IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL MISCELLANEOUS PETITION NO. 17 OF 2026

SAATHI, Inc. …Petitioner

Versus

Office of the Controller General of Patents,

Designs, and Trade Marks and Anr. …Respondents

———

Mr. Hiren Kamod a/w. Mr. Lalit Munshi, Devanshi Sanghvi and Mr. Satyajit Khairnar i/b. Samvad Partners for Petitioner.

None for the Respondents.

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CORAM : ARIF S. DOCTOR, J.

RESERVED ON : 7th MAY 2026

PRONOUNCED ON : 15th JUNE 2026

JUDGMENT:

1. The captioned Petition has been filed under Section 117A of the Patents Act, 1970 ("**the Act**"), challenging an Order dated 17th July 2025 ("**Impugned Order**") by which Respondent No. 1 allowed the post-grant opposition filed by Respondent No. 2 under Section 25(2) of the Act and revoked the Petitioner's Patent No. IN365526.

2. The Respondents, though served, have not appeared. It is thus that the Petition is taken up for hearing.

3. Mr. Kamod, Learned Counsel appearing on behalf of the Petitioner has assailed the Impugned Order on essentially four grounds: (I) the Impugned Order is a non-speaking order; (II) the Impugned Order does not have any reasons for departing from the recommendations of the Opposition Board; (III) the Impugned Order fails to consider the issue of the lack of locus of Respondent No. 2 to maintain the opposition proceedings; and (iv) Respondent No. 2 had not filed an affidavit of evidence in support of the Opposition.

4. However, before advancing submissions on merits, Mr. Kamod, at the outset, invited my attention to Rule 62(5) of the Patents Rules, 2003 ("**Rules**") and pointed out that the same required Respondent No. 1 to decide the opposition after taking into consideration the recommendation of the opposition board and notify his decision to the parties along with reasons. He submitted that despite Respondent No. 1

had, failed to serve a copy of the Impugned Order upon the Petitioner and that it was only on 13th January 2026 that the Petitioner, upon checking the official website of Respondent No. 1, became aware of the revocation of the Patent. He submitted that the Petitioner thereafter applied for a certified copy of the Impugned Order on 11th February 2026 and filed the present Petition on 25th February 2026, which was within the ninety-day period prescribed under Section 117A of the Act.

5. Mr. Kamod then made the following submissions on behalf of the Petitioner.

I. The Impugned Order is a Non-Speaking Order

6. Mr. Kamod, invited my attention to the Impugned Order and submitted that the same was *ex facie* a non-speaking order since it did not contain any independent reasoning to justify the revocation of the Patent. He then pointed out that Respondent No. 1 had merely reproduced the submissions of Respondent No. 2, particularly in relation to the prior art relied upon, and thereafter proceeded to revoke the Patent without any

independent analysis or findings. He therefore submitted that the Impugned Order was, in substance, only a mechanical reiteration of the submissions of Respondent No. 2, and nothing more. He further pointed out that, although the Impugned Order repeatedly recorded "*Therefore, in view of the above findings*", there are, in fact, no independent findings contained in the Impugned Order.

7. Mr. Kamod then submitted that prior to the grant, the Patent had undergone multiple stages of examination and amendment before ultimately being granted. He submitted that it is well settled that, in post-grant opposition proceedings under Section 25(2) of the Act, the threshold for revocation is much higher, since the patent has already undergone a detailed and complete examination, which includes consideration of the prior art, specification and claims. He therefore submitted that it was all the more incumbent upon Respondent No. 1 to have rendered a reasoned and speaking order dealing with the rival contentions, technical material and evidence on record and setting out

the independent reasons which would explain the basis on which the Patent had been revoked.

8. He reiterated that the Impugned Order not only lacked any independent reasoning but was also entirely silent on several submissions advanced by the Petitioner, including the objection regarding the locus of Respondent No. 2, which, according to him, ought to have been decided at the threshold.

9. Mr. Kamod then placed reliance on the decisions in ***Saurabh Arora v. Deputy Controller of Patents & Anr.***[1], ***Medipack Global Ventures (P) Ltd. v. Assistant Controller of Patents & Designs***[2], and ***Dolby International AB v. Controller of Patents & Designs***[3], in support of his contention that the Controller was under an obligation to pass a

[1] Order dated 10th March 2026 in Comm. Misc. Petition No. 46 of 2025 passed by Bombay High Court.
[2] Order dated 23rd March 2026 in Comm. Misc. Petition (L) No. 19258 of 2024 passed by Bombay High Court.
[3] 2023 SCC OnLine Del 1521.

reasoned order after due consideration of the rival contentions and the material on record, failing which such order is liable to be set aside.

II. No Reasons are Furnished for Deviating from the Recommendations of the Opposition Board

10. Mr. Kamod then submitted that the Opposition Board, which had been constituted, had also recommended the rejection of the Opposition. He submitted that despite this, and without independently dealing with the recommendations of the Opposition Board, the Report was effectively ignored by Respondent No. 1. He then invited my attention to Rule 62(5) of the Rules to point out that the said Rule mandates that the Controller shall decide the opposition after considering the recommendations of the Opposition Board. He submitted that, in the facts of the present case, Respondent No. 1 had plainly acted in utter disregard of the said Rule.

11. In support of the above contention, he relied upon the decision of the Intellectual Property Appellate Board in ***Pharmacyclics, LLC v.***

Controller General of Patents[4], which he pointed out *inter alia* held as follows:

> *"Therefore, it is evident that once the recommendation of the opposition board is in hand, the Controller is better equipped to hear the matter and decide it. Here, it is never inferred that such recommendation is binding on the Controller. But it is mandatory for the Controller to take the recommendation of the opposition board into consideration. In either case of his agreement or disagreement his clear view is required to be annotated. If this is not happening then the whole spirit of the law, having double check, is likely to lose its meaning."* (emphasis supplied)

12. He then also took pains to point out that, although Respondent No. 1 had in the Impugned Order observed that the "*Opposition Board recommendation is also important*", the recommendations themselves were completely disregarded and findings directly contrary thereto were recorded without any explanation. He also pointed out that paragraph 'XIII' of the Impugned Order was internally contradictory and demonstrated a complete non-application of mind since Respondent No.

[4] 2020 SCC OnLine IPAB 37.

1 observed that the "*Opposition Board recommendation is also important and might be the reason to take the decision to maintain the opposition on realizing the fact*", the recommendation of the Opposition Board was, in fact, to reject the Opposition. He submitted that this was a glaring example of complete non-application of mind on the part of Respondent No. 1.

III. Impugned Order Fails to Deal with the Locus of Respondent No. 2

13. Mr. Kamod next submitted that one of the principal objections raised by the Petitioner, both in its Reply and in its post-hearing written submissions, was that Respondent No. 2 was not a "person interested" within the meaning of Section 2(1)(t) of the Act. He submitted that, despite this objection, which really went to the root of the matter, the Impugned Order was entirely silent on it and failed to consider it in any manner.

14. He then pointed out that Respondent No. 2 plainly lacked the locus to file and maintain post-grant opposition proceedings since Respondent

No. 2 claimed to be a medical practitioner, which would not by itself make Respondent No. 2 a "person interested" in relation to the Patent in question. He pointed out that Section 25(2) restricts the right to file a post-grant opposition to a "person interested" as defined under Section 2(1)(t) of the Act and that Respondent No. 2 had failed to establish how Respondent No. 2 would qualify as a "person interested" either in the Opposition or in the post-hearing written submissions. He submitted that despite this, Respondent No. 1 had failed to address the issue altogether.

15. He submitted that the failure to decide this threshold objection goes to the very root of the maintainability of the Opposition and, on this ground alone, the Opposition ought to have been rejected in *limine*. In support of this contention, he relied upon the decision of the Hon'ble Supreme Court in ***Aloys Wobben v. Yogesh Mehra***[5], which, he pointed

[5] (2014) 15 SCC 360.

out, laid down the importance of establishing locus in post-grant opposition.

IV. Non-Filing of Evidence Affidavit

16. Mr. Kamod then lastly submitted that Respondent No. 2 had not, in support of the Opposition Proceedings, filed any affidavit of evidence. He submitted that such failure on the part of Respondent No. 2 in doing so constituted a fundamental breach of Section 79 of the Act, which he pointed out required evidence to be adduced by way of affidavit. According to him, Respondent No. 2 merely annexed documents to the Opposition without filing any supporting affidavit, and such documents cannot constitute evidence in the eyes of law. He submitted that this defect also went to the root of the maintainability of the Opposition and was not a curable defect, and thus on this ground alone, the Opposition Proceedings would have to be dismissed at the threshold. In support of

this contention, he placed reliance upon the decision of the Delhi High Court in ***Akebia Therapeutics Inc. v. Controller General of Patents***[6].

Reasons and Conclusions:

17. Having heard Mr. Kamod, and having considered the material placed on record and examined the authorities cited, I find that the Petition deserves to be allowed for the following reasons:

A. A perusal of the Impugned Order leaves little doubt that the same is wholly unreasoned. Respondent No. 1 has largely reproduced portions of the submissions advanced by Respondent No. 2 and thereafter proceeded to revoke the Patent without undertaking any independent analysis of the rival contentions or the material on record. Beyond recording conclusions, the Impugned Order discloses no independent reasoning to support the finding that the Patent was liable to be revoked under Section 25(2)(e) of the Act.

6 2023 SCC OnLine Del 4841.

B. Although the Impugned Order repeatedly states "*therefore, in view of the above findings*", there are, in fact, no discernible findings that precede or support such conclusions. In my view, the Impugned Order is therefore contrary to the well-settled requirement that an order must, after due consideration of the submissions made and the material on record, furnish reasons for the conclusion arrived at, particularly where valuable rights are affected and the affected party has a statutory right of appeal.

C. Also, the fact that the proceedings in question were in respect of a post-grant opposition under Section 25(2) of the Act is of significance since the Patent had already been granted after substantive examination and, as the record indicates, had undergone multiple rounds of scrutiny and amendment before grant. In such circumstances, any order revoking the Patent was necessarily required to engage with the rival contentions, the prior art relied upon, the amended claims and the material available on record. The Impugned Order, as noted above, fails to do so.

D. Hence, in the context of what has been noted in (**A**) to (**C**) above, the Petitioner's reliance on the decisions in ***Saurabh Arora v. Deputy Controller of Patents & Anr.***, ***Medipack Global Ventures (P) Ltd. v. Assistant Controller of Patents & Designs*** and ***Dolby International AB v. Controller of Patents & Designs*** is therefore entirely apposite.

E. Equally significant is the fact that the Opposition Board had recommended rejection of the Opposition, despite which Respondent No. 1 proceeded to allow the opposition without furnishing any reasons for disagreeing with the findings of the Opposition Board. In doing so, Respondent No. 1 has not acted in conformity with Rule 62(5) of the Rules, which expressly provides that the Controller shall decide the opposition after considering the recommendations of the Opposition Board. While the Controller is undoubtedly not bound by such recommendations, the Controller is duty bound to consider them. Hence, in cases where the Controller does not accept the recommendations of the Opposition Board, it is

incumbent upon the Controller to give some reasons and/or indications as to why the recommendations of the Opposition Board are not being accepted. To hold otherwise would effectively mean that the Controller can simply ignore the recommendations of the Opposition Board, which would really defeat the very objective of the provision for the constitution of an Opposition Board and also render the requirement of consideration under Rule 62(5) largely otiose.

F. Also, and *crucially*, Respondent No. 1 has in the Impugned Order observed that the "*Opposition Board recommendation is also important*" and yet proceeded to allow the Opposition notwithstanding the Board's recommendation to reject it. To my mind, such contradictions in the Impugned Order, on the face of the record, reflect a complete non-application of mind on the part of Respondent No. 1, which is sufficient to vitiate the Impugned Order. The Petitioner's reliance on ***Pharmacyclics, LLC v. Controller General of Patents*** is therefore well-founded.

G. I also find merit in the contention that the Opposition Proceedings stand on the ground that Respondent No. 2 had not filed any Affidavit of Evidence as mandated under Section 79 of the Act. The record reflects that Respondent No. 2 had merely annexed documents to the opposition, which would not qualify as evidence under the provisions of Section 79. In this context, the Petitioner's reliance upon the decision of the Delhi High Court in ***Akebia Therapeutics Inc. v. Controller General of Patents*** would squarely apply.

H. Equally, failure to consider the aspect of locus in the facts of the present case would also be sufficient to vitiate the Impugned Order. Section 25(2) permits the institution of a post-grant opposition only by a "person interested" within the meaning of Section 2(1)(t) of the Act. The Petitioner had specifically contended, both in its Reply and in its post-hearing written submissions, that Respondent No. 2, who claimed to be a medical practitioner, had failed to demonstrate how Respondent No. 2 satisfied this requirement or established any nexus

whatsoever with the Patent in question, namely “Absorbent Article Having Natural Fibres". Despite this specific objection, which went to the root of the maintainability of the Opposition, the Impugned Order is entirely silent on whether Respondent No. 2 possessed the requisite locus to institute these proceedings. In my view, Respondent No. 1 was required to decide this issue at the threshold, as it concerned the very maintainability of the Opposition. The reliance placed by the Petitioner upon the decision of the Hon’ble Supreme Court in ***Aloys Wobben v. Yogesh Mehra & Ors.*** is therefore well founded and would squarely apply.

19. Hence, for the aforesaid reasons, I pass the following order:

ORDER

i. The Petition is allowed in terms of prayer clauses ‘(a)’ and ‘(b)’.

ii. There shall be no orders as to costs.

[ARIF S. DOCTOR, J.]