



## **BEFORE THE AD-HOC COMMITTEE**

*(constituted pursuant to the Judgment and order dated July 04, 2024, passed by the Hon'ble Delhi High Court in W.P. (C)-IPD 9/2023)*

### **IN THE MATTER OF:**

Inquiry and Disciplinary Proceedings regarding Mr Naveen Chaklan as a Patent Agent in connection with patent application no. 201911031496.

Hearing date: November 25, 2024

### **CORAM:**

1. Prof(Dr) Unnat P. Pandit, CGPDTM
2. Mr N K Mohanty, Senior Joint Controller of Patents and Designs.
3. Mr Subhatosh Majumdar, Advocate, IP Practitioner.
4. Ms Rajeshwari Hariharan, Advocate, IP Practitioner.
5. Dr Pawan Kumar Pandey, Deputy Registrar of TM, GI and Copyright, O/o CGPDTM (Through Video Conference)

### **For the parties:**

Petitioner - Mr Naveen Chaklan

Represented by - in person

Respondents - Mr Saurav Chaudhary and Mr Ankur Pandey, in person and Represented by Ms Meenakshi Ogra, Advocate & Mr Samrat Kang, Advocate

### **Report Of The Ad-Hoc Committee**

1. With a view to comply with directions issued by the Hon'ble High Court of Delhi in sub-paragraph (d) of Paragraph 68 of W.P. (C) – IPD 9/2023 in its order dated July 04, 2024, the present Ad-Hoc Committee has been constituted by the Department for Promotion of Industry and Internal Trade [DPIIT] (vide Communication No. P.24013/21/2024-IPR-1 dated 09/09/2024) that was formerly



known as Department of Industrial Policy and Promotion. In terms of the said order, the Hon'ble High Court of Delhi has issued a direction to the CGPDTM to hold an enquiry against the Patent Agent, Mr Naveen Chaklan, and to take cognizance in accordance with law and to pass an order pursuant to a hearing being granted to the said Patent Agent.

2. The Hon'ble High Court of Delhi had directed in paragraph 68 of the said order dated July 04, 2024, that an Ad-Hoc Committee is to be framed to consider and decide any complaint filed against any Trade Mark or Patent Agent before the Officer of the CGPDTM. The constitution of the Ad-Hoc Committee was publicly announced by the Government of India by means of a public notice dated September 13, 2024. In view of the formation of the Ad-Hoc Committee, the CGPDTM has taken cognizance of the present matter with the Ad-Hoc Committee.
3. The present case concerns allegations of professional misconduct against Mr Naveen Chaklan, who is accused of failing to inform his client of the issuance of the first examination report ["FER" in short] and had repeatedly failed to respond to queries made by the client, and not responding to the examination report, which had resulted in deemed abandonment of the Patent Application No. 201911031496. However, it must be mentioned that with the intervention of the Hon'ble High Court of Delhi, relief was provided to the Applicant, Mr Saurav Chaudhary, and the Ld Controller of Patents, having been so directed by the Hon'ble High Court, was pleased to accept a response to the FER and having heard the applicant on merits, allowed the application to proceed to grant under Patent No. 550351.
4. **Factual matrix:** A brief overview of the factual matrix and the dates and events that have led to the filing of a present complaint and the hearing before this Committee is as under:



Dates	Events
June 2019 - August 2019	The Applicant, Mr Saurav Chaudhary, got in touch with Mr Naveen Chaklan, a patent agent who was running a firm titled 'Delhi Intellectual Property LLP' having its office at 4-K, 4th Floor, Gopala Tower, 25, Rajendra Place New Delhi-110008, and had discussions regarding the filing of a patent application.
August 03 2019	After some discussions, the patent application was finalized, and Mr Naveen Chaklan filed the patent application on behalf of Mr Saurav Chaudhary under patent application no. 201911031496 for the invention titled " <i>A Blind-Stitch Sewing Machine and Method of Blind Stitching</i> " using thereof.
February 05 2021	The patent application of Mr Saurav Chaudhary was published.
20 <sup>th</sup> September 2021, 26 <sup>th</sup> September 2021, 3 <sup>rd</sup> October 2021, 15 <sup>th</sup> November 2021, 21 <sup>st</sup> December 2021	The applicant contacted (via email) Mr Naveen Chaklan asking about the status of the application and the next steps, including filing a request for examination.
December 21 2021	Mr Naveen Chaklan replied (via email) that a request for an examination is to be filed, and the applicant agreed to the request for an examination to be filed.
March 07 2022	A request for examination was filed by the Patent Agent, and the applicant was informed of the same.
April 29 2022	FER was issued by the Patent Office, Delhi. The last date for responding to the examination report was 29/10/22.
August 28 2022	Applicant enquired (via email) about the status of their pending application from Mr Naveen Chaklan – no reply by Mr Naveen Chaklan on record.
November 05 2022	Applicant enquired via email about the current status of the application from Mr Naveen Chaklan - no reply from Mr Naveen Chaklan on record.
November 19 2022	The applicant once again enquired via email about the status of the application from Mr Naveen Chaklan and stated that, as a client, he expected a reply to his emails- no reply to this email is found on record.
December 14 2022	The applicant enquired via email even date about the status of the application from Mr Naveen Chaklan – The applicant has also expressed apprehension that his application may have been rejected due to his carelessness– no reply to this email was found on record.
December 22 2022	The applicant is writing via email to the agent Mr



	Chaklan (with screenshot) that as per the website of the Patent Office, the status of the application is shown as 'reply not filed, deemed to be abandoned'; no reply from Mr Naveen Chaklan on record.
January 08 2023	Mr Ankur Pandey, on behalf of the applicant, made inquiries via email about the status of the patent application from Mr Ram - citing the status of the application on the website of the Patent Office, and that Mr Chaklan is neither responding to calls nor is responding on emails – no reply to this email is also found on record.
January 28 2023	The applicant appointed a new Agent (Khurana and Khurana), and they sent an email to the Controller apprising him of all the facts of the case and requesting him to restore the application.
February 14 2023	Writ petition being W.P. (C)-IPD-9/2023 filed by the applicant for restoration of the patent application.
September 01 2023	The order passed by the Delhi High Court directing Mr Naveen Chaklan (erstwhile patent agent) to file an affidavit explaining the position leading up to the abandonment of patent application No. 201911031496.
October 21 2023	Reply along with affidavit filed by Mr Naveen Chaklan (erstwhile patent agent) pursuant to the order dated 01.09.2023.
July 04 2024	The High Court of Delhi heard the matter, and a Judgment was passed by the Delhi High Court in W.P. (C)-IPD-9/2023 directing restoration of the applicant's patent application; directions were given to the Government to constitute an Ad-Hoc committee that was to look into the aspect of the complaints of misconduct against various patent/trademark agents. The DPIIT constituted the Committee, which was required to investigate the case concerning the conduct of Mr Naveen Chaklan as a Patent Agent.
July 12 2024	Reply to FER stood filed in view of the judgment of the Delhi High Court dt. 04.07.2024.
August 02 2024	A hearing notice was issued by the Patent Office fixing hearing on 29.8.2024 under sections 77(1)(f) and 77(1)(g) read with Rules 130(1) and 130(2) of the Patent Act, 1970 and Patents Rules.
August 02 2024	The written submission was filed by Mr Naveen Chaklan (erstwhile patent agent) explaining his stand in relation to the abandonment of Patent Application No. 201911031496 with reference to the hearing notice dated July 26, 2024 ( <i>pursuant to the orders of the Hon'ble High Court</i> )
July 09 2024	After hearing, the Patent Application no.



	201911031496 was accepted by the Patent office. Thereafter patent was granted on or about September 17, 2024, under No. IN550351.
August 10 2024	Petition filed by Mr Naveen Chaklan (erstwhile patent agent) under section(s) 77(1)/79 of The Patents Act, 1970, read with rule 137 of The Patents Rules, 2003, requesting cross-examination of Mr Saurav Chaudhary and Mr Ankur Pandey in enquiry to be held in compliance of order in W.P. (C)-IPD 9/2023 dated July 04 2024. Both parties were directed to file replies if any, as well as short submissions on the aspect of cross-examination.
September 09 2024	Ad-hoc Committee constituted by the Union of India in terms of the judgement dated July 04, 2024.
November 07 2024	Hearing held (virtually), and both parties were heard at length on the aspect of cross-examination.
November 16 2024	Final order passed by the Ad-hoc Committee rejecting the application for cross examination. However, Mr Chaklan was given the opportunity to put forth his questions to the Committee before the final hearing.
November 25 2024	Final hearing of the matter before the Ad-hoc Committee.

5. It is to be noted that on August 01 2024 (before the formation of the Committee), pursuant to the orders passed by the Hon'ble High Court of Delhi, Mr Naveen Chaklan was given an opportunity to make submissions before the CGPDTM in order to enable him to explain his defences, if any. However, thereafter, the present Committee was formed, and hearings were held as stated above.

**6. Summary of inquiries with the parties:**

- i. The Committee adopted the approach of calling all the parties to the hearing so that the actual version from both parties could become part of the record and invited parties to make submissions in connection with their respective cases. Mr Naveen Chaklan and Mr Saurav Chaudhary were thus present at the hearing as parties, and Mr Ankur Pandey was involved in the transactions relating to the patent application and recorded his statements.



ii. The patent application in question is application no. 201911031496, date<sup>d</sup> August 03, 2019, for an invention titled "*A Blind-Stitch Sewing Machine and Method of Blind Stitching using thereof*". The inventor is Mr Mehnga Singh. Our enquiries with such parties and their statements revealed the following-

- a) Mr Chaudhary is from Jalandhar, which is his native place and he happened to meet Mr Mehnga Singh 2013, who is also from Jalandhar. Mr Mehnga Singh is a tailor, and he was trying to make a machine for making tarpai, a type of hemming or stitching technique used to strengthen fabric edges or join seams in a durable manner. Such tarpai stitching is done by tailors. Mr Mehnga Singh, for many years, was trying to make a machine for making the tarpai but could not give it a shape which could be commercialized. Mr Chaudhary was a friend of the inventor Mr Mehnga Singh. Mr Chaudhary realized that such a machine would have good commercial potential, and he was interested in joining hands with Mr Mehnga Singh so that the machine could be developed for commercialization.
- b) Sometime at the end of 2013 or early 2014, Mr Mehnga Singh claimed to Mr Chaudhary that the machine was ready. Mr Mehnga Singh also asked for funding from Mr Chaudhary as the prototype machine was working well. At this stage, the team learnt that they had to get it patented. However, no action was taken until 2018-19 (perhaps due to a shortage of resources) when they revived interest in the project.
- c) Mr Chaudhary accordingly conducted some market surveys as to the marketability of the product. He made some presentations and sent them to certain companies together with samples of materials stitched by the prototype of the machine in or around





the year 2013, and he found that there was good potential for the product.

- d) Mr Chaudhary was into Finance, and was staying at Gurgaon. In or around 2016, Mr Chaudhary met Mr Pandey, who has been in the digital marketing business. Both of them met at Gurgaon, where they were staying, for the purpose of their work / business.
- e) In or around 2018, the idea of commercialization of the tarpai machine came to the mind of Mr Chaudhary, and one day, he disclosed the idea of the tarpai to Mr Pandey. Mr Pandey also showed interest in the project of the tarpai machine. Accordingly, both of them decided to team up and take the machine forward towards commercialization using their mutual capabilities.
- f) They started discussing and exploring all possibilities of taking the product into commercialization, and they decided that, at the outset, the idea of the tarpai machine should be protected. Accordingly, they started to look for a suitable person who could help them to secure patent protection. For this purpose, they started looking for patent agents in the NCR area through the internet and finally connected with Mr Chaklan towards the end of 2018 and shortlisted him for the purpose.
- g) Mr Chaklan conducted a novelty search and charged them Rs. 10,000/-, which was duly paid by Mr Chaudhary. Thereafter, the parties engaged in the process of the drafting of the patent. After a few rounds of discussions, Mr Chaklan drafted and prepared the final version of the specification, and the application was prepared and filed. Mr Chaudhary also paid him Rs. 35,000/- as professional charges for preparing and filing the application.



- h) After filing the patent application, they enquired with Mr Chaklan and were advised that a request for examination had to be filed. They were also advised to go for an expedited examination. After some reminders being sent by Mr Chaudhary and some correspondence, the request for examination was filed sometime in March 2022. The clients paid Mr Chaklan Rs. 6000/- for this purpose, which includes the official fee.
- i) Thereafter, they were advised by Mr Chaklan that an examination report would be issued by the Patent Office, which would take at least 6 months to 1 year. Hence, the clients waited patiently for the report to be issued.
- j) Communications between the parties, including Mr Pandey, occurred through email as well as phone calls.
- k) Mr Chaudhary and Mr Pandey were asked whether they had taken steps to check the application status from the Patent Office website after payment of the examination fee. It was stated by them that they were not aware that such information could be gathered from the official website, and they were wholly dependent on Mr Chaklan.
- l) On the other hand, the FER was issued on or about April 29 2022 and Mr Chaklan confirmed that the FER was received by him. He states, however, that on May 04 2022, Mr Pandey called him and enquired about the status of the case. Mr Chaklan said that he told Mr Pandey that he received FER and had asked Mr Pandey as to whether they want to file the reply to the FER. He further said that Mr Pandey replied that there are 4 members, namely himself, Saurav Chaudhary, Vivek (their friend) and Meghna Singh and that he will discuss the matter with them and revert. Mr Chaklan said that they did not revert to him.





m) Mr Pandey submitted that Mr Chaudhary called Mr Chaklan on August 27 2022, to learn about the status of the application, and he was told by Mr Chaklan that he would check the status and let him know. Mr Chaklan did not call back thereafter. However, the records suggest that Mr Pandey had sent an email on August 28 2022, to Mr Chaklan enquiring about the status of their application, to which there was no response. The text of the email is set out below:

*On Sun, August 28, 2022, at 10:29 PM, Ankur Pandey <ankur.p2015@gmail.com> wrote:*

*Dear Naveen ji,*

*Can you please check the current status of this application and update us regarding the same?*

*Thank you*

- n) Another email was sent on November 05 2022. However, they did not get any reply to this one either. Meanwhile, the deadline for filing a response to the FER expired on October 29, 2022. Under the law, the applicant was entitled to apply for an extension of time to file a response to the FER, but no such extension was applied for.
- o) It is undisputed that Mr Chaklan had called Mr Pandey on September 10 2022, and the conversation lasted for about 57 seconds. According to Mr Chaklan, he had communicated to Mr Pandey about the FER being issued and sought instructions with regard to the steps to be taken with respect to the FER. However, according to Mr Pandey, no information was given about the FER.



- p) On enquiry as to why they did not visit the office of Mr Chaklan, Mr Chaudhary replied that they did not think of it and that they could have done so. Mr Pandey stated that Mr Chaklan had two numbers (i.e. 9911994111 and 9911984111), and both numbers were tried without response.
- q) On November 27 2022, Mr Chaklan made a call to Mr Chaudhary intimating to him that the patent application was deemed abandoned and advised him to file a writ petition in order to restore the patent application. Mr Chaklan further advised Mr Chaudhary that in order to get the patent on track, he needs to share the screenshots of the emails sent to him regarding the status of the application and to make a petition. The last email sent by Mr Chaudhary to Mr Chaklan was on November 19 2022, again enquiring about the status of the application and to respond to his emails, but Mr Chaklan kept mum. Thereafter, on and from December 04 2022, onwards, Mr Chaudhary called Mr Chaklan several times, but Mr Chaklan did not respond to the calls. Mr Chaudhary, during the hearing, placed his call records, which suggest that more than 20 missed calls were made between December 04, 2022, to December 24, 2022, to Mr Chaklan, who had shared the details of these telephone calls during the hearing. In December 2022, Mr Pandey searched on Google about how they could check the status of the patent application, and they got a link where they came to know that their application was abandoned. After the application was abandoned, they went to another patent agent.
- r) Mr Chaklan submitted that he did not send the copy of the FER as he was under the impression that he told his clients about the FER and its issuance, and they told him to hold. This is, however, disputed by Mr Pandey, who had categorically stated in his affidavit dated November 27 2024, that there was no such



information given to him. Also, on November 27 2024, Mr Chaudhary filed an affidavit disputing the statements made by Mr Chaklan with regard to the intimation of the FER.

- s) Upon enquiry with Mr Chaklan as to why he did not send the FER by email, as it was a very crucial document and non-response could lead to loss of IP rights, he replied that he was under the impression that he had already conveyed the information and if they will ask for the email, he would send. There was no explanation, however, as to why he did not respond to the repeated emails from the client.
- t) Mr Chaklan submitted that he was away from his professional duties from November 05 2022 to November 26 2022, and also did not check his emails. He only attended one physical hearing at the Patent Office during that period.
- u) There is no formal communication from Mr Chaklan's side to the clients after September 10 2022, even to seek the extension as October 29 2022, was the last date.
- v) Upon checking the applications filed by Mr Chaklan, the Committee found that he had filed over 100 applications. 60% of those were abandoned/withdrawn, and some were granted. The Committee enquired whether he informed all his clients of the issuance of FER and other crucial steps during prosecution through phone or whether he used to send emails. To this, Mr Chaklan replied that for corporate clients he used to send emails. However, with individual clients, many of whom do not understand the nuances of patent filing and the technicalities of the documentation, he used to apprise them on the phone or respond to the FER on his own.



w) Mr Chaklan also submitted that he did not do anything intentionally – he thought that the information was conveyed, and he need not take further steps till the client contacted him. He also stated that he was blessed with a child on October 03 2022, and could not regularly attend office in October 2022. Between November 05, 2022, and November 26 2022, he was not in the office at all, although on November 11 2022, he attended a hearing, and the Committee has noticed that he has filed documents in some matters during this period.

x) He stated that he was the only patent practitioner in his team, and he was managing everything by himself. He mentioned that he started practicing and did not get any mentorship and was under the impression that he had already informed the clients and did not have to do anything further. He admitted that not sending the FER to the client was a mistake, and he prayed that his mistake, if any, may be condoned.

**7. Submissions of Ms. Meenakshi Ogra, Advocate - on behalf of the applicant:**

The main submission of Ms. Meenakshi Ogra, Advocate, on behalf of the applicant is that:

- a) The First Examination Report was issued on April 29, 2022, which was not communicated to the applicant, which has led to the lapse of the application and, thus loss of rights of the applicant;
- b) A call was received from the Patent Agent sometime in September 2022, but it only lasted for 57 seconds; his client was never informed of the issuance of the First Examination Report, and thus, they could not react or respond to it, which led to loss of rights;



- c) Repeatedly, the clients kept pursuing the patent agent, Mr Chaklan, for the status of the application, and no proper response was received – the FER was never sent to the client;
- d) The clients were entirely dependent on Mr Chaklan for professional advice on the patent application and its progress and actions to be taken;
- e) Apparently, Mr Pandey had sent WhatsApp messages to Mr Chaklan on 5/12/22, 7/12/22, 14/12/22, 19/12/22, 22/12/22, 24/12/22 and 28/12/22, and none of them were answered by Mr Chaklan. Other emails that were sent to Mr Chaklan from time to time were also not answered. These communications were placed before the Committee during the hearing and these were not disputed by the parties.

#### **8. Submissions of Mr Naveen Chaklan:**

Mr Naveen Chaklan submitted as under-

- a) He informed the issuance of the FER to the applicant vide calls made on May 04 2022, and September 10 2022.
- b) It is common for patent agents to call their clients and inform them about the status of their applications through telephone calls or to request them for fee payment;
- c) He has done nothing or abstained from doing something intentionally or knowingly to cause the application to lapse, and anything done by him cannot be treated as 'negligent' as he was under the impression that since he had conveyed the issuance of FER in May itself, there was no need to further follow-up – the client would come to him if they were in need or were interested in the application.
- d) He has relied on *Noratanmal Chouraria vs MR Murli and Anr* (2004) 5 SCC 689 para 5 where misconduct is defined; also relied on *State of Gujarat vs. P.B.Ramalbai*, AIR 1969 Guj, 260;



Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793; Pandurang Dattatreya Khandekar vs The Bar Council Of Maharashtra, Bombay & Ors. on October 10 1983 on the issue of negligence and misconduct.

9. Mr Naveen Chaklan, by way of his written submissions filed on November 27, 2024, had further submitted:

- a) He has realized that he has somehow ignored to ensure that the copy of FER is sent to the applicant over email or other formal communication, which would help the applicant to be aware of the status of his Patent Application and due date more precisely.
- b) He would have sent a final reminder to the applicant 15 days or 30 days before the due date along with a suggestion of filing an extension if the applicant was not in a state of making a decision whether to proceed with the application or not; instead letting the patent application get abandoned by his erroneous judgement that the applicant was somehow not willing to proceed with the application.
- c) He has also realized that such error was probably caused due to a lack of standard protocol to handle the patent applications, which he has eliminated by incorporating standard protocol, which would include updating the Applicants over email/formal communication regarding various stages of patent application, e.g., publication, due date of RFE, issuance of FER, receipt of hearing notices, due date of written submissions, due date of any other action items, disposal orders and possible extensions.
- d) On attending office after a break on 27.11.2022, he informed the applicant over a telephone call that his Patent Application was abandoned.
- e) He denies that he has misguided the applicant in any manner. He also submitted that he had guided the applicant by mentioning that a writ petition can only work in this situation (through a telephonic call dated 28.11.2022). He submits that he





realized that he should make such post-abandonment conversation over a formal communication (email/WhatsApp chat) or in a reply to the applicant's email/ WhatsApp chat, which as well as provide the applicant more clarity.

- f) Post-abandonment of the patent application, he did not realize that his non-replying to the emails and telephonic communications after 28.11.2022 could be inferred as adverse to his own professional interest. However, he submitted that he had no culpability, malice or guilt in his mind.
- g) He has presented his case to the Hon'ble Chairman and Committee members to the best of his ability, honesty and integrity;
- h) He has qualified for the Patent Agent Examination in the year 2011 and enrolled since then. He started practice in the year 2017, and since then, he has helped many Applicants secure their patent rights in diverse technology domains (pharmaceuticals, polymer science, electromechanical engineering, mechanical engineering, chemical engineering, biotechnology, automobile, medical devices, etc.)
- i) He has already incorporated standard protocols in his practice to ensure that the Applicants who have entrusted his Applications to him get proper updates over email/formal communication regarding various stages of the patent application, e.g., publication, due date of RFE, issuance of FER, receipt of hearing notices, due date of written submissions, due date of any other action items, disposal orders and possible extensions.
- j) He is open to any and all direction/requirements/improvements to be incorporated into his practice as deemed fit by the Ad-Hoc Committee. He also undertakes that he shall improve his practice as directed/required by the Ad-Hoc Committee.
- k) He has not done anything wrongly, knowingly, with oblique motive, dishonestly or with any ill intention or to make any



wrongful gain for himself. He has not violated professional ethics for his selfish end or to intentionally harm the applicant.

- l) He has no antecedent and no other adverse remark on his professional practice till date. That, therefore, he should not be rendered "unfit to be kept in the register".
- m) He is ready to submit any undertaking in relation to the incorporation of standard protocol and improvement in his practice as deemed fit by the Committee.
- n) He has already suffered grave embarrassment and humiliation through the publication of his name in various social media platforms, legal news magazines and web portals, which is more severe as compared to any other action. He has left it to the discretion/mercy of the Chairman and Committee members to decide the further course.

## 10. Discussion and Analysis

- 10.1 The case raises significant questions pertaining to the fiduciary duty owed by the patent agent to his client, accountability, and ethical conduct, and this order endeavours to resolve the issues in accordance with the Patents Act, 1970, keeping in view the principles of natural justice.
- 10.2 The core issue to be addressed in the present proceeding is whether the conduct of Mr Naveen Chaklan as a patent agent was such that it amounts to “misconduct” in his professional capacity as embodied under Section 130 of the Patents Act, 1970, especially in the light of the fact that the patent application of the Applicant Mr Saurav Chaudhary had lapsed as a consequence of the conduct of the said patent agent, though it was subsequently restored in accordance with the order dated 04/07/2024 of the Hon’ble High Court of Delhi, and thereafter granted by the Controller.



- 10.3 Mr Chaklan made an application dated August 10, 2024, before the Committee seeking cross-examination, which was dismissed by an order dated November 16, 2024, after giving the opportunity of hearing to the parties on November 07 2024.
- 10.4 In the said order dated November 16, 2024, the parties were directed to appear on November 25 2024, at 2.30 PM at the Delhi Patent Office. The parties were also directed to bring all the documents, including email exchanges (as well as the computer containing the email exchanges), a phone with four sets of printouts of telephone records, WhatsApp chats or other documentary or other evidence that parties may be in possession of for the Committee's perusal and examination.
11. An analysis of the facts of the case, as well as the submissions of the parties, would reveal that:
- a. While filing the application or within the extendible period, Mr Chaklan has failed to file the Power of Attorney in his favour, which is a mandatory requirement of law, and was acting as a patent agent in this case without appropriate Power of Attorney in place;
  - b. Mr Chaklan, as a patent agent, has received the examination report issued by the Patent Office on April 29 2022;
  - c. Mr Chaklan was aware that a response had to be filed on or before October 29 2022, and that non-filing of a response would lead to a lapse of the application or that he could apply for an extension of time so as to avail an additional period as permissible under the rules for filing the FER response;
  - d. He allegedly conveyed the issuance of FER via telephone calls made on May 04 2022, and September 10 2022, and was told to keep the application on hold and hence did not take further steps;



e. As no response was filed, the application lapsed and was 'deemed to be abandoned' on October 29 2022;

12. It is the case of the applicant that there was no communication about the issuance of FER and its abandonment. It is also their case that Mr Chaklan did not respond to their emails and calls in a timely manner. Per contra, it is the case of Mr Chaklan that he did convey the issuance of FER on May 04 2022, and September 10 2022 (during a telephonic conversation) but was asked to keep it on hold.
13. There was a call record of May 04 2022 – however, it is not clear what was conveyed since there are emails of August 2022 where the applicant is asking for the status of the application. Similarly, though there is a record of the call of September 10 2022, it was of 57 seconds. The contents of the call are not available on record and thus, it is difficult to speculate as to what was conveyed.
14. It is pertinent to note that during the inquiry, it transpired from the oral submissions made by Mr Chaklan that this is not the only patent application handled by him - there were more than 100 applications and even according to Mr Chaklan, he has been sending emails to these other clients, who according to him are corporate clients and has sought their comments for filing responses. He also provided a list of various applications handled by him. It is completely unacceptable that a Patent agent adopts a discriminatory approach and arbitrary practice of treating different client(s) differently. It is nobody's case that the client in this case (Mr Chaudhary) did not pay the fee of Mr Chaklan. Though, the client demanded the status of his application, he did not respond to the same. He could not have assumed that conveying the issuance of FER telephonically (which is disputed and denied by



the applicant) would suffice without apprising them of the contents thereof in writing and inviting their comments / instructions.

15. Apart from the above, a perusal of the communications between Mr Chaklan and his client would reveal that there are several instances of non-response by Mr Chaklan. There are several emails from the client that have not been responded to, and for which Mr Chaklan has no response or answer at the hearing. There has also been a lack of proactive follow-up on the part of Mr Chaklan by sending reminders to his client seeking further instructions.
16. It is apparent from the facts on record that Mr Chaklan had not sent the FER document to his clients nor appraised them of the deadline, the relevance of the deadline or the impact of responding or not responding to the FER. It is also apparent from a review of the correspondence that he did not timely respond to their calls or emails. Neither is there anything to suggest that there was any communication indicating that the due date for filing a response to the FER was extendible as per the Patent Rules.
17. Thus, the lapses on the part of Mr Chaklan as a Patent Agent of this application clearly emerge as under- -
  - i. He did not timely respond to most of the communications from his client;
  - ii. He did not convey the issuance of FER to his client nor warn his client of the consequences of failure to respond to the FER;
  - iii. He did not advise his client about the remedies that are available for an extension of time in responding to FER.
18. We must now consider the impact of this conduct and whether this by itself amounts to professional misconduct. In our country, there are different types of applicants, some are aware of the patent process and procedures and have filed several hundreds of



patents. Some have won awards for filing and/or grant of patents. However, there is a vast majority of patent applicants who are individuals, startups, or small-scale businesses that may not possess advanced technical expertise or an in-depth understanding of legal procedures governing intellectual property. Unlike large corporations with dedicated legal teams, these applicants often rely entirely on the guidance of patent agents or attorneys for navigating the complex patent application process, including compliance with statutory timelines, responding to examination reports, and understanding the implications of legal notices etc.

19. Many innovators focus on developing their inventions and may not be familiar with the formalities of patent law, technical nuances of drafting claims, or procedural requirements. This lack of technical and legal knowledge places them in a vulnerable position, making it imperative for patent agents to fill in this gap between the ignorance of clients and a deadline-oriented statute with serious consequences at each stage. Patent agents must exercise utmost diligence and fulfil their fiduciary responsibilities to the best of their abilities to safeguard the rights and interests of their clients. Miscommunication or lack of procedural compliance / intimation can lead to irreversible outcomes, such as the abandonment of patent applications or loss of valuable intellectual property rights.
20. Thus, Patent agents are required to play a pivotal role in administering the applications handled by them and advise their client (s) about the appropriate actions under the Patents Act and the Rules. He is a vehicle and translator/implementer of the act and one of the faces of the act to the public. He holds a fiduciary and professional responsibility to act in the best interest of his clients. His role is governed by the provisions of the Patent Act, 1970 (as amended) and Patent Rules, 2003 (as amended),





especially Section 130 of the Act, which outlines the procedures for the removal and potential restoration of patent agents from the official register.

**130. Removal from the register of patent agents and restoration.** — (1) *The [Controller] may remove the name of any person from the register when [he] is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as [he] thinks fit to make—*

*(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of material fact;*

*(ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which in the opinion of the [Controller] renders him unfit to be kept in the register.*

*(2) The [Controller] may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.*

21. Thus, the aim and goal of the provision is to ensure that only qualified and ethically sound individuals serve as patent agents, maintaining the profession's integrity.
22. There are some well-understood general rules that a patent agent ought to observe. Some of their key duties include:

**a) Patent agent acts in a fiduciary capacity for his client**

- Once a patent agent takes up a matter, his fiduciary duty to his clients begins. A patent agent is not the owner of the patent application- it is the client. The patent agent is simply



acting for and on behalf of the client. The client assumes that a patent agent would act and advise him. Thus, the patent agent must act in the best interest of his client. The word "fiduciary" means trust and a person with a fiduciary duty must maintain that trust reposed in him by the client. Patent practitioners have a fiduciary duty to their clients, which means that clients trust them, and these Patent agents must act with the utmost professionalism, good faith, and candour towards their clients.

- In India, patents are filed by legal entities as well as individuals. Obtaining a patent is a dream for many – and the patent agent is the one who enables his client to navigate the complexities of the law – he is the vehicle for the administration of justice, and hence, the highest degree of care and candour is expected from him. There is absolutely no room for doubt, suppression of facts, miscommunication and making misleading statements to clients.
- A patent agent is responsible for promptly informing the client of any official communication from the Patent Office, including notices, examination reports, and deadlines. The issuance of a First Examination Report (FER) is a critical milestone in the patent application process, which ought to be conveyed to the client in a timely manner so that he may decide whether to pursue the application further or not and how to pursue the application, whether to amend the claims, etc.
- Failure to intimate about relevant communications in writing, with appropriate actions to be taken / advise of its contents and implications, constitutes a breach of duty. The



agent must also ensure that the client has sufficient time to review and respond appropriately.

The entire practice and defence of Mr Chaklan that he telephonically conveyed the issuance of FER to his client is deprecated. It is as good as no communication. Of what avail is communication when the message is either half-heartedly conveyed or the crucial and important aspect of the matter is not conveyed at all? It is no communication in law.

**b) Preserving Statutory Deadlines:**

- The patent application process is governed by strict timelines. For instance, under Rule 24B of the *Patent Rules, 2003*, a response to the FER must be filed within six months of its issuance (extendable by three months).
- It is the patent agent's duty to monitor these timelines meticulously and ensure compliance to avoid the application being deemed abandoned under Section 21(1) of the *Patent Act, 1970*.

In the case at hand, the Patent Agent, Mr Chaklan, did not maintain any such deadline, nor was he concerned about the expiry of the deadline. No one knows better than a patent agent the importance and criticality of a deadline, especially of not filing a response to an examination report. The practice of Mr Chaklan of not maintaining the deadline and taking a casual approach to the deadline is deprecated.

**c) Maintaining Proper Documentation:**

- All communications with the client and submissions to the Patent Office must be documented. A professional patent agent should ensure that records of emails, letters, or other



forms of written correspondence are maintained for future reference and accountability.

- Verbal communication, such as calls, alone may not be sufficient to discharge this duty, as it provides no evidence of proper notification or advice.

In the case at hand, Mr Chaklan failed to properly and effectively discharge his duty as a patent agent as he did not convey through written communication the issuance of the FER, its contents, how to address the issues raised and the implications, if any or impact if any of the objections in the claims.

**d) Providing Diligent and Competent Advice:**

- A patent agent must explain the contents of any official communication, including objections raised, and advise / guide his client (s) suitably to comply with the Act / Rules.
- Negligence in this regard, whether through miscommunication or lack of action, may lead to irreparable loss, such as the abandonment of a valuable patent application.

**e) Acting in Good Faith and with professionalism:**

- As professionals entrusted with the client's intellectual property rights, patent agents are expected to act with honesty and integrity. They must avoid conduct that compromises the client's interests or reflects poorly on the profession. The case at hand is a classic example of a breach of this duty and smacks of a neglectful attitude towards his client.



**f) Ensuring Client Awareness and Understanding:**

- A patent agent must make reasonable efforts to ensure that the client understands the procedural and substantive aspects of patent prosecution, including the risks of non-compliance with deadlines or requirements. Clearly, in the present case no such efforts were made.

23. In the present case, Mr Chaklan's decision to rely on a verbal communication method for conveying such a critical issue as the issuance of FER demonstrates a lack of due diligence and professional rigour expected of a patent agent. This is coupled with the complete deadly silence of various emails sent by his clients. This conduct highlights a gross breach of his professional duties towards his client. This lack of diligence has directly resulted in the abandonment of his client's patent application, causing significant prejudice to their legal and commercial interests.

24. We now deal with the contentions of Mr Chaklan.

**Argument that only one email was unanswered:**

25. Mr Chaklan has also sought to argue that there was just one email of August 28, 2022, that was not answered, and his conduct up to the date of abandonment should be reckoned and not thereafter. This argument is entirely misconceived. The patent agent, Mr Chaklan, was responsible for the patent application right from its inception to the date that it was transferred to another agent. It is inconceivable that Mr Chaklan ought to be held accountable only for a certain period i.e. only until the date of abandonment of the application.

26. In this case, the applicant, at no point, instructed him to abandon the application. Assuming, arguendo, that in May 2023, the client requested Mr Chaklan to keep the application on hold, there was



still no instruction from the client to abandon the patent application. Mr Chaklan could not have assumed that 'keep on hold' meant that the client was not interested in the matter and hence decided by himself that no further action was to be taken. This is not in accordance with any standard practice.

27. The argument advanced by Mr Chaklan that his overall conduct before the abandonment date only should be reckoned cannot be accepted because a patent agent's duty toward a client does not cease or diminish upon the filing of a patent application or the issuance of intermediate correspondence. This duty is a continuing obligation that extends throughout the prosecution of the patent until its conclusion, including the timely response to examination reports, adherence to statutory deadlines, and clear communication with the client. Isolated lapses such as the failure to respond to an email—are not viewed in isolation but as part of a broader duty to protect the client's interests. In this case, it is not just the case of an isolated email but several calls and emails that went unanswered.
28. The email of August 28, 2022, appears to have been a critical attempt on the part of the client to learn about the progress of the case. The non-responsiveness to this email is not merely an oversight but a gross failure that directly contributed to the lapse of the patent application. When a document as significant as the examination report is issued, it is the agent's duty to ensure that the client receives it in a timely and unequivocal manner. Failure in this regard, coupled with other instances such as failure to provide a copy of the FER to the client, becomes pivotal for consideration when it results in a material loss of the client's rights, in this case.
29. Gross professional negligence or misconduct is not measured by a sole act or isolated instance but by the cumulative nature of one's





past actions and also by the gravity of the final breach. In the case at hand, the record reveals that Mr Chaklan had not exercised due care as would be expected of a professional from the first day. The abandonment of the application marks the culmination of a series of omissions that were preventable with reasonable due diligence.

30. While Mr Chaklan has sought to argue that his post-abandonment actions should not be considered, the fact remains that his responsibility to the client persists as long as corrective measures are possible and as long as the client has not changed the patent agent. Even after the abandonment of the application, the agent remains duty-bound to inform the client of the lapse, explore possible remedies (if any), and provide appropriate advice. Any attempt to minimize or compartmentalize the failures that led to this loss demonstrates a lack of understanding of the professional duties entrusted to a patent agent.
31. Thus, the argument that the focus should be limited to pre-abandonment conduct is both legally and factually untenable. A patent agent's responsibilities are measured not in parts but in the entirety of their obligations throughout the patent prosecution process. Mr Chaklan's failure to respond to the critical email and take appropriate steps to prevent abandonment constitutes a breach of duty.

**Argument that there is no formal Code of conduct -hence no adverse inference be drawn:**

32. Mr Chaklan has also argued that there is no formal code of conduct or practice rules available with respect to patent agents, particularly regarding the mode of communication with the Applicants/clients. Therefore, the non-production of an email



forwarding FER to the applicant should not be inferred as adverse to the interest of the Patent Agent.

33. We find that this argument is also not tenable in law. The argument that the absence of a formal code of conduct or specific rules absolves a patent agent from responsibility is fundamentally flawed. While it is true that there is no Code of Conduct for a patent agent as of date, the responsibilities of a patent agent are inherently derived from the nature of their role and the expectations placed upon them by statutory frameworks, common law principles, and professional norms. These standards require that patent agents act with diligence, transparency, and accountability to protect the interests of their clients. In this case, Mr Chaklan is also a qualified lawyer. He is also bound by the Rules of Professional Conduct and Ethics (under the Advocates Act 1961). Thus, there is no room for the argument that in the absence of a formal Code of Conduct, his duties were not defined.
34. The absence of express guidance on a specific aspect—such as the mode of communication—does not negate the obligation to ensure that critical documents like the First Examination Report (FER) are communicated in a verifiable and reliable manner. Professional duties go beyond mere compliance with codified rules; they encompass adherence to reasonable standards of care and ethical practices expected of anyone in a fiduciary position.
35. Although there may not be a specific codified rule prescribing the mode of communication with clients, it is an established and widely accepted practice that patent agents use written and traceable verifiable modes, such as email or courier, to ensure delivery and accountability. Communication of an FER is an essential step in the patent prosecution process, and it is reasonable to expect that such a document be forwarded in a



verifiable manner. This expectation aligns with the best practices adopted by patent professionals globally, including in jurisdictions with more defined professional regulations like the UK and the US.

36. By relying solely on an alleged telephonic communication without producing any record or follow-up correspondence, Mr Chaklan has failed to adhere to the minimum standard of care required to demonstrate that he discharged his duty effectively.
37. Courts in India and other jurisdictions have repeatedly emphasized that professional accountability is not contingent solely on written rules but on the overarching duty of care owed to clients. In cases like *Jacob Mathew v. State of Punjab* [(2005) 6 SCC 1], the Supreme Court of India clarified that professional negligence is assessed based on whether the professional exercised the reasonable skill and care expected of them.
38. Para 18 of the judgment is quoted below for ready reference:
- "A professional may be held liable for negligence on one of the two findings: either he was not possessed of the requisite skill which he professed to have possessed, or he did not exercise, with reasonable competence in the given case, the skill which he did possess. The standard to be applied for judging whether the person charged has been negligent or not would be that of an ordinary competent person exercising ordinary skill in that profession. It is not possible for every professional to possess the highest level of expertise or skills in the branch in which he practices. A highly skilled professional may be possessed of better qualities, but that cannot be made the basis or the yardstick for judging the performance of the professional proceeded against on indictment of negligence."*



39. In *P, an Advocate, Re*, 1963 SCC OnLine SC 205, the Supreme Court discussed what negligence is and held:

*“It is true that mere negligence or error of judgment on the part of the Advocate would not amount to professional misconduct. Error of judgment cannot be completely eliminated in all human affairs and mere negligence may not necessarily show that the Advocate who was guilty of it can be charged with misconduct, vide In re A Vakil [ILR 49 Mad 523] and in the matter of an Advocate of Agra [ILR 1940 All 386]. But different considerations arise where the negligence of the Advocate is gross. It may be that before condemning an Advocate for misconduct, courts are inclined to examine the question as to whether such gross negligence involves moral turpitude or delinquency. In dealing with this aspect of the matter, however, it is of utmost importance to remember that the expression "moral turpitude or delinquency" is not to receive a narrow construction. Wherever conduct proved against an Advocate is contrary to honesty, or opposed to good morals, or is unethical, it may be safely held that it involves moral turpitude. A wilful and callous disregard for the interests of the client may, in a proper case, be characterized as conduct unbecoming an Advocate. In dealing with matters of professional propriety, we cannot ignore the fact that the profession of law is an honourable profession, and it occupies a place of pride in the liberal professions of the country. Any conduct which makes a person unworthy to belong to the noble fraternity of lawyers or makes an advocate unfit to be entrusted with the responsible task of looking after the interests of the litigant must be regarded as conduct*



*involving moral turpitude. The Advocates-on-record, like the other members of the Bar, are Officers of the Court, and the purity of the administration of justice depends as much on the integrity of the Judges as on the honesty of the Bar. That is why, dealing with the question as to whether an Advocate has rendered himself unfit to belong to the brotherhood at the Bar, the expression “moral turpitude or delinquency” is not to be construed in an unduly narrow and restricted sense”.*

40. These principles are fully applicable in the present case. In the context of patent agents, this includes maintaining transparent and reliable communication channels. A mere deviation from normal professional practice is not necessarily evidence of negligence. So also, an error of judgment on the part of a professional is not negligence per se. However, in the case at hand, there is no evidence at all to substantiate Mr Chaklan’s claim that the FER was communicated telephonically, and this justifies drawing an adverse inference against him. A professional in his position is expected to maintain records of all material communications with clients, especially in matters as significant as responding to a FER. The failure to do so is not excused by the absence of formal rules but rather highlights a lack of adherence to basic professional obligations.
41. Further, the absence of formal codified rules that should shield Mr Chaklan from liability is entirely misconceived. The duties of a patent agent are not defined solely by written rules. However, a patent agent is required to adhere to the Act / Rules so as to suitably advise his client and, in the process, discharge his fiduciary responsibilities and fulfil the legitimate expectations and professional obligations towards the client. Mr Chaklan’s failure to provide verifiable evidence of proper communication is a clear



dereliction of duty, irrespective of the presence or absence of specific codified guidance.

42. Mr Chaklan's reliance on the principle that negligence, unaccompanied by moral delinquency, does not amount to professional misconduct is misplaced in the context of his role as a patent agent. The distinction between negligence and misconduct is fact dependant and has to be analyzed in the light of the responsibilities entrusted and the manner in which the professional has performed his fiduciary duties. Patent agents, like legal practitioners, are entrusted with significant responsibilities that directly affect the rights of their clients. Any failure to fulfil these duties, particularly where it leads to irreversible harm, such as the lapse of a patent application, may transcend mere negligence and constitute professional misconduct.
43. The Supreme Court of India, in *N.G. Dastane v. Shrikant S. Shivde* [(2001) 6 SCC 135], recognized that professional misconduct encompasses not just deliberate acts but also conduct demonstrating gross negligence or reckless disregard for professional obligations. Thus, even in the absence of moral delinquency, a failure so severe that it betrays a lack of care expected of a professional may rise to the level of misconduct.
44. Patent agents perform a role similar to that of legal practitioners but with additional statutory responsibilities under the Patent Act of 1970. Section 127 of the Patent Act outlines the qualifications of a patent agent and requires them to possess an adequate knowledge of patent law and procedure. The trust reposed in patent agents by clients places them in a fiduciary position, where they are required to act with the highest degree of care, diligence, and accountability. This fiduciary duty does not depend on the



existence of practice guidelines but flows from the nature of their role and statutory framework.

45. Mr Chaklan's failure to communicate the FER through a verifiable mode, resulting in the lapse of the patent application, reflects gross negligence in fulfilling this fiduciary obligation. Unlike ordinary negligence, this act demonstrates a reckless disregard for his professional responsibilities, which directly harmed his client's legal rights. This dereliction goes beyond negligence and into the realm of misconduct.
46. In *Council of the Institute of Chartered Accountants of India v. Mukesh R. Shah* [(2004) 1 SCC 603], the Supreme Court held that professional misconduct is not confined to violations of codified standards but includes any behaviour that reflects a gross failure to perform one's duties. Similarly, in *R.D. Saxena v. Balram Prasad Sharma* [(2000) 7 SCC 264], the Court emphasized that ethical obligations are inherent in the professional-client relationship, regardless of specific regulatory provisions.
47. In this case, Mr Chaklan's failure to properly communicate the FER has caused irrevocable harm to his client by leading to the abandonment of the patent application. This result magnifies the seriousness of his actions and underscores the need to classify them as professional misconduct. Unlike an isolated instance of negligence that can be rectified, such lapses that lead to the loss of substantive rights reflect a gross breach of professional obligations.
48. Mr Chaklan's attempt to analogize his case to instances of mere negligence by legal practitioners is unpersuasive. The nature of his role, the fiduciary relationship with the client, and the severe consequences of his lapse elevate this matter from simple negligence to professional misconduct.





**Argument that this is a case at best of negligence and not misconduct:**

49. During the hearing, one of the arguments raised by Mr Chaklan was that even if it is assumed that he did not convey the FER to his client, it was, at best, a case of negligence (not misconduct) and the Controller has no power to punish a person who is negligent.
50. Negligence, in the professional context, refers to a failure to exercise the degree of care and skill that is required of a competent professional in similar circumstances. It implies a lapse or error in judgment or execution due to oversight, carelessness, or ignorance. Negligence may arise from isolated instances of poor decision-making or procedural lapses where the professional, though acting in good faith, fails to meet the required standard of care.
51. Negligence often stems from oversight, lack of diligence, or insufficient care rather than malicious or deliberate actions. For example, if a patent agent inadvertently in a cover letter of a patent application cites a wrong filing date. Further, if the patent agent, upon discovery of the error or neglectful act, took corrective action to mitigate its consequences, the conduct may be seen as 'negligent'. Of course, repeated or reckless negligence would eventually amount to misconduct, depending on the severity and impact on the client, in particular, the loss of IP right.
52. In this case, had Mr Chaklan inadvertently missed a procedural step despite maintaining regular communication with the client and taking reasonable precautions, his actions might have been categorized as negligence. For example, if there were technical difficulties in delivering the examination report or a



misunderstanding about deadlines despite reasonable diligence, this could arguably amount to negligence rather than misconduct. However, in this case, Mr Chaklan assumed that verbal communication of FER is sufficient when he does not do so for other clients and also failed to respond to the emails from his client requesting for update on the status of the patent application. There was absolutely no reason for Mr Chaklan to have not responded to the emails.

### **Misconduct:**

53. Misconduct, on the other hand, transcends mere negligence. It entails a wilful or gross disregard of professional duties, ethical obligations, or standards of integrity. Misconduct may manifest through deliberate acts of deceit, significant dereliction of duty, or a repeated failure to adhere to the expected professional conduct. Misconduct demonstrates an indifference to the consequences of one's actions or a conscious choice to disregard responsibilities that could adversely affect the client.
54. In the present matter, Mr Chaklan's failure to notify the client of the FER in writing, compounded by his reliance on unverifiable claims of telephonic communication, goes beyond mere negligence. Communication of an examination report is a critical professional obligation that demands verifiable documentation. By choosing an inadequate and non-standard mode of communication, and his lack of proper follow-up with the client thereafter, and not ensuring that the application of the client receives the attention that it should, Mr Chaklan demonstrated a gross lack of diligence and disregard for his fiduciary responsibilities. This dereliction directly resulted in the lapse of



the patent application, a consequence that could have been avoided with basic adherence to professional practises.

55. It is also important that all major communications between the parties should be in writing, and all documents received from the Patent Office should be sent by the Patent Agent promptly to the client irrespective of the stature of the client, any legal entity or individual, including those who may not be in a position to appreciate or understand the contents of a communication. It should be clear beyond doubt as to what the patent agent and the applicant communicated with each other.
56. In the case in hand the majority of communications between the patent agent and the applicant were oral. The final status enquiry from the applicant to the patent agent, in this case, was by way of mail, and there is nothing on record to show that the patent agent took any step to respond to the examination report or to convey in writing to the applicant the steps which could have been taken. The Committee is of the view that this was not done and the application resulted in deemed abandonment. The patent agent holding the Power of Attorney and being responsible for the progress of the application did not discharge its role.
57. The distinction between negligence and misconduct is significant, as misconduct carries a greater degree of culpability and reflects a failure to uphold the ethical and professional standards that the profession demands. In this case, Mr Chaklan's actions exhibit a level of recklessness and disregard that squarely falls within the definition of professional misconduct.
58. Even going by the standard of misconduct as laid down in the case of Noratanmal Chouraria vs MR Murli, the present case is an apt one that squarely falls within the parameters laid down therein.



59. It is unequivocally agreed upon by the members of the Committee that Mr Chaklan has failed to meet the expected professional conduct in his capacity as a patent agent. There is no concrete evidence to show that Mr Chaklan had conveyed the issuance of the FER and the deadline applicable in relation thereto, to the concerned client. While there is an Email of August 28, 2022, on record, which shows an enquiry from the client about the status of their application post the issuance of the FER and prior to the expiry of the deadline to file a response to such FER, there is no cogent document placed on record to show that Mr Chaklan had taken cognizance of and/or had bothered to act upon such email and advise of the remedies available in the Act / Rules to prevent the loss of IP right.
60. In such circumstances, it is further incomprehensible as to why, even on or closer to the deadline, there were no efforts made by Mr Chaklan to have one final confirmation with the client having regard to the fact that he had no material with him to suggest that the client had lost interest in the application. Mr Chaklan has allegedly prosecuted over 100 applications which is sufficient for him to understand the gravity of a deadline and consequences of non-compliance thereof.
61. The Committee also finds it strange that Mr Chaklan claims to have not entrusted anyone in his office to attend to his duties during his absence. This draws our mind to a classic observation made by the Hon'ble Supreme Court of India, in paragraph 18 of *Ravi Yashwant Bhoir vs Collector*, (2012) 4 SCC 407, that "*when watchman leaves his duty and goes to watch cinema, though there may be no theft or loss to the institution but leaving the place of duty itself amounts to misconduct.*". The Hon'ble Supreme Court of India had further proceeded to observe in such matter that "*The*



*expression “misconduct” has to be understood as a transgression of some established and definite rule of action, a forbidden act, unlawful behaviour, wilful in character. It may be synonymous as a misdemeanour in propriety and mismanagement ....”*

62. In the case at hand, the application was filed through Mr Chaklan, a Patent Agent. While he submitted the application and made payment of the examination fees, he failed to take necessary steps thereafter, particularly with regard to the FER, the date of which is critical considering that the application is deemed abandoned if no steps are taken on the FER, and these facts of the case clearly go to show that there was inaction on his part which resulted in the abandonment of the application.
63. Further, the facts of the case go to show that the applicant/complainant also did not show the degree of sincerity that is required from the applicant/complainant, who is also a stakeholder, to follow up on his application, considering the fact that both Mr Saurav Chaudhary and Mr Ankur Pandey are educated persons and exercised very poor diligence towards the patent application which was made with the intention of obtaining monopoly on the valuable invention acquired by the applicant which was developed over a period of about 6 years from 2013 to 2019, till the application for patent was made. The majority of the follow-ups were only in the months of November 2022 and December 2022, which was subsequent to the expiry of the 6 months deadline post the issuance of the FER. The abandonment of the application could have been avoided if the applicant and other stakeholders had followed up on their valuable rights in a diligent manner, which they failed to do.
64. Moreover, to understand whether Mr Chaklan is habitually involved in such lackadaisical conduct and/or whether the present case is a one-off anomaly, the Committee had directed Mr



Chaklan to furnish a full list of patent applications filed by him during his tenure as a patent agent. It was found that some of these applications have been granted, and some applications were abandoned. We are not going into the merits of these cases – but this just shows that, in this case, there was a lackadaisical attitude, which is also evident from the record. Such conduct and lapses leading to loss of rights would no doubt amount to serious misconduct, which should be struck down by a heavy hand. The facts that cannot be ignored are that the profession of a patent agent is an honourable profession, and it occupies a place of trust in the country to facilitate securing intellectual property rights, and the patent agent deviates from such professional practices is unfitting of such high standards which are also applicable to him.

65. In view of the above, the Committee finds Mr Naveen Chaklan to be guilty of misconduct in his professional capacity in the present case and is unable to absolve Mr Chaklan from the same. The misconduct of Mr Chaklan resulted in the abandonment of the patent application of the complainant, which exposed his client to harassment, mental agony, financial hardships and loss of rights in the application.
66. Having considered the facts and circumstances of the case and all other evidence before us, and having regard to the principles of natural justice, fairness, equity and balance of convenience, the Committee recommends the removal of the name of Mr Naveen Chaklan from the Register of Patent Agents.
67. The Chairman of this Committee, in his capacity as the Controller General of Patents, Designs and Trade Marks may exercise his powers for removal of the name of Mr Naveen Chaklan from the Register of Patent Agents as per the provisions of Section 130(1)(ii) of the Patents Act, 1970 and consequently delete his name from

the Register of Patent Agents as per Rule 116(1)(c) of the Patent Rules, 2003.

68. A copy of this order is to be circulated to the patent agent and the concerned department for necessary action.

Dated: December 26, 2024



Sd/-

Prof (Dr) Unnat P. Pandit,

Controller General of Patents, Designs and Trademarks

Sd/-

N K Mohanty,

Senior Joint Controller of Patents and Designs

Sd/-

Subhatosh Majumdar,

Advocate, IP Practitioner.

Sd/-

Rajeshwari Hariharan,

Advocate, IP Practitioner.

Sd/-

Dr Pawan Kumar Pandey,

Deputy Registrar of TM, GI and Copyright.