and contact number of the Advocate authorised to receive pleadings, documents and correspondence on its behalf.

- (d) The parties shall provide all subsequent change of names of Advocates or their address and e-mail ID forthwith to the Department and the contesting parties.
- (e) Service of all pleadings, documents and notices on the appointed Advocate of a party shall be treated as valid service.
- (f) The matter may be heard and disposed of after the first day of listing where the opposing party is not represented only on satisfactory proof of service being furnished.

17. Summons, Discovery and Disclosure:

The IPRD may, at any time, either of its own motion or on the prayer of any party make such orders as may be necessary or reasonable in all matters relating to:

- (a) admission of documents and facts;
- (b) discovery, inspection, production, impounding and return of documents or other material objects which may be produced in evidence;
- (c) the issue of summons to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid.

Suits and any proceedings arising therefrom, shall be governed by the Code of Civil Procedure, 1908 as amended by the Commercial Courts Act, 2015.

For all other proceedings, the IPRD and/or IPRAD shall have due regard to the provisions of the Code of Civil Procedure, 1908 as amended by the Commercial Courts Act, 2015.

18. Concurrent hearings in certain cases:

- (a) While dealing with suits, the IPRD may direct all petitions seeking revocation, rectification or cancellation involving the same subject matter be listed and heard concurrently.
- (b) While dealing with suits, the IPRD may direct any other suit or proceeding involving the same subject matter between the same parties be listed and heard concurrently or one after the other. For such purpose, the IPRD may also consolidate such proceedings.

19. Calling for records:

The IPRD or the IPRAD, as the case may be, may call for all relevant records from the concerned IPO.

20. Intervention by third parties:

- (a) Any person interested in a proceeding before the IPRD or the IPRAD as the case may be, shall apply under these rules for leave to intervene and/or be impleaded stating the nature of its interest. The IPRD or the IPRAD may refuse or grant such leave after hearing the parties concerned on such terms and conditions as it deems fit.
- (b) Where such intervention is permitted or where a party is impleaded, such person shall be entitled to require the plaintiff, petitioner, applicant or appellant, as the case may be, to supply, without charge, copies of all pleadings and documents which have been filed in the case. The documents must be supplied within 48 hours after a written request is received or within such time as may be fixed by the IPRD or the IPRAD as the case may be. .

21. Recording of Evidence:

Where expedient, the IPRD may direct:

- (a) The recording of evidence at any venue outside the premises of the High Court;
- (b) The recording of evidence by a Local Commissioner;
- (c) The use of videography and transcription technology or any other form of recording evidence.
- (d) The recording of evidence of witnesses residing outside India by video conferencing;
- (e) In case of evidence by experts, the same may be recorded by resorting to procedures such as hot-tubbing or other such modes, as the IPRD deems fit and necessary.

22. Independent Experts:

- (a) If any of the parties seeks the appointment of an independent expert, the IPRD may appoint such expert if it is of the opinion that the view of an

independent expert is necessary to be obtained on specific points and/or questions to be formulated by it.

- (b) If the parties are unable to agree on the name of such expert, the IPRD may appoint such Expert as it deems fit and proper. For such purpose, the parties may be required by the IPRD to submit a list of qualified experts willing to act. The objections of the parties to the experts named in such lists will be considered before appointing any such expert.
- (c) If, necessary, the IPRD may also appoint an expert who is not named in the lists submitted by the parties but from a separate list of experts to be maintained by the Department.
- (d) The IPRD may also on its own motion appoint such expert if it is of the opinion that the view of an independent expert is necessary to be obtained on specific points and/or questions to be formulated by it.
- (e) The IPRD may give appropriate directions to enable the expert to perform any examination or inspection or experiments or tests, as may be necessary and for the costs that may be incurred for such purpose.
- (f) The IPRD will determine the terms of appointment and the remuneration of the expert appointed including the costs of attending hearings for deposing.
- (g) The IPRD shall require the expert to appear physically or through video conferencing to be examined by the parties, if required by any of the parties.
- (h) General duties of Independent Experts:
 - i) The independent Expert shall provide a declaration that he or she has no conflict of interest with the subject matter of the dispute and will assist the IPRD fairly and impartially.
 - ii) Evidence is to be given in a written report unless the IPRD directs otherwise.
 - iii) The report must clearly state the substance of all material instructions, whether written or oral, on the basis of which the report was written.

23. Preservation of Confidential information:

At any stage in a proceeding, the IPRD may adopt appropriate measures for the preservation and exchange of confidential information filed and/or to be filed before it. It may, also on a request by any party, direct the redaction of any information it deems to be confidential on such terms as it deems fit and proper;

24. Summary Judgement:

The IPRD shall be entitled to pass summary judgment in intellectual property subject matter suits on principles akin to those contained in Order XIII A, Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015.

25. Procedure for Fast Track Hearings:

In appropriate circumstances, the IPRD may provide for a fast track procedure for final disposal of intellectual property subject matter suits and proceedings. In such case, the IPRD may curtail the timelines normally applicable in respect of such proceedings and set the timelines and steps required for speedy disposal of the matter, including allotment of time for arguments taking into account the complexity of the case and the number of contesting parties required to be heard.

26. Translations and transliterations:

No document in a language other than English, intended to be used in any proceeding before IPRD or the IPRAD, as the case may be, shall be received by the Department, unless accompanied by :

- (a) A duly certified English translation thereof or
- (b) A translation generated using standard online translation software such as Google Translate or Bing Translate provided however that such online translation may be rejected if the other party is able to establish the inaccuracy thereof

27. Imposition of Costs:

- (a) In proceedings under these Rules, costs may be awarded on principles akin to Section 35, Section 35A and Section 35B of the Code of Civil Procedure Code, 1908 as amended by the Commercial Courts Act, 2015.
- (b) In determining the costs, all the circumstances, including the conduct of the parties, whether a party has succeeded partly in a case, whether a party has taken a frivolous stand leading to a delay in disposal of the case and whether a reasonable offer to settle the dispute has been made by a party and refused by the other party shall be taken into account.

CHAPTER V

MISCELLANEOUS

28. Applicability of the High Court at Calcutta Commercial Courts Practice Directions, 2021

Unless expressly provided for under these Rules, the High Court at Calcutta Commercial Courts Practice Directions, 2021 shall be applicable to all intellectual property proceedings.

29. Power to remove difficulties:

If any difficulty arises in giving effect to the Rules, the High Court may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Rules as may appear to be necessary for removing the difficulty.

In case of any conflict, inconsistency or repugnancy, between these Rules and any other Rules or practice directions made by the High Court at Calcutta from time to time, the Rules herein shall prevail in relation to all Intellectual Property subject matter proceedings.

SCHEDULE I**NOMENCLATURE**

APPEALS UNDER THE ACTS		
1.	IPD/TMA	Appeals under the Trade Marks Act, 1999
2.	IPD/CRA	Appeals under the Copyright Act, 1957
3.	IPD/PTA	Appeals under the Patents Act, 1970
4.	IPD/GIA	Appeals under the GI of Goods (Registration and Protection) Act, 1999
5.	IPD/PVA	Appeals under the Plant Varieties and Farmers Right Act, 2001
6.	IPD/SCD	Appeals under The Semiconductor Integrated Circuits Layout-Design Act, 2000
7.	IPD/AID	Appeals under the Designs Act, 2000
8.	IPD/ITA	Appeals under the Information Technology Act, 2000
ORIGINAL APPLICATIONS/PETITIONS UNDER THE ACTS		
9.	IPD/ATM	Applications under Section 47, 57, 125 of Trade Marks Act, 1999
10.	IPD/CR	Applications under Section 50 of the Copyright Act, 1957
11.	IPD/PAT	Applications under Section 58/64/71/103 of the Patents Act, 1970
12.	IPD/GI	Applications under Section 27 /58 of Geographical Indications of Goods (Registration and Protection) Act, 1999
13.	IPD/IT	Applications under Section 46(1A) of the Information Technology Act, 2000
14.	IPD/SCDA	Petition/Application under Section 40/Section 41 of The Semiconductor Integrated Circuits Layout-Design Act, 2000
OTHER NOMENCLATURE FOR PROCEEDINGS BEFORE THE IPRD AND THE IPRAD		
15.	CS - IPD (Com)	Intellectual Property subject matter suits
16.	WPO-IPD	Intellectual Property subject matter Writ Petitions
17.	CC-IPD	Intellectual Property subject matter Contempt Petitions
18.	ALP-IPD	Intellectual Property subject matter Applications under Clause 13 of Letters Patent

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19.	APO-IPD	Appeal from order arising from an Intellectual Property subject matter proceeding
20.	TEMPAPO - IPD	Appeal from order Temp from an Intellectual Property subject matter proceeding
21.	FA-IPD	Civil First Appeal arising from an Intellectual Property subject matter proceeding
22.	FAT-IPD	Tender First Appeal arising from an Intellectual Property subject matter proceeding
23.	FMA-IPD	Civil Appeal from Order arising from an Intellectual Property subject matter proceeding
24.	FMAT-IPD	Admission Of Civil Appeal from Order arising from an Intellectual Property subject matter proceeding
25.	CR-IPD	Civil Revision arising from an Intellectual Property subject matter proceeding
26.	FA-IPD	Civil First Appeal arising from an Intellectual Property subject matter proceeding
27.	FAT-IPD	Tender First Appeal arising from an Intellectual Property subject matter proceeding
28.	RVW-IPD	Review arising from an Intellectual Property subject matter proceeding
29.	WPA-IPD	Writ Petition arising from an Intellectual Property subject matter proceeding
30.	LPA- IPD	Letters Patent Appeal from an Intellectual Property subject matter proceeding

SCHEDULE II
FORMS

FORM NO. 1
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction
Intellectual Property Rights Division
[insert NOMENCLATURE]

APPLICATION/PETITION/COMPLAINT UNDER SECTION [insert
relevant section] OF THE [INSERT ACT]

(score out the provision not applicable)

(COURT FEES: _____)

1. Name and address of the Petitioner/Applicant :
2. Name and address of Advocate of the
Petitioner/Applicant with email id :
3. Name of the Respondent(s) with address :
4. Respondent's address for service with the IPO
with email id :
5. Relief claimed and relevant sections :
6. Particulars of previous or parallel proceedings
between the parties on the same or connected
subject matter :
7. Particulars of the impugned intellectual property
of the Respondent(s) :
8. Particulars of the intellectual property rights of the
Petitioner :
9. Interest of the Petitioner/Applicant, in brief :
10. Grounds on which the relief is sought for :
11. Declaration: The Petitioner/Applicant herein has stated all relevant facts
and has filed all relevant documents for the purpose of deciding the
instant petition/application and nothing material has been concealed here
from.
12. Prayer including any interim relief sought for :

[Name & Signature of the
Petitioner/Applicant]

13. Affidavit in support
14. List of Documents

FORM NO. 2
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction
Intellectual Property Rights Division
[insert NOMENCLATURE]

APPEAL UNDER SECTION [insert relevant section] OF THE [INSERT ACT]
FROM ORDER DATED _____

(COURT FEES: _____)

1. Name and address of the Appellant :
2. Name and address of Advocate of the Appellant :
with email id
3. Name of the Respondent(s) with address :
4. Respondent's address for service with the IPO :
with email id
5. Date of the Impugned Order and limitation :
6. Particulars of previous or parallel proceedings :
between the parties on the same or connected
subject matter
7. Particulars of the impugned order, in brief :
8. Particulars of the intellectual property rights of the :
Appellant
9. Grounds on which the relief is sought for :
10. Declaration: The Appellant herein has filed and stated all relevant facts
and all relevant documents for the purpose of deciding the instant appeal
and no new or additional documents other than those filed before the IPO
is filed herewith.
11. Prayer including any interim relief :

[Name & Signature of the Appellant]

12. Affidavit in support
13. List of Documents

SCHEDULE III
FEES

S. NO	ACT AND SECTION UNDER WHICH FILED	NOMENCLATURE	COURT FEES PAYABLE (RS.)
1.	PETITION/APPLICATION UNDER SECTION 47/57/125 OF THE TRADE MARKS ACT, 1999	IPDATM/ ____ / _____	10,000/-
2.	APPEAL UNDER SECTION 91 OF THE TRADE MARKS ACT, 1999	IPDTMA/ ____ / _____	5,000/-
3.	PETITION/COMPLAINT/APPLICATION UNDER SECTIONS 19A/31/31A/31B/31C/31D/32/32A/33A/31C(5)/50 OF THE COPYRIGHT ACT 1957	IPDCR/ ____ / _____	10,000/-
4.	APPEALS UNDER SECTION 72 OF THE COPYRIGHT ACT, 1957	IPDCRA/ ____ / _____	5,000/-
5.	PETITION/APPLICATION UNDER SECTIONS 58/64/71 OF THE PATENTS ACT, 1970	IPDPAT/ ____ / _____	10,000/-
6.	APPEAL UNDER SECTION 117-A OF THE PATENTS ACT, 1970	IPDPTA/ ____ / _____	10,000/-
7.	APPEAL UNDER SECTIONS 56 OF THE PROTECTION OF PLANTS VARIETIES AND FARMERS' RIGHTS ACT, 2001	IPDPVA/ ____ / _____	5,000/-
8.	PETITION/APPLICATION UNDER SECTION 27/58 OF THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999	IPDGI/ ____ / _____	10,000/-
9.	APPEAL UNDER SECTION 31 OF THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999	IPDGIA/ ____ / ____	5,000/-

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10.	PETITION/APPLICATION UNDER SECTION 40/41 OF THE SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT-DESIGN ACT, 2000	IPDSCDA/____ / _____	10,000/-
11.	APPEAL UNDER SECTION 42 OF THE SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT-DESIGN ACT, 2000	IPDSCD/____ / _____	5,000/-
12.	APPEAL UNDER SECTION 36 OF THE DESIGNS ACT, 2000	IPDAID/____ / _____	5,000/-
13.	PETITION UNDER SECTION 46 OF THE INFORMATION TECHNOLOGY ACT, 2000	IPDIT/____ / _____	10,000/-
14.	APPEAL UNDER SECTION 62 OF THE INFORMATION TECHNOLOGY ACT, 2000	IPDITA/____ / _____	5,000/-