Post-grant Opposition filed on or before one year of publication under of grant is maintainable

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In a recent decision, Asstt. Controller of Patents and design, Dr. Rachna Yadav held that a post-grant Opposition filed at the Indian Patent Office on or before the expiry of one year of publication of grant under section 43(2) is maintainable. Two Oppositions were filed on 30.03.2017 and 31.03.2017 by the Opponents, Shantha Biotechnics Private Limited and Biological E. Limited, respectively, under Section 25(2) of the Patents Act against Panacea's Patent number IN272351. On 05.04.2017, the Patentee was served with a copy of the notice of opposition and evidence by courier service, by e-mail on 27.04.2017 and by speed post on 01.05.2017 (agent of Patentee) and 02.05.2017 (Patentee). The Patentee filed an Interlocutory petition that the opposition is not maintainable as the Patentee has been served with the post-grant opposition by email as well as speed-post by letters dated 28.04.2017 which are beyond the prescribed time. The Controller noted that section 25 (2) requires that a post-grant opposition be filed at the Indian Patent Office on or before the expiry of one year of publication under section 43(2) i.e. before 1.04.2017. The same has been done in the present case. Further, the Controller held that the Patentee has admitted to the fact that the copy of Opposition (including written statement, evidence and notice) was received on 05.04.2017 by courier, and later by e-mail and speed post. The Controller held that the Patentee has admitted that they have received the Opposition, by not one but several modes and the opposition has been timely filed at the Indian Patent Office as per the timeline of Section 25(2), the opposition is therefore maintainable. **Team Anand and Anand:** Gitika Suri

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