

*[Abstract prepared by the PCT Legal Division (PCT-2012-0002)]*

Case Name:

DURECT CORPORATION V. UNION OF INDIA

Jurisdiction:

HIGH COURT OF DELHI (INDIA)

Abstract:

The High Court of Delhi has held that a request for condonation of delay of a late national phase entry of a PCT application has to be taken on record by the patent office, that the applicant has to be heard, that the patent office has to consider the reasons provided for the delay, and that a reasoned decision has to be issued by the patent office. Durect Corporation's PCT application, claiming priority from a former US application, was filed under the National Phase in India, eight months after the 31 month period for national phase entry had expired. The Patent Office of New Delhi refused to accept the application. Durect filed a request for condonation of delay. The High Court of Delhi stated that the patent office's decisions are open for appeal and that the Indian Intellectual Property Appellate Body (IPAB) has to hear the appeal on merit by taking into consideration the facts and circumstances of each case. This decision confirms the findings of the Madras High Court in *Nokia Corporation v Controller of Patents*.

PCT Legal References:

- Article 8
- Article 22(1)
- Article 48(2)(b)
- Rule 82*bis*.2