

LEGISLATIVE ASSEMBLY

LAW No. 35

(Of May 10 1996)

“WHEREBY PROVISIONS ON INDUSTRIAL PROPERTY ARE ADOPTED”

THE LEGISLATIVE ASSEMBLY

DECREES

Title I

General Provisions

Single Chapter

Article 1. The present Law is designed to protect inventions, the models of use, the industrial models and drawings, industrial and commercial secrets, trademarks for products and services, collective and warranty trademarks, the trademarks of origin, origin denominations, commercial names and advertising slogans and signs.

Article 2. The General Directorate for the Registration of Industrial Property of the Ministry of Commerce and Industry, hereinafter referred to as DIGERPI, is the authority responsible for the application of this Law, unless otherwise expressly provided.

Article 3. The application of the present provisions is a matter of public order; notwithstanding those established in the international treaties which the Republic of Panama has subscribed.

Article 4. For the purposes of this Law, the expressions that continue are defined as follows:

1. Recognized priority. Privilege to obtain an industrial property right, the based on an application filed abroad referring totally or partially to the same matter object of a later application filed in the Republic of Panama.
2. Right to Demand. To claim for the protection of an essential characteristic of a product or process, manufactured in the precise and specific manner mentioned in the application for patent or registration, which will be granted, as the case may be, according to the corresponding title of this Law.

Title II

Of Inventions and Models of Use

Chapter I

Preliminary provisions

Article 5. The individual, who creates an invention or model of use, will be entitled the exclusive right to exploit it for his own benefit; or, with his consent, for the benefit of others.

Article 6. The right referred to by the preceding article shall be granted by means of patents, in the case of inventions; and by registrations, in the case of models of use or industrial model or drawing, as provided by this Law.

Article 7. An individual or a legal entity, may be the owner of a patent or of a registration.

Article 8. The individual, who names himself as the inventor in the application for the patent or registration, is deemed to be the inventor. In the event of transference of his invention, the inventor or inventors may reserve the right to be mentioned as such, in the publications and in the corresponding title.

Article 9. The Labor Code provisions will be applicable to inventions, to models of use and industrial models or drawings, created by persons who have a labor relationship be it in the private or the public sector.

Chapter II

Inventions

Article 10. New inventions that are product of a creative activity and susceptible of industrial application are subject to be granted a patent under the provisions of this Law.

Article 11. All ideas applicable to the solution of a specific technical problem are deemed to be an invention. An invention could be a product and/or procedure, or the special use of a product, or the non-evident use of the product. The invention of a product includes, among others, any substance, material or composition, and any article, apparatus, machine, equipment, mechanism, device or any other object or tangible result, as well as any of its components. The invention of a procedure includes, among others, any method, system or sequence of steps leading to producing or for obtaining a product or a result, as well as the use or the application of a procedure or of a product, for obtaining a certain result.

Article 12. An invention is considered new when there have not been prior manifestations about the state of technique regarding it. The state of the technique includes all that has been disclosed or made accessible to the public anywhere in the world by means of a concrete publication, oral disclosures, its sale or commercialization, its use, or by any other means, before the date the application for patent in Panama is filed; or, if the case may be, before the date of the recognized priority when it should be claimed pursuant to this Law. The state of technique also includes the contents of an application for patent pending in Panama, whose presentation date or if applicable, of priority, was prior to the application under examination, as long as the context is included in the application prior to the date when it will be published.

Article 13. In order to determine the patentability of an invention, the following will not be taken into consideration: the disclosure that occurs anywhere in the world within twelve months prior to the date of filing of such application in Panama; or, if applicable, prior to the date of the recognized priority

claimed pursuant to this Law, if such disclosure has been the direct or indirect result of acts carried out by the inventor, or by his assignee, or of a breach of trust, breach of contract or illicit acts committed against any of them.

The disclosure resulting from a publication made by the office of industrial property, during the patent concession procedure is not included in the exception of this article unless the application which caused the publication had been filed by a person not entitled to the right to obtain the patent; or, that the publication had been made by mistake by the office of industrial property.

Article 14. For the purpose of this Law the following, among others, shall not be considered inventions:

1. Theoretical or scientific principles;
2. Discoveries which consist on disclosing or revealing something which already existed in nature, even though it was previously unknown;
3. Projects, outlines, economic or business principles or methods, those referred to purely mental activities and games;
4. Software programs per se, that refer to uses designated for computers;
5. Form of presentation of information;
6. Aesthetic creations and the artistic or literary works;
7. Surgical, therapeutic or diagnostic treatment, applicable to the human body and those related to animals. This disposition will not be applied to products, especially to the substances or compositions, nor to the inventions of apparatus or instruments for the practice of such methods;
8. The juxtaposition of known inventions or the mixture of known products, the variation of their form, dimensions or materials, unless it is actually a combination or a fusion in such a way that they cannot work separately, or that their qualities or characteristic functions are modified to obtain an industrial result not obvious to a technician in that field;
9. The inventions contrary to local laws, health regulations, public order, morality, good habits or the security of the State.

Article 15. The following inventions relating to living matter, are exempted from patent,

1. Cases that are essentially biological for the obtainment or reproduction of plants, animals or their varieties, whenever the DIGERPI considers that they attempt against the morality, integrity or dignity of human beings;
2. Vegetable species and animal species and breeds;
3. Biological material just as it exists in nature;
4. Those pertaining to live matter that compose the human body;
5. Vegetable varieties;

Article 16. An invention is considered the result of a creative activity if, it is not obvious or derived in an evident way of the state of the technique referred to in article 12, for a person well versed in the corresponding technical matter.

Article 17. An invention is considered susceptible of industrial application, when its objective can be produced, or used in any type of industry or activity. For these effects, the word *industry* has the broadest meaning, which includes, among other, the handicraft, agriculture, mining, fishing and services.

Article 18. The patent grants to its owner the right to prevent third parties from carrying out the following acts:

1. When granted for a product:
 - a) To manufacture the product;
 - b) To offer for sale, to sell or to use the product, to import or to store it for any of such purposes;
2. When granted for a procedure:
 - a) To use the procedure;
 - b) To execute any act indicated in numeral 1, regarding a product obtained directly from the procedure.

The scope of the protection conferred by the patent will be determined by the claims that shall be interpreted in accordance with the description and the drawings.

Article 19. The right that confers a patent will produce no effect against:

1. A third party who carries out acts related to the patented invention in a private environment, in a non commercial scale, or with a non commercial purpose;
2. An industry or company, in general, or an educational or scientific entity that manufactures or uses the invention with experimental purposes, in relation to the object of the patented invention, or for scientific investigation or education;
3. Any person that manufactures, acquires or uses the patented product or a product obtained by a patented process, after the product has been legally introduced in the market place;
4. Any person who prior to the date of presentation of the application for patent, or, if applicable, of recognized priority, would have used the patented process, or manufactured the patented product or would have started the necessary preparations, in order to proceed with these actions. This exception is not applicable if the person would have acquired knowledge of the invention by means of an act of ill faith.

Article 20. The patent will be in effect for a period of twenty years, which cannot be extendable, starting from the date the application is filed, subject to the payment of the fees stipulated by this Law.

Article 21. After the patent has been granted, its owner may claim a reasonable compensation from third parties, or, if it be the case, a compensation for damages if before the grant they had exploited

the patented product or procedure without his consent, when such exploitation would have taken place after the date of publication of the application for patent in the official bulletin of Industrial Property, hereinafter known as BORPI.

In case of exploitation of patents of procedure without authorization, the burden of proof will fall upon the defendant, when one or both of the following elements happen:

1. If it is sufficiently credible that the product that has been manufactured using the procedure and if the owner of the patent, even though he has taken the justifiable measures, has not been able to establish which procedure was really used.
2. Upon gathering and weighing the evidences to the contrary, the legitimate interest of the defendant in the protection of his industrial or commercial secrets will be taken into consideration.

Article 22. The exploitation of the patented invention consists in the use of the patented process, in the manufacturing and distribution, or in the manufacturing and commercialization of the patented product, or in the mere commercialization in the domestic or international market by the owner of the patent. The importation of the patented product and its subsequent distribution in the Republic of Panama shall constitute for the purposes of this Law, exploitation of the invention.

Article 23. The statement that there is a patent application pending can only be made when the minimum requirements specified by this Law are complied with.

Chapter III

Models of use

Article 24. Model of use is every shape, configuration or layout of parts of any appliance, tool, instrument, mechanism or other object, or of any part thereof, which allows a better or different operation, use or manufacture of the object to which it is embodied, or which gives to it any use, advantage or technical effect, that it did not have before.

Article 25. The new model of use, susceptible of industrial use will be able to be registered. A model of use will not be able to be registered if it has only slight differences, such as those that do not contribute to any perceivable utility feature in respect to prior inventions or models of use.

Article 26. The registration of the model of use will be in effect for of ten years, which cannot be extendable, starting from the date the application is filed, subject to the payment of the fees stipulated by the corresponding Law.

Article 27. Subject to the special provision of this Law, the present provisions relating to the patents of invention are applicable, when appropriate, to models of use.

Article 28. The provisions set forth in the following chapter, shall be applied, whenever appropriate, to the process for the registration of a model of use.

Chapter IV

Processing of Patents

Article 29. In order to procure a patent, a patent application must be filed before de DIGERPI by an attorney or law firm legally authorized to practice law in Panama, accompanied by a description, one or more rights to demand, the corresponding drawings, a summary as well as a receipt of payment of the established tax and filing fees.

The application must state the name and address of the applicant, the name of the inventor, the name and address of the attorney and the title of the invention.

An applicant for a patent of invention may be an individual or legal entity. If the applicant is not the inventor, the application must be accompanied by the corresponding assignment agreement, or by any other document justifying the right of the applicant to obtain a patent.

In the patent application may be stated the fact of having obtained or solicited, before an industrial property office, the patent or another protection title, as long as it refers, totally or partially, to the same invention claimed in the application filed in Panama. This may be stated in the respective filing office, or before the office where the patent, date and number were obtained.

Article 30. The description consists in disclosing the invention in a sufficiently clear and complete manner, so as to enable the evaluation of it, and so that a person skilled in the corresponding technical matter may execute it.

The description shall indicate the name of the invention and shall include the following information:

1. The technological area to which it refers or to which the invention is applied;
2. The prior technology known by the applicant, which may be deemed useful for the understanding and for the examination of the invention, as well as the references to the documents and prior publications relating to such technology;
3. The description of the invention, in such terms that it allows the understanding of the technical problem and the solution provided by the invention, as well as the disclosure of its advantages with respect to the previous technology.
4. The description of the drawings, if there are any;
5. The description, in the best manner known to the applicant, to execute or practice the invention, using examples and references of the drawings;
6. The manner in which the invention may be manufactured or used in some activity, except when it is evident from the description or the nature of the invention.

When the invention refers to a product or biological procedure, which implies the use of biological material not available to the public, and which cannot be described in a manner that it may be executed by a person skilled in the subject, the description shall be complemented with a deposit of said material in a deposit institution, such as those recognized in the Budapest Treaty of 1977, on

international recognition of the deposit of microorganisms for the purpose of the procedure in patent matter, and any other institution recognized by the DIGERPI. In such case, the deposit shall be made, not later than the date of filing of the application in Panama or, if the case may be, in the date of the claim for priority.

Whenever a deposit of biological material is made to complement the description, such circumstance shall be stated in the description along with the name and the address of the deposit institution, the date of the deposit and the deposit number assigned by the institution. The nature and characteristics of the deposited material shall also be described whenever it would be necessary for the publication of the invention. The biological material deposited will constitute an integral part of the description.

Article 32. Drawings and any other documentation will be exhibited whenever necessary in order to understand, evaluate, or execute the invention.

Article 33. The claims defined the matter for which the patent protection is desired; furthermore, they should be clear, concise and be fully supported by the description.

Article 34. The summary will include a synthesis of the information contained in the description, a review of the claims and the existing drawings and, if the case may be, it shall include the chemical formula or the drawing that better characterizes the invention. The summary will allow the to understand the essentials of the technical problem, and the solution given by the invention, as well as its main use.

The summary will serve exclusively for technical information purposes and will not be used to interpret the scope of the protection.

Article 35. A patent application will only be admitted if at the time of its filing, it contains, at least, the following requisites:

1. The identification of the applicant and his domicile;
2. A document that, at first sight, offers a description of the invention;
3. A document that, at first sight, contains one or more claims, and
4. The receipt of payment of the established tax and filing fees.

If the application makes reference to drawings, and these are not included at the time of filing, no filing date will be assigned to the application nor will it be process until the drawings are receipt except if the applicant states, in writing, that all reference to drawings contained in the application should be considered null and void.

Article 36. When request is made for a patent already presented in another country or countries, the date given by the country where it was first presented will be recognized as the priority date. For this purpose, the respective application should have been filed in the Republic of Panama, within the terms determined by the international conventions or treaties on the subject, which are in force and ratified by Panama.

Article 37. In order to claim a priority right, the following rules apply:

1. The priority claim must be made when the application for a patent is filed, stating the country or office where the priority application was filed, the date of such filing and the number assigned to said application;
2. Within six months after the filing of the application in Panama, a copy of the priority application must be filed, with the description, the drawings and the claims; with a certified acknowledgement from the office of industrial property that had received such application, and the certification of the filing date issued by said office. The documents and certifications that are not written in Spanish should be accompanied by a corresponding translation authenticated by the proper authority, these documents and certification will be exempted from all consular or notarize legalization or authentication.
3. In the same application and, if the case may be, for the same claim multiple priorities or partial priorities can be claimed, which may have their origin in two or more offices; in such case, the term of the priority will start from the date of the oldest priority claimed; and the right to priority will only protect the elements of the application presented in Panama, which were included in the application, or applications, which priority has been claimed.

Article 38. When several inventors have made the same invention, independently one from the others, the right to the patent will belong to the one who owns the application with the oldest presentation or recognized priority date.

Article 39. The patent application must refer to a single invention, or to a group of inventions relating to each other in such manner as to conform a single inventive concept.

Article 40. If the application does not comply with what is established in the preceding article, the DIGERPI will inform so to the applicant in writing, in order that within the period of six months, extended for two additional months with just cause, the application be divided in several applications, maintaining the date of the original application, as the date of each application; and as the case may be, the date of the recognized priority. If when the term expires, the applicant has not made the division, the application will be deemed deserted and the file ordered closed.

Article 41. A group of inventions is deemed to form a single inventive concept, according to Article 39, in the following cases, among others:

1. Claims of a specific product and those related to processes especially conceived for its manufacture or use;
2. Claims of a specific process and those relating with a machinery or medium especially conceived for its application;
3. Claims of a specific product, the ones of a process especially conceived for its manufacture, and the ones of a machinery or medium especially conceived for its application;
4. Claims of a procedure and the use of the product manufactured thereby.

Article 42. The process, machinery or apparatus, to obtain a model of use or an industrial model or drawing, will be the object of application, independent of the application for registration of the latter.

Article 43. When a patent application has to be divided, the applicant shall file the descriptions, the claims, the necessary plans or drawings, for each application, except the documentation relating to the priority claimed; and, if the case may be, the translation enclosed with the original application. The plans or the drawings and the descriptions exhibited will not undergo changes, which amend the invention as set forth in the original application.

Article 44. The applicant of a patent of invention may request that his application becomes an application for registration of a model of use and that it is processed as such. The conversion of the application will only take place, when the nature of the invention allows it.

The applicant of a registration of a model of use may request that his application become an application for a patent of invention.

The request for the conversion of an application will be filed only once and will be subject to the established fees. A converted application will maintain the filing date of the original application.

Article 45. Once the application is received, the DIGERPI will make an examination of form of the documentation; and may request a specification or and explanation of whatever it deems necessary, or that omissions be corrected. Likewise it will verify if the object of the application for patent meets with the patent requirements established in this Law, except for those of innovative and creative activity. Nevertheless, after hearing the interested party, the DIGERPI will deny, the granting of the patent by a justified resolution when it is established that the invention that is object of the application lacks innovation in an evident and notorious way.

If the applicant does not comply with the requirements made by the DIGERPI, to correct the deficiencies in the application within a period of six months, extended for an additional six months if requested by the applicant, the application will be considered deserted and the file will be ordered closed. The documents filed, will not, for any reason contain additional claims or have a broader scope than the claims made in the original application, inasmuch as if this be the case a new application would have to be made.

Article 46. The DIGERPI will refuse totally or partially the application, if it deems that its object is not patentable or that it contains deficiencies in it that have not been corrected.

When no deficiencies that would bar the granting of the patent appear from the examination by the DIGERPI, or when such deficiencies have been corrected, the DIGERPI shall inform the applicant that in order to continue with the proceedings for the granting of the patent, he will have to request the report of the state of the technique, within the period of time established by this Law, if he had not requested it before.

Article 47. After eighteen months from the date of the application have passed, or from the priority date that had been claimed, once the examination referred to in the preceding article has been

effected, and upon request by the applicant on the report of the state of the technique, the DIGERPI will order the publication of the patent application in the BORPI. The applicant may request in writing, at any time prior to the end of the referred period, that his application be published, if the provisions of article 46 have been complied with.

Article 48. Within fourteen months after the date of filing, the applicant must request from the DIGERPI the report as to the state of the technique, paying the established fees. In the event that a priority had been claimed, the fourteen months will run from the priority date.

When the applicant must correct deficiencies, as a result of the examination of his application, the period to correct them will be the one established in article 45 of this Law. Once the notice referred to in the last paragraph of the article has been made, the applicant must request, that the report on the state of the technique be rendered, within the month following such notification.

If the applicant does not comply with the provisions of this article, his application will be declared deserted.

The request to render the report on the state of the technique in reference to an addition cannot be requested if, previously or simultaneously, it has not been requested for the original patent, and if the case may be, for the previous additions.

Article 49. Once the examination of the application required by article 45 has been effected, and the request by the applicant for rendering the report of the state of the technique has been filed, the DIGERPI will proceed to elaborate such report with reference to the subject matter of the patent, within a period not greater than eight months.

To render the report, the DIGERPI may use the services of domestic or international organizations, or of similar offices.

The DIGERPI may admit the report of the state of the technique filed by the applicant, made by domestic or international organizations.

This report must mention the elements of the state of the technique which might be taken into consideration to recognize the innovation and the creative activity which constitute the object matter of the application; and will be evaluated based on the claims in the application, and taking into consideration the description, and if the case may be, the drawings presented.

Once the report of the state of the technique has been completed, the DIGERPI shall deliver it to the applicant of the patent and shall publish it in the BORPI.

Article 50. When the lack of accuracy of the description or of the claims prevents from proceeding, totally or partially to the elaboration of the state of the technique report, the DIGERPI shall deny, in the corresponding part, the granting of the patent.

Before adopting the definite resolution denying the granting of the patent, the DIGERPI will duly notify the applicant granting him six months that may be extended for two additional months, in order to submit the allegations that he may considered proper.

Article 51. Any person may file observations, well reasoned and documented, about the state of the technique report, within a period not greater than two months from its publication.

After expiration of the period granted to third parties for the presentation of observations to the report of the state of the technique, the written observations shall be served to the applicant in order that he makes, within a period not greater than two months, the corresponding comments and, if he considers it proper, modify the claims.

Article 52. Independent of the contents of the report on the state of the technique, and of the objections made by third parties, after the expiration of the time for the observations of the applicant, the DIGERPI will proceed to grant the patent requested prior payment of the corresponding fees.

In the event that the claims are modified, the DIGERPI will send a copy to the third parties that have made observations to the report on the state of the technique.

The patent will be granted preserving the rights of third parties, with no guarantee from the State as to the effectiveness of the patent, of the invention per se or of the usefulness for the purpose for which is granted.

The applicant must pay in full, within two months, the fees for the granting of the patent. If payment is not made during such time, his application will be considered deserted and the file will be ordered close.

Article 53. When dealing with applications of patents related to the activities inherent to the State, the opinion of the corresponding entity of the state will be required prior to its publication.

Article 54. The DIGERPI will issue a title for each patent, as evidence and official acknowledgement to the owner. The title will comprise an issue of the description, the claims, and of the drawing, if any, and it will establish:

1. Number and classification of the patent;
2. Name and domicile of the person or persons to whom it is issued;
3. Name of the inventor or inventors;
4. Filing date of the application and, if the case may be, the date of the recognized priority and the country, as well as the date of issue;
5. Name of the invention;
6. Its duration;
7. Number and date of the resolution.

Chapter V

Licenses and Transference of Rights

Article 55. The rights arising from an application, patent or registration, may be totally or partially assigned or transferred, under the terms and conditions established by common legislation. The assignment or transfer of rights must be recorded at the DIGERPI in order to affect third parties.

Article 56. The owner of the patent or of the registration may grant, through treaties, a license for its exploitation. The license shall be recorded in the DIGERPI in order to affect third parties.

Article 57. To record an assignment or transfer of an application, patent or registration, or of a license, you will have to file the corresponding application, in accordance with the terms of this Law.

Article 58. In order to affect third parties, all merger, change of name or domicile, assignment or transfer of a patent or registration must be recorded.

Article 59. The cancellation of the recording of a license will proceed, in any of the following cases:

1. When jointly requested by the owner of the patent or of the registration, and the person to whom the license has been granted;
2. When one of the parties requests it, in accordance with the terms of the license agreement;
3. Due to annulment or termination of the patent or registration;
4. By court order.

Article 60. Except for an agreement to the contrary, the granting of a license does not exclude the possibility to the owner of the patent or registration, to grant other licenses or to simultaneously exploit it for his own benefit.

Article 61. The person who has been granted a license recorded in the DIGERPI, except for an agreement to the contrary, shall have the power to take legal actions for the protection of the patent or registration rights, as though he were the title owner.

Article 62. The working of the patent or of the registration by the person, to whom a license recorded at the DIGERPI has been granted, will be considered as made by its title owner.

Chapter VI

Annulment and Termination

Article 63. Upon the request from any interested party, and having previously heard from the title owner, the courts proper to process cases of industrial property, will declare the annulment of a patent or invention, or of a registration for a model of use, in any of the following cases:

1. When it is established that the grant or the registration was made in violation of the provisions established in articles 10,11,14,15,24,25 or the numeral 1 and 2 of article 35 of the present Law;
2. When due to an amendment or division of the application, the patent granted would include claims that are supported by matter not included in the application originally filed.

Paragraph: When the grounds established in this article only affect one claim or part of it, the annulment will be declared only with respect to such claim or part, as applicable. The annulment may be declared in the form of a limitation or of a precise detail on the corresponding claim.

Article 64. A patent or registration of model of use can be declared null when it has been granted to someone who according to this Law did not have the right to obtain it. In this case, the person to whom this right belongs may only request the annulment. The action for the claim of the right will be presented to the corresponding judge and it will prescribe in eight years beginning from the date that the patent was granted, and five years beginning from the date the registration was granted.

The DIGERPI will declare the annulment, in accordance with this article, when a judicial judgment has been issued to that effect.

Article 65. The patents and registrations terminate, and the rights protected by them become part of the public domain, in the following cases:

1. Upon expiration of its validity, or
2. For not paying the fees to which they are subjected, in accordance to chapter II, Title IX, of this Law, within the period of time prescribed thereby, or within the grace period of six months following the time prescribed.

No administrative declaration by the DIGERPI will be required for the expiration that occurs by the mere passing of time.

Title III

Of Industrial Models and Drawings

Chapter I

Protection

Article 66. An industrial model or drawing means, any two-dimensional or three-dimensional form that if incorporated to an utility product, gives to it a special appearance and makes it suitable to serve as a type or model for its manufacture.

The protection granted to an industrial model or drawing, in accordance to the present Law, does not include those elements or features of the model or drawing that serve only to procure a technical effect, or which are adopted only by considerations of technical order.

Article 67. The protection granted to an industrial model or drawing, in accordance to the present Law, does not exclude nor affect the protection which might correspond to the same model or drawing by virtue of other legal provisions, particularly those related to copyright.

Article 68. The right to obtain the protection for an industrial model or drawing belongs to its creator. If two or more persons had created the industrial model or drawing jointly, the right will belong to all in common. The right might be transferred by an act between living persons or through succession.

When the industrial model or drawing has been created during the execution of a working or service contract, or a labor contract, the right to obtain the protection will belong to the person who contracted the work or the service, or to the employer, except for contractual provisions to the contrary.

Article 69. The protection of an industrial model or drawing that complies with the condition stated in article 70, is acquired indistinctly:

1. By the first disclosure of the industrial model or drawing in Panama, or
2. By the registration of the industrial model or drawing, according to this title.

Article 70. An industrial model or drawing will enjoy protection if it is new.

An industrial model or drawing is deemed to be new, if it has not been disclosed to the public, or if it has not been made available to it, in any part of the world, either by concrete publication or through sale, commercialization, use or any other means, prior to any of the following dates:

1. The date on which the person entitled to obtain the protection, discloses the industrial model or drawing in Panama, by any means, or
2. The date on which said person files in Panama an application for the registration of the industrial model or drawing or, if the case may be, the date of recognized priority.

In all cases of difference in dates, the oldest one will be applied.

To establish the innovation, the disclosure made within the twelve months prior to the applicable date, according to the preceding numerals will not be considered, as long as such disclosure had arisen, directly or indirectly, from acts performed by the creator of the industrial model or drawing or by its assignee, or by breach of confidence, non performance of contract or illicit act committed against anyone of them.

Article 71. An industrial model or drawing is not deemed to be new by the mere fact that it shows minor or secondary differences with respect to the prior ones, nor because it refers or applies to products of another kind.

Article 72. No protection will be granted to industrial models or drawings which use is contrary to the public order or moral code.

Article 73. An industrial model or drawing that complies with the conditions established in the preceding articles, will enjoy protection for a period of two years, from the date of its first disclosure in Panama, made by the person entitled to the right to the protection.

The protection of an industrial model or drawing, by virtue of this article, is independent of that which could be obtained by the registration of the same model or drawing, pursuant to the present title.

Article 74. The protection of an industrial model or drawing confers to its titleholder, the right to exclude third parties from the exploitation of the industrial model or drawing. By this virtue, and with the limitation provided in this Law, the title holder will be entitled to act against any person who, without his authorization shall manufacture, sell, offer in sale, or use, import or store, for any of such purposes, a product which reproduces or incorporates the protected industrial model or drawing, or which appearance offers a general impression identical to that of the industrial model or drawing protected.

The performance of one of the acts mentioned in the preceding paragraph, will not be considered lawful by the mere fact that the model or drawing, reproduced or incorporated, is applied to a type or kind of product different from those mentioned in the registration of the protected model or drawing.

Chapter II

Registration Procedure

Article 75. The application for the registration of an industrial model or drawing will be filed before the DIGERPI. The applicant and the creator of the model or drawing will be identified in the application, and it shall be established the type or kind of products to which it will be applied, and the class or classes to which those products belong, according to the international classification to be adopted.

An application will not be admitted if, at the time of the filing, it does not contain, at least, the following elements:

1. The identification and domicile of the applicant;
2. A graphic representation of the model or industrial drawing; and
3. The receipts evidencing payment of the established fees.

Article 76. The DIGERPI will examine and determine whether the application complies with the requirement of article 75; and whether the industrial model or drawing meets the conditions established in article 66, and in the numerals 1 and 2 of article 70. In such case, the provisions of article 47 will be applicable.

Article 77. Once the application is published in the BORPI, any interested party may file, before the corresponding authority, an opposition to the registration requested, within the period of two months, from the date of its publication.

After the expiration of such time, if no opposition had been filed, or a judgement had been rendered in favor of the applicant and all the requirements having been complied with, as the case may be, the DIGERPI shall register the industrial model or drawing and shall issue to the applicant the corresponding certificate of registration.

Article 78. The creator of the industrial model or drawing is entitled to be mentioned as such, in the registration and in the corresponding official documents, unless that, by means of a written declaration addressed to the DIGERPI, states that he does not desire to be mentioned. Any pact or agreement by

which the creator of the industrial model or drawing obliges himself to issue in advance such declaration is null and void.

Chapter III

Registered Industrial Models and Drawings

Article 79. The registration of an industrial model or drawing will expire within ten years, counted from the date of filing of the application for registration in Panama.

Article 80. The industrial model or drawing registration may be renewed for an additional period of five years, by paying the established renewal fee. The renewal application must be filed within the six months prior to the expiration of the registration. The renewal fees must be paid prior to the expiration of the registration of the industrial model or drawing.

A grace period of six months will be granted for the payment of the fees, with the established surcharge, and during this period, the registration will maintain its state of being in full force.

Article 81. Upon the petition of any interested person, the corresponding judge shall declare the annulment of the registration, if it is established that it was made contravening any of the provisions of the numeral 1 and 2 of article 70.

In the case of non-compliance of article 68, the injured party may claim his right or request the annulment of the registration. This action will be filed before the corresponding judge and shall prescribe five years after the granting of the registration, unless it had been obtained in bad faith, in which case it may be promoted at any time during which the registration remains in full force.

Article 82. The provisions relating to patents, contained in articles 19, 55, 56,57,59,60,61 and 62, are applicable to industrial models and drawings, as long as it corresponds.

Title IV

Of Industrial and Commercial Secrets

Single Chapter

Article 83. All information of industrial or commercial application which is maintain of confidential nature by an individual or legal entity, which means procuring or maintaining competitive or commercial advantage over third parties in the performance of commercial activities, and to which he had adopted the means and systems sufficient to preserve its confidential nature and its restricted access, shall constitute an industrial or commercial secret.

Article 84. The information that is a matter of public domain, which is evident to a skilled person, or which is disclosed by court order or disposition of the Law, is not considered to be an industrial or commercial secret. It is not considered of public domain or disclosed by disposition of the Law, any

information furnished to any authority by the person who own it as an industrial or commercial secret, when it is furnished with the purpose of obtaining licenses, permits, authorizations, registrations or any other act of authority.

Article 85. The information referred to in Article 83, may be included in a written document, electronic or magnetic media, optical discs, microfilms, films or any other mean or instrument, notwithstanding the protection of industrial or commercial secrets which are not evident in a hardware.

Article 86. The person, who maintains an industrial or commercial secret, may transfer it or authorize the use by a third party. The authorized user will be under the obligation not to make public the industrial or commercial secret by any means.

In the agreements concerning the transfer of technical knowledge, technical assistance, furnishing basic or detailed engineering, it may be established clauses of a confidential nature to protect the industrial secrets contemplated, which must detail the features which are considered confidential.

Article 87. Every person who, by virtue of his work, employment, title, position, office, exercise of his profession or business relation, has access to an industrial or commercial secret whose confidentiality has been advise of, must abstain from using it for his own commercial purposes, or from revealing it without a justified cause and without the authorization from the person who keeps such secret, or from the authorized user. The infringement of this provision will give right to request the immediate suspension of the disclosure of said secret and to the indemnity for the damages sustained.

Article 88. Whoever contacts a workman, professional, advisor, executive consultant, who had maintain or maintains a labor, business or rendering of services relation with a third party for the purpose of procuring industrial or commercial secrets belonging to said party, shall be liable for the damages caused thereby.

The person who procures, discloses or uses, through any illicit means, information, which involves an industrial or commercial secret that belongs to another person, shall be also liable.

Title V

Of Trademarks and Commercial Names

Chapter I

Trademarks in General

Article 89. For the purpose of this Law, trademark means, every sign, word, or combination of these or any other means, which by its features are susceptible of individualizing a product or service in the market place.

Article 90. The following elements, among others, may constitute trademarks:

1. Words or combination thereof, including those used to identify persons;
2. Images, figures, symbols and graphics;
3. Letters, digits and their combinations, when they are constituted by distinctive elements.

4. Three-dimensional forms, including the wrappers, containers, the shape of the product or presentation, and holograms,
5. Colors in their combinations;
6. Any combination of the elements which, with enunciative character, are mentioned in the preceding numerals.

Article 91. The following can not be registered as trademarks or elements thereof:

1. Reproductions or imitations of the coat of arms, flags and other emblems, initials, denominations or abbreviations of denominations of any State or of any national or international organization, without the corresponding authorization;
2. Those consisting, as a whole, in descriptive indications of nature, characteristics, use or application, kind, quality, amount, use, value, of the place of manufacture of origin, or the date of production, of the product or of the rendering the service in question, as well as the expressions constituting the usual or generic denomination of the product or service. Descriptive or generic trademarks which have become distinctive or singular by its use, are excepted;
3. Figures or three dimensional forms which might deceive the public or induce to error, being understood as such, those trademarks which constitute false reference about nature, components or qualities of the products or services sought to be protected;
4. The denominations of settlements or places which are known by the manufacture of certain products, for the purpose of their protection, except the names of locations privately owned, when they are special and unmistakable and the consent of the owner has been given;
5. The ones contrary to moral code, public order or good habits;
6. The names, nicknames, signatures and portraits of persons other than the one who requests the registration, without their consent or, if deceased, the consent of their heirs. The cases of portraits or names of historic personages are excepted;
7. The designs of coins, bank notes, warranty or control seals used by the State, stamps, revenue stamps or species in general;
8. To which include or reproduce medals, awards, diplomas, and other elements, which lead to assume the recognition has been awarded with respect to the corresponding products or services, unless that such awards has been truly granted to the applicant of the registration, or to the person who has assigned the right, and such fact is accredited at the time of filing the application for registration.
9. Those which are identical, resembling or similar, in the orthographic, graphic, phonetic, visual or conceptual aspect, to another trademark, used, known, registered or under registration proceeding by another person in order to distinguish products or identical services, of the same class or similar to those sought to be protected with the new trademark, provided that such similarity or identity between one and the other, be susceptible to provoke errors, confusions, mistakes or

deceptions, in the mind of the public, concerning such products or services, or to its origin. In the case of related goods and services, the person who feels that he is affected may oppose the registration, on the basis of what is stated in this numeral;

10. Those which are identical or similar to a famous or well-known trademark, to be applied to any product or service; or the notorious or well-known, to be applied to products or services specified according to the group consumers to which are intended;
11. The geographic denominations, proper or common, and the maps, as well as the names and adjective, and among these the regional names, whenever they set forth the origin of the products and services and might lead to confusion or error in relation to it;
12. Those which consist basically in the translation to the Spanish language of another already used, well known, registered or in process of registration, to distinguish identical or similar products or services;
13. Those which constitute the total or partial reproduction, the imitation, the translation or transcription, which may lead the public to error, confusion or deceit, of a commercial name belonging to a third party, known locally or internationally, and which had been used prior to the date of the application for registration of the trademark;
14. The three-dimensional forms lacking the originality to easily distinguish them, as well as the usual common form of the products or that imposed by its own nature or industrial function;
15. The denominations, figures or three dimensional animated or changing forms, which are expressed in a dynamic manner, even though they are visible;
16. The titles of literary, artistic or scientific words, and the fictitious or symbolic characters, except with the consent of its author, when he maintains his rights alive, as well as the human persons being characterized, pursuant to the law on the matter, if his consent has not being procured;
17. The letters, numbers or the isolated colors, unless they are combined, constituted or accompanied by such elements as signs, designs or denomination which attach to them a distinctive feature;
18. The words, letters, characters or symbols which are used by the Indian or religious communities or nonprofit organizations, to distinguish the manner of processing the products, the finished products or services, as well as those which constitute the expression of their cult or custom, idiosyncrasy or religious practice, except then the application be made for the benefit of one of the communities or associations to which this numeral refers;
19. Those that make references to national monuments and historic sites, recognized as such by the law, as basis for the design.

Article 92. When the label or the logo of a mark contains terms or signs of common or ordinary use, in the industry, commerce or in the service activities, the protection will be extended only to the words, legends or signs by which it is characterized.

Article 93. Only the registration of one trademark may be requested by each application, and the same will comprise only duly specified products or services included in one class.

New products or services cannot be included in the registration for protection, after the same has been effected; but the products and services could be limited as many times as requested. A new application must be filed for the registration of new products and services.

Article 94. The trademarks are registered in relation to and in accordance with the international system of classification. The DIGERPI will resolve any doubt with respect to the class to which a product or service corresponds.

Article 95. A trademark, which has been widely divulged by its intensive use in the market and in advertising, without losing its distinctive impact, and is known by the general public, is considered as a famous and well-known trademark. And the one, which shows these same characteristics, and is known by the group of consumers to which it is intended, is considered as a notorious trademark.

Chapter II

Ownership of the Trademarks

Article 96. The right to register a mark is acquired by the its use. The right to its exclusive use is acquired by its registration. This Law determines the effects and scopes of the rights conferred by the registration.

Article 97. The right of priority to register a mark, is governed by the following rules:

1. The person who has been using it in commerce from the oldest date has a preferred right;
2. When a trademark has not been used, the registration will be granted to the person, who first files the corresponding application, or the one who invokes, as the case may be, the oldest priority date.

Article 98. In order to oppose the use of a trademark by another person, it is required to have such trademark registered. However, it is not necessary to have a trademark registered to oppose to its registration by another person or to demand its annulment or cancellation; provided, however, that the opponent proves that he has used it before. The person possessing rights over a famous or well-known trademark may oppose its non- – authorized use and its registration, and also to demand the annulment of the registration of the trademark if it had been granted.

Article 99. The titleholder of a registration of a trademark has the right to preclude any of the following acts by third parties, without his authorization:

1. To manufacture, print or reproduce labels, letterheads, containers, wrappings and other similar means of identification, packing or conditioning, which bear the mark or an identical distinctive sign, when it would be evident that such means are intended to be used in relation to the products or services related thereto, for which is registered, and also to sell or offer in sale those means;

2. To apply, attached, or in any other manner, affix the mark or a distinctive sign, identical or similar, in such a way as to lead the public to error concerning the products for which the mark is registered, on the containers, wrappings, packing or conditioning of such products; on products which have been manufactured, modified or treated through services for which the mark is registered, or on articles which are used to render such services to the public;
3. To use a distinctive sign, identical or similar to the trademark registered to identify the same products or services, for which the trademark is registered, or for related products ;
4. To use a distinctive sign, identical or similar to the trademark registered to identify products or services other than those for which the mark is registered, when the use of said sign with respect to such products or services, might cause confusion or a risk of association with the registered trademark.
5. To use in commerce a distinctive sign, identical or similar to the registered trademark without justified cause, and in conditions which may cause a damage to the owner of the trademark, particularly when use should dilute or destroy the distinctive force of the trademark or the commercial value;
6. To use, with respect to a specific trademark, terms of comparison with another mark which products or services be similar or identical, with the only purpose of diluting or destroying the distinctive force of the trademark or the commercial value, causing thereby a damage to its owner.

Article 100. The registration of a trademark does not grant the right to prohibit a third party from:

1. Performing acts of commerce with relation to the products legally marked, the owner himself, his licensee or any other person thereby authorized, had sold or otherwise lawfully introduced in the commerce bearing such trademark, upon the condition that those products and the containers or packages which were in immediate contact with such products, would not have undergone any modifications or alteration;
2. Using the trademark to advertise, offer in sale or mention the existence or availability of the products lawfully marked, or to refer to the compatibility or adaptability of spare parts or of accessories which could be used with the products bearing the registered trademark; provided that such use be limited for the purposes of information to the public and would not lead to confusion about the corporate origin of the respective products.
3. To use his own name, nickname or domicile, or a geographic name or other real indication relative to the type, quality, quantity, destination, value, place of origin or date of the manufacture of his products or of rendering of his services; provided that such use be limited for the purposes of identification or information to the public and would not lead to confusion about the origin of the products or services.

Article 101. The use of a trademark is understood to mean, the production, manufacture, processing or production of goods, products or merchandise, and the rendering of services protected by such a trademark, followed by its distribution in the national or international market place.

Article 102. In order to obtain the registration of a trademark, an application shall be filed by an attorney in the DIGERPI, and it must contain the following;

1. Name, nationality, specific domicile and the I.D. number or the personal identity certificate of the applicant and of the attorney;
2. The name, the country where it was constituted and the specific domicile, if the applicant is a legal entity;
3. Name and/or graphic presentation of the trademark, as it will be used commercially;
4. Description of the goods or services where the trademark is used, or will be used.

Article 103. The application referred to in the previous article, must be accompanied by the following documents:

1. In the case of acting in the name of the interested party without Power of Attorney, the bond referred to in this article; in lieu of this power of attorney, which having been issued by a legal entity, must contain a notarized certification of the company's existence and of its legal representation or in lieu thereof. in case of a foreign corporation, a certification issued by the proper authority, this certification must be issued by the proper authority of the country of incorporation;
2. Sworn statement as to the use of the trademark;
3. Six labels of the trademark or its graphic representation, one of which must be attached to the application;
4. Receipt evidencing payment of the fees for registration, enrollment and publication;
5. Claim of a priority right, if any, according to international conventions.

In order to file the application in the name of the interested party without a Power of Attorney, a bond in the amount one hundred balboas (B/. 100) attached to the form to be supplied by the DIGERPI for this purpose. The amount of the bond posted shall be returned upon the filing of the documents, for which you have a period of two months, extendable for an additional month in case of justifiable cause. If filing does not take place, the bond posted shall be deposited income in the National Treasury, the application shall be denied, and the file ordered closed.

Article 104. The DIGERPI will examine the application, in order to determine if it complies with the requirements set forth in articles 102 and 103.

If it is determined that the application does not comply with any one of the requirements, the interested party shall be so advised so that he corrects the error or the omission, within a three month period counted from the date the notice referred to in article 162 of this Law was ratified, with a warning that if

the period ends and the error or omission has not been corrected, the application will be deemed deserted, and the file ordered closed.

Article 105. After completing the examination as to form, set forth in the foregoing article, it will be determined whether the application incurs in any of the prohibition as to substance set forth in this Law. If the DIGERPI deems that it incurs in any prohibition, it shall pass a well-founded resolution rejecting the registration requested and shall order that the file of the respective application be closed.

Article 106. If the application for registration is found in due form, a sole publication of the application in the BORPI, which will contain the following details:

1. Application number
2. Date of filing
3. Priority date
4. Country of origin
5. International classification
6. Distinguishing feature
7. Goods or services covered thereby
8. Reference as to colors and claims;
9. Name, nationality and domicile of the applicant;
10. Legal representative.

Article 107. Any person may file a complaint in opposition to the registration of the trademark applied for, within two months from the day following the publication referred to in the preceding article. If no opposition is filed, the registration thereof will be ordered by a justified resolution, and the corresponding certificate of registration will be issued to the interested party, subject, to any third party's right.

Article 108. The certificate of registration shall contain the following:

1. Name or registered name, domicile and other general data of the owner of the trademark;
2. Number and date of the resolution whereby the registration is issued;
3. Expiration date of the registration;
4. Registration recorded in the registry books;
5. Name or reproduction of the trademark;
6. Class number and specification of the goods or services covered by the trademark or of its limitation, as the case may be, and;
7. Date of issuance of the certificate of registration.

Article 109. The registration of a trademark is for a ten year period, counted from the date of filing of the application, and may be renewed indefinitely for identical periods of time, provided that it is so requested within the corresponding term allowed and all fees required by the government are paid.

Article 110. The application for the renewal of the registration of a trademark must be filed within the period of time beginning the year immediately preceding the expiration date of the corresponding registration and up to six months afterward. Upon expiration of this period without having filed an application for renewal, the registration will expire due to law. The renewal of the registration during the six months term after its expiration shall be subject to the payment of the established surcharge. The registration shall remain in full force and effect during this term.

The application for renewal can not make alterations in the trademark or increase the list of goods or services for which it was originally registered; however, the owner thereof may limit this list. A new application must be filed to introduce changes or to add goods or services.

Article 111. The renewal of the registration of a trademark shall not be subject to publication or to a complaint opposing it, and shall be effective from the date of the expiration of the prior registration.

Article 112. If the application is found in order its renewal shall be ordered; and a certified copy of the resolution issuing it shall be delivered to the interested party.

Chapter II

Collective and Warranty Marks

Article 113. Every association of producers, manufacturers, merchants or services group, or any non-profit association might apply for the registration of a collective mark to identify the difference in market place between their goods or services rendered by their members, from the goods or services of those who are non members.

Article 114. The application for registration of a collective mark shall include the regulation for the use thereof, stating the identification data of the association representing the registration, the persons authorized to use the mark, the conditions for affiliation to the association, the conditions for the use of the mark, and the reasons why the use of a mark may be prohibited to a member of the association.

Non-compliance by any of the members with the rules for the use of the collective mark, might be sanctioned by the owner of the trademark, with the prohibiting of the use thereof or with any other penalty provided for in the regulations for its use.

Article 115. The owner of the collective mark shall file with the DIGERPI, all amendments to the rules for its use. Any amendments, which do not comply with the requirements set forth in this Law, shall be void and null.

The amendment of the rules for the use of a collective mark shall become effective upon its inscription at the DIGERPI.

Article 116. The collective trademark can not be transferred to third parties, nor shall the use thereof be authorized to those who are not officially recognized by the association.

Article 117. The warranty mark is the sign, or means, which certifies the usual characteristics, particularly the quality, the components and the origin of the goods prepared or distributed, or of the services rendered by individuals duly authorized and controlled by the owner of such mark.

Article 118. The application for registration of a warranty mark shall include the rules of use, which informs about the quality, the components, the origin or any other characteristic of the corresponding goods or services. The rules of use shall also state the measures of control, which the owner of the warranty mark binds himself to enforce, and the applicable sanctions.

The rules of use must receive a favorable report from the proper administrative entity, taking into account the kind of goods or service to which the warranty marks refers. The application for registration of the warranty mark shall be rejected in case of an unfavorable report.

The owner may sanction, with the revocation of the authorization to use the mark or with other penalties set forth in the rules of use, for noncompliance of the regulations of the warranty mark by the user.

Article 119. The titleholder of the warranty mark shall file with the DIGERPI every amendment to the rules of use. The amendments, which do not comply with the requirements set forth in this Law, shall be rejected.

The amendment to the rules of use of the warranty mark shall become effective upon its inscription at the DIGERPI.

Article 120. The collective and warranty marks are subject to the provisions set forth in this Law.

Chapter IV

License of Use

Article 121. The owner of a registered trademark may grant by contract licenses to one or more persons for its use on all or part of the goods or services covered by the registration.

The owner may reserve the right to the simultaneous use of the trademark for himself.

Article 122. In order to register the license for use of a trademark, an application must be filed with the DIGERPI through an attorney and it must contain the following:

1. Name or registered name, nationality or place where incorporated, specific domicile and number of the personal identity certificate of the parties;
2. Name and/or description of the trademark indicating the number and date of registration;
3. Specifications of the goods or services to which the use of the trademark has been authorized.
4. Type of the license of use and term for the duration thereof.

Article 123. The application referred to in the foregoing article must have the following documents attached to it:

1. Power of Attorney in favor of a lawyer or the bond referred to in Article 103;

2. An authenticated certified copy of the contract or agreement of the license for the use of the trademark. In the case of acting directly without issuing a Power of Attorney, the provisions set forth in Article 103 shall apply.

Article 124. The use of a trademark by the licensee shall be similar to that of the owner, for every effect for which the use is relevant by virtue of this Law.

Article 125. Every license of use shall be registered at the DIGERPI and shall only be effective against third parties from the corresponding inscription date, having first paid the corresponding fiscal fees and tariffs.

The license of use of a trademark cannot be recorded at the DIGERPI, while registration of the trademark is pending.

Article 126. There shall be an exemption, with the license of use of a trademark, when technical knowledge is transmitted or technical assistance is furnished, so that the person to whom the license is granted, may produce or sell goods or render services, in a consistent manner and with the operative, commercial and administrative methods established by the owner of the trademark, with the purpose of maintaining quality, prestige and image of the goods or services covered by the trademark.

Article 127. The cancellation of the registration of a license of use will take effect in the following cases:

1. When jointly requested by the owner of the trademark and its licensee;
2. When one of the parties so requests it, pursuant to the terms of the license agreement;
3. Because of the annulment, expiration or cancellation of the trademark registration, and
4. By judicial order.

Chapter V

Assignment or transfer of rights

Article 128. Any merger, change of name or of domicile of the owner of the registered trademark must be notified and registered, in order for it to affect third parties.

Article 129. The rights arising from an application or of a registered trademark might be assigned or transferred to one or several persons. The transfer of rights should be recorded in the DIGERPI, in order for it to affect third parties.

Article 130. When there is a merger or a consolidation of legal entities, it will be understood that it constitutes a transfer of rights of the registered trademarks, unless otherwise agreed to the contrary.

Chapter VI

Marks of Origin and Origin Denominations

Article 131. For the purposes of this Law a mark of origin will be considered to be: a the slogan or sign used to indicate that a product or service comes from a country, a group of countries, a region or from a specific locality.

Article 132. Denomination of origin is deemed to be the geographical denomination of a country, of a region or of a locality, which serves to designate a product which originates from it whose quality or characteristics are due exclusively or essentially to such geographical medium, including the natural and the human factors.

Article 133. Every industrialist, merchant or anyone who renders services, established in a specific country, place or locality, is entitled to use the respective geographical name as a reference of origin of his goods or services.

Article 134. The geographical name employed as a reference of origin or as a denomination of origin must correspond exactly to the place from which the product or service acquired its nature or substance.

Article 135. It is prohibited to use references of origin and denomination which do not really correspond to the country, place or specific geographical region where the products were manufactured, processed, harvested or extracted or when the services were rendered, even when the real origin of the product, or the geographical reference is used translated or accompanied by expressions such as kind, type, style, imitation or other similar terms.

Article 136. The protection granted to the denomination of origin shall be made through a resolution issued by the DIGERPI, upon the request of a third party or of itself by right of Law.

Article 137. The Panamanian State is the titleholder of the denominations of national origin, and these can only be used if authorized by the Executive Branch of Government.

Chapter VII

Cancellation and Annulment of the Registration

Article 138. The property right of a registered trademark expires with the cancellation of the corresponding registration, which will take place in any of the following cases:

When the owner expressly waives its right;

1. When the trademark is not used for more than five consecutive years;
2. When the term of the registration expires, without having filed an application for renewal thereof in the manner provided by this Law;
3. When final judgement from a proper authority declares the nullity and orders the cancellation of the registration.

Article 139. Any person, who considers that he has the right to, may request the cancellation or annulment, or both, of the registration of the trademark, in accordance with the procedure established for the opposition complaints.

Article 140. The right to request the annulment of the registration of a trademark, in accordance with the foregoing article, shall prescribe ten years from the date of registration, unless such was applied for in bad faith, in which case this procedure may be exercised any time while it is in force.

Article 141. The owner of a trademark may relinquish its registration. This relinquishment shall be notified in writing to the DIGERPI, which shall enter it in its register.

When there is a license of use of a trademark registered at the DIGERPI, only the relinquishment to the registration shall be recorded, after having first filed a declaration wherein the licensee agrees that such relinquishment be made, unless the latter had expressly relinquished his right in the license agreement.

Article 142. The registration of a trademark shall be null and void when:

1. It is granted in violation of article 91 of this Law;
2. It is granted on the basis of essentially false or inexact data set forth in its application, or in the documents accompanied thereto. In this case, the registration shall be considered as having been made in bad faith;
3. The representing attorney, the legal representative, the user or the distributor of a foreign registered trademark who requests and procures the registration of such or other similar trademark in a confusing manner, in his name or the name of a third party, without the express consent from the owner of the foreign trademark. In this case, the registration shall be declared to have been procured in bad faith.

Article 143. When there are grounds for annulment of the registration of a trademark, in respect to only one or some of the goods or services for which the trademark was registered, the annulment of the registration shall be effective only for such goods or services. When the resolution declaring the total or partial annulment, of a registration becomes final, the registration shall be deemed null and void, within the limits of the resolution, from the date of its registration.

Notwithstanding the indemnity for damages, which might be in order, when the owner of the trademark might have acted in bad faith, the retroactive effect of the annulment shall not affect:

1. The resolutions referring to the infringement of the trademark which had received a final judgement and had become final prior to the declaration of nullity;
2. The contracts which ended prior to the declaration of the annulment, to the extent to which they had been executed in good faith and prior to the declaration. Nevertheless, for reasons of equity, and to the extent justified by the circumstances, it will be possible to claim the return of the sums paid by virtue of the contract.

Article 144. The files of the trademarks that may be cancelled, or whose registration are denied, will be kept at the DIGERPI for a period of two years counted from the date of the resolution ordering the cancellation or denying the registration documents which will be sent to the General Directorate of the Archives of the National Institute of Culture at a later date.

Chapter VIII

Commercial Names and Associations

Article 145. For the purposes of this Law, a commercial name is a proper or fictitious name, the corporate name or the denomination by which a commercial, industrial or professional enterprise or an association is identified.

Article 146. The following cannot be registered as commercial names, or as any part of them:

1. Those which are identical or similar to well-known commercial names or famous or well-known trademarks;
2. Those which consist of words or slogans with deceitful signs or signs which might lead to confusion, or which are contrary to the moral code, public order or good manners;
3. Those which do not correspond to the name of the establishment to which the commercial or industrial license refers to or to the operation permit of the client of a duty - free zone. Associations are excluded.
4. Those which contain names, corporate names, pictures or facsimiles of signatures, which are not those of the persons requesting the registration, unless the corresponding authorization from the owners or their heirs be filed therewith, where it is expressly stated that they are authorized to use such names, pictures, corporate names or facsimiles of signatures;
5. Those which are identical or similar to those in use by another person, or which are registered in favor of another person;
6. Those which are identical or similar to a mark in use, pending registration or registered in favor of another person; if the use of the commercial name may cause confusion in the market place or lead to the risk of association with the prior trademark;
7. The words, letters, characters or symbols which are used by native or religious communities or by non-profit associations, to identify the manner in which they process products or to distinguish finished products or services, or those which represent the expression of their cult or custom, idiosyncrasy or religious practice, unless the application be made for its own benefit by one of the communities or associations to which this article refers.

Article 147. The right to register a commercial name is acquired when it is first adopted or used in the market place; however, the right to its exclusive use is acquired by its registration in the DIGERPI.

Article 148. The person who desires to acquire a registration for a commercial name must file an application with the DIGERPI, through an attorney, which shall contain the following:

1. Name, nationality, specific domicile and number of the personal identity document of the applicant;
2. If it is a legal entity: the corporate name, country where incorporated and the specific domicile.
3. Precise indication of the commercial name to be registered specifying the type of business activity, and its physical location and address.

Article 149. The application referred to in the preceding article, shall contain the following documents:

1. The bond referred to in article 103, a Power of Attorney in favor of a lawyer, which shall include, when a legal entity, an affidavit or notarized certificate of the company's existence and its legal representation or, in lieu thereof, a certificate issued by the proper authority. In case of a foreign corporation, this certificate must be issued by the proper authority of the country of incorporation;
2. Affidavit as to the use of the commercial name;
3. An authenticated photocopy of the commercial or industrial license, or of the provisional license. In case of a foreign corporation, a certificate issued by the proper authority, stating that the applicant is engaged in a commercial or industrial activity and uses the commercial name for which the registration is being sought.
4. Six labels of the commercial name, or its graphic or pictorial representation.
5. Receipt evidencing payment of taxes and corresponding fees.

Paragraph. In case of acting in the name of the interested party without a Power of Attorney, the provisions of article 103 shall apply. In the case of a person who does not require a commercial or industrial license, the pertinent certificate from the Directorate General of Interior Commerce of the Ministry of Commerce and Industry must be submitted.

Article 150. Any person who wishes to protect a commercial name before it is used, may request it by filing the documents referred to in article 149, excluding that which is mentioned in paragraph 3. The petitioner shall have one year, from the date de filed the application, to include the document referred to in the referred paragraph; otherwise, the application shall expire due to Law.

Article 151. The registration of a commercial name has a duration of ten years from the date the application is filed, the requirements established in article 149 – paragraph 3 are verified, and can be renewed indefinitely for ten year periods, provided that it be so requested within the proper term allowed, and the corresponding fees and taxes are paid.

Article 152. The renewal of the registration of a commercial name shall not be subject to opposition, it shall become effective from the date of expiration of the prior registration and it is presumed to be known by third parties without its publication. The requirements to apply for the renewal of the registration of a commercial name, shall be the same as those established for the trademarks.

Article 153. Having found the application in due form, its renewal shall be ordered and an authenticated copy of the corresponding resolution shall be given to the interested party.

Article 154. The property right of a commercial name expires with the cancellation of the corresponding registration by the proper authority or if requested from the interested party. The cancellation takes place if:

1. The owner so request it in writing;
2. Express waiver from the title holder;
3. The commercial or industrial license is cancelled;
4. The term expires, without having applied for its renewal in due time and in the manner provided by Law;
5. Operations are discontinued in the place of the business;
6. The proper authority, declaring the annulment or ordering the cancellation of the registration issues a final judgement.

Article 155. All impreciseness or doubts, concerning the registration, cancellation and annulment of commercial names, shall be answered applying the provisions that refer to trademarks by analogy, in similar cases.

Chapter IX

Slogans or Advertisement Signs

Article 156. Slogans or advertisement signs are deemed to be, every advertisement, write up, slogan, phrase, combination of words, drawing, print, or any other similar medium, provided that it is original, characteristic and that it is used with the purpose of drawing the attention of the consumers or users, to an specific product, merchandise, service, enterprise or establishment.

Article 157. Trademarks and commercial names may be a part of the slogan or advertisement sign, provided they are registered in the name of the same owner.

Article 158. The slogans or signs of advertisement may be used in labels, murals and generally, in any other advertisement medium.

Article 159. The protection granted by the registration of a slogan or commercial advertisement sign, extends only to the slogan or sign as a whole and not to its parts or elements which are considered separately.

Article 160. The registration of a slogan or sign of advertisement shall have a duration of ten years, from the date of filing of the application, and may be renewed indefinitely for ten year terms, provided that the application for renewal is filed within the corresponding term and the corresponding fees and taxes are paid.

Article 161. All impreciseness or doubts concerning the registration, cancellation and annulment of slogans or advertisement signs shall be answered applying the provisions that refer to trademarks set forth in the present Law by analogy, to the extent that they are not inconsistent with the nature of the institutions.

Title VI

Notifications and Appeals

Single Chapter

Article 162. Notifications of the decisions, notices and resolutions, shall be made by edicts affixed in a visible place at the DIGERPI, for the term of five working days which, at its expiration the notification shall be considered to be carried out. Those notifications that this Law expressly states that should be served personally are exempted from this procedure.

The edicts shall bear consecutive numbers and shall be made in an original copy and a duplicate. The original copies shall be part of a book, which shall be kept at the DIGERPI, and the duplicate shall be placed in each file. The original decree must clearly state the date and hour at which it was affixed and removed.

Article 163. The resolutions issued by the DIGERPI shall allow recourse for reconsideration or of appeal thereof. After the notification of a resolution has been served, the applicant's representatives will have a term of ten working days to present and defend the recourse for reconsideration before the DIGERPI. In the case of an appeal, the applicant's attorney shall have ten working days to present and defend the appeal before the DIGERPI, which shall submit the case to the Minister of Commerce and Industry for a final decision.

Title VII

Of the Unlawful Use of Industrial Property Rights

Article 164. The manufacturer, the promoter, the seller and all persons which one way or another, have participated in its distribution, are responsible for the unlawful use of a patent of invention, a model of use, an industrial model or drawing, a trademark, commercial name, and a slogan or advertisement sign. Consequently, they shall be subject to the following penalties:

1. Those who manufacture or process goods covered by a patent of invention or model of use or its registration, without the consent of the owner or without the corresponding license,

2. Those who offer for sale, or distribute goods covered by a patent of invention or by a model of use or its registration, knowing that they were manufactured or processed without the consent of the owner of the patent or registration, or without the corresponding license,
3. Those who use patented processes, without the consent of the owner of the patent or without the corresponding license;
4. Those who offer for sale or distribute goods that are the result of the use of patented processes knowing that they were used without the consent of the owner of the patent or of the person who has the license for its use;
5. Those who reproduce industrial models or drawings protected by a registration, without the consent of the owner of the patent or without the corresponding license;
6. Those who, in any manner falsify or alter a trademark or commercial name;
7. Those who in their own products or articles of commerce, or services, signs or commercial notices use a trademark a name or a commercial name, identical or substantially similar to one owned by another person;
8. Those who in any way or manner, use trademarks, names or commercial names, in such a manner that it obviously reflects intention to imitate, in any way, a trademark, name or commercial name, registered in favor of another person;
9. Those who, sell, offer for sale, or consent to sell or distribute articles or services bearing false trademarks or fraudulently applied, and those who identify their business or factories, using labels, stationery and other distinguishing features, bearing false trademarks, names or commercial names;
10. Those who mark or cause articles to be marked with false references or labels, concerning the nature, quality, quantity, number weight or measure, or the country of origin or manufacture, or use the names of registered trademark or their equivalent initials or when the trademark has not been registered;
11. Those who knowingly sell or offer for sale articles or services with false instruction, as referred to in the preceding paragraph;
12. Those who in any way or manner use a trademark to mask with it the terms of comparison of another trademark, whose products or services are similar or identical, with the sole purpose of diluting or destroying the force of the identity or commercial value of such trademark, causing damages and injury to its owner.

Article 165. Notwithstanding the penalties set forth in the Penal Code, the judge shall apply all and every one of the following penalties to those who incur in the actions mentioned in the preceding article:

1. Fine from ten thousand balboas (B/.10,000.00) to two hundred thousand balboas (B/.200,000.00).
This fine shall be imposed both to the violators of the norms mentioned in this chapter, as well as to their accomplices or accessories after the fact.

In the event that the violator is a company operating in the Colon Free Zone, a duty - free zone or in export manufacturing zones established in Panama, the applicable fine shall be equivalent to 25% of the monthly commercial activity of the company; however, the fine shall not be in any case less than seventy-five thousand balboas (B/.75,000.00);

2. Suspend the right to engage in commerce or to exploit industrial activities, for a period of three months;
3. Suspend or cancel the operation code or permit, issued by the administration of the Colon Free Zone, duty - free zone or export manufacturing established in Panama. In case of a suspension, it shall be applied for a minimum period of three months.

In case of recurrence, the penalties set forth in paragraph 2 and 3 hereof, shall be applied for a period of one year, and the penalty set forth in paragraph 1 may be up to four times the maximum fine therein established, notwithstanding the provisions established in the law that regulates the exploitation of commerce and industry.

Article 166. In every case of unlawful use of industrial property rights a seizure of the goods and the machinery used in the usurpation of the property right shall be effected and the same shall be donated to charity, free of encumbrances, to the receiving institution, after removing or eliminating all distinctive marks if applicable.

When the removal of the distinctive marks is not possible, and if the owner of the protected right does not give his express consent for the donation thereof, such articles shall be destroyed by the proper authorities, with the assistance of a representative of the title holder of the right protected.

Article 167. The titleholder of a right by virtue of this Law may file a civil action against every person infringing his right before the proper judge.

In case of joint titleholder of a right, any of the titleholders may file action for the infringement of such right, without the necessity of the consent of the others, unless there is an agreement to the contrary.

Article 168. The action for the infringement of the rights granted by this Law shall be barred after six years, running from the last time that the infringing action was committed.

Article 169 One or more of the following measures may be requested, by the action for infringement of the right granted by this Law.

1. Discontinuance of the acts infringing the right;
2. The indemnity for the damages sustained;
3. The necessary measures to prevent the continuance or recurrence of the infringement;
4. Publication in the Official Gazette of the judgement which recognizes the infringement;

Article 170. The following criteria may be followed at the selection of the plaintiff, in order to determine the indemnity amount for damages and injury suffered:

1. The foreseeable profits which the owner of the rights would have earned, if the infringement had not occurred;
2. The benefits received by the violator as a result of the acts of infringement;
3. The price or royalty which the violator would have paid the owner of the right, if a license agreement had been entered into, taking into account the commercial value of the object of the infringed right and license agreements already entered into.

Article 171. The persons who begin or attempt to start an action for the infringement of an industrial property right protected by this Law, may petition the judge to order immediate precautionary measures, in order to insure the effective results of such action, or the compensation for the damages and injury sustained. The precautionary measures shall be conducted without the other party being heard, in separate files, and the judge shall proceed immediately, without further proceedings; however, after granting the precautionary measures, he may order, that the party who requested the precautionary measures post a bond, the amount of which shall not exceed fifty percent (50%) of the total assessment made on the subject matter of the infringement of a warranty certificate within three working days, counted from the date on which the proceeding was carried out.

If the only measure requested is the one in paragraph 5 of the following article, the judge shall determine the amount of the bond that he may deem sufficient, once the measure has been executed.

Article 172. The judge may order the appropriate precautionary measures to insure the execution of the sentence, which may be rendered in the respective procedure. The following, among others, may be ordered:

1. Immediate cessation of the acts of infringement;
2. Withholding or deposit of the objects subject of the infringement and of the means employed exclusively to perpetrate the infringement;
3. Suspension of the import or export of the objects or means, to which the preceding paragraph refers to;
4. Posting of a bond or other guarantee, by the alleged violator, for the payment of the eventual compensation for the damages and injuries caused;
5. Suspension of the code or operation permit, issued by the administrative authorities of the Colon Free Zone, a duty - free zone or export manufacturing zone established in Panama. Such suspension shall be lifted upon posting a bank, monetary or insurance bond or government bonds. The amount of the bond shall be in proportion to the estimate of the damage caused;
6. Holding as deposit or retaining, by the corresponding customs authorities, the merchandise or objects subject to the act of infringement, which are going through customs or that are in transit in any part of the nation.

If the action of infringement is not filed within the ten days following the enforcement of a preventive action, the same shall have no legal effect by its own right and the plaintiff shall be responsible to pay compensation for the damages and injuries which he might have caused.

Article 173. In case of crime against the rights of others, and those affecting copyrights and other related rights derived from intellectual and industrial property, officials from the Attorney General Office, shall draw up an indictment due Law, when they have knowledge, by any means, of the perpetration of such crimes.

The official processing the indictment shall immediately, take all the necessary preventive measures to insure the efficient execution of the criminal procedure including, among others, the temporary seizure of the goods object of the investigation, as well as the means used in the commission of the criminal act,

Paragraph. At any time during this criminal proceeding and before final judgement is decreed, the Judge or Tribunal will order the proceedings to be terminated and the file closed when it is requested jointly by the owner of the trademark and the accused.

Article 174. Without affecting the procedures that must be taken to investigate the crimes mentioned in the preceding article the officer from the Attorney General Office, shall serve notice to the owner of the right protected, within no more than five days, by means of his representative attorney, or through his authorized distributor, of the beginning of the summary proceedings.

Article 175. Notwithstanding the provisions in Article 173 the owner of the right protected in the Republic of Panama may participate actively at any time and without further steps, in the summary and criminal proceedings upon accrediting of being the owner before the acting official or the Judge in any of the following manners.

1. As a contributory party with the capacity to offer or introduce proof in evidence and other elements to demonstrate the criminal act and the persons responsible. This action can be started by a person acting in the name of the interested party, without a power of attorney, in conformity with the provisions that the Judicial Code has to this effect. In this case, the amount of the bond required in order to act as a representative of the interested party will be set by the acting official and will not be less than two thousand balboas (B/.2,000.00), or greater than five thousand balboas (B/.5,000.00).

If dealing with foreign corporations which do not have their domicile in the Republic of Panama, the person representing the third party will not be required to present, at this time, a certificate evidencing the legal existence of the corporations, in any case, this evidence should be presented together with the ratification of the action, within the corresponding legal term.

2. As a private prosecutor, subject to the pertinent legal dispositions.

Article 176. The Directorate General of Customs acting due to Law or on instructions from the proper authority or when by any other means it has the knowledge that goods that are in customs or in any part of the national territory, may be breaking the provisions of this Law or of the Law of Copyright and Related Rights could inspect or retain such goods.

The authorities of the Colon Free Zone and other duty - free zone or export manufacturing zones administered by the State, will have the same faculties described previously when dealing with goods in transit in its territory.

Article 177. Once retention is effected the executing authority will inform of such to the owner of the protected right, either to him directly or through its legal representative or his authorized distributor. Likewise, upon request of the owner of the protected right, he will send samples of the retained goods if its nature so allows it.

For the purposes of the foregoing provisions and notwithstanding the dispositions of the international conventions subscribed by the Republic of Panama, the files of the DIGERPI, and those of the Directorate General of Copyright shall serve as basis to determine the owner of such rights, until such time as a centralized registry of owners of the rights protected by this Law, and by the Law on Copyright and related rights is created. The owner must answer in writing whether he is opposed to the introduction or to the transit of the retained goods. In the event that he is not opposed, the goods shall be released immediately; but if he is opposed, he is in the obligation to post a bond in the terms set forth in Article 171 of this Law. However the bond may be constituted by a certificate of warranty as well as through a bank or insurance bond or government bonds.

Upon the filing of the written opposition, the authority which ordered the retention shall send to the Attorney General Office, the merchandise for its custody, the file to continue the proceedings and the investigation and, until such time as the proper authority issues the resolution that terminates the procedure. Unless the owner of the protected right posts the referred bond, the retention of the goods shall only be maintained for a maximum term of thirty (30) calendar days.

At any stage of the investigation, but prior to the posting of the bond by the owner of the protected right, the affected party may present a license or written authorization from the owner of the protected right or from his representative, which shall serve as first hand evidence of the legality of the goods and shall produce its immediate release.

Article 178. The two articles immediately preceding, shall become valid once the Minister of Finance approves its regulation, meanwhile, until this is not so, the present legal and administrative provisions regarding the matter, will continue to be applied.

Article 179. The owner of the protected rights, to which reference is made in the provision of this title, includes the owner of the rights recognized by this Law, by the Law on Copyright and Related Rights or by the international conventions regarding these matters, subscribed by the Republic of Panama.

Article 180. The provisions of the Judicial Code shall apply to any point not provided in the present title.

Title VIII

Of Norms and Proceedings

Single Chapter

General Dispositions

Article 181. The procedure established in the present title shall be applied to the following subjects:

1. The controversies which arise from the oppositions to the applications for the registration of a trademark, commercial name, model or industrial drawing or of slogans or advertisement signs;
2. The annulment and cancellations proceedings of the industrial property rights;
3. The proceedings for the unlawful use of the industry property rights.

Article 182. The conflicts on jurisdiction arising from a petition for a restraining order shall be resolved by the superior court of the corresponding judicial district.

Article 183. The defendant shall be served with the complaint during a period of five days. The counterclaims will be served for an equal period of time. The following provisions apply in order to notify the defendant of the ruling:

1. If the defendant is domiciled where the court has its seat, the notification will be served in person;
2. If the defendant is domiciled outside of the court seat but within the Republic of Panama, or if he were abroad, he shall be served in the manner provided for by the Judicial Code.

Article 184. The counterclaim shall be allowed in the following processes:

1. When the defendant opposes the registration of a trademark or commercial name of the plaintiff, in order to execute his opposition complaint;
2. If the defendant counterclaims requesting the cancellation of the trademark, commercial name, patent of invention, model of use, industrial model or drawing or advertisement slogan, on whose registry the plaintiff bases his opposition.

Article 185. Once the trial have been established and the resolution that announces the trial date has been notified, the announcement will be made by edict even if the trial process had been stopped for more than a month.

The notifications of judgements and decrees ending the proceeding or preventing its continuation, are excepted from the foregoing.

Article 186. After the complaint has been answered, the judge shall set a date and time in which the parties should appear at the hearing, in which they shall present and introduce the evidence which they deem convenient for the defense of their rights.

Article 187. In no more than three days before the hearing the legal representatives should request the judge to summon the parties, the witnesses and the experts, specifying the place of their residence or offices, and if needed the judge will use the enforcement measures that correspond.

Article 188. The hearing shall take place with the participation of the parties that are present, and the postponement shall be allowed only once and for just cause invoked before the proceedings begin. Otherwise the hearing shall be held on the date designated with the parties that are present; but if no party is present, after a second summon, the judgement shall be rendered without further proceedings, on the basis of the evidences accompanied to the claim, the reply and those which the judge might deem advisable to exercise.

Article 189. During the hearing or before it starts, the judicial inspections of places, documents, or things related to controversial issues present in the process, may be requested. The inspection may be carried out with the presence of the experts designated by the court and by the parties. When the court designates experts to act by due Law, it must allow the parties to also present their experts, and the exhibit of personal things or documents may be annexed to the inspection whenever they are necessary to be admitted by the court. If the judge so requests it or by petition of the interested party; pictures of the objects or of the places inspected shall be taken and in case of documents they may be examined and copied by using the mediums that record image and sound.

The resolution that orders a judicial inspection shall implicitly carry an order for breaking and entering.

Article 190. The judge might, at any stage of the proceeding, introduce evidence due to Law and shall weigh its probatory value in accordance with the rules of critical appreciation of the evidence, and taking into account the rules about authenticity of documents established by the Judicial Code.

Article 191. Whenever the judge feels that he has been sufficiently advised regarding the evidences filled in the proceeding, he may render his decision at the hearing, after he has heard the arguments of the parties. Otherwise, he shall have not more than twenty working days within which to render his decision.

Article 192. The only motions allowed in this type of proceedings, shall be those filed through allegations for untimely complaints, because of final judgement and the termination of the claim. These motions shall be processed as motions for prior and special pronouncement.

Article 193. After the appeal has been granted, a term of ten days shall be established; the first five days for the petitioner to support the appeal; and the last five days, for the counterpart to oppose it.

Article 194. Only evidence referred to in the lower court but not carried out, may be presented in the higher court if the one who put it forward, files a document before the judge at a time set for such purpose, stating his inability to have presented them and the reasons therefor or those which the court failed to introduce in evidence through no fault of the proponent.

When there is evidence to be introduced, a fatal term of ten days shall be established for it, at the end of which the judge shall have ten days to render judgement.

Article 195. The judge is under the obligation to provide a letter to the interested party, at the beginning of the proceeding, addressed to the DIGERPI, in which he shall inform of the filing of the complaint, and another informing about the outcome thereof, once the judgment has become final. The letters in question shall be furnished in both cases to the party within the least possible time, stating clearly the type of proceedings involved, as well as the trademark, commercial name, patent of invention, model of use, industrial model or drawing or slogan or advertisement sign, which is the subject matter of the proceedings.

Article 196. In every judgement or decree, the party against whom the judgment is rendered, shall be ordered to pay costs, unless, the party has acted in evident good faith, in the opinion of the judge as to which he shall expressly justify the resolution.

Article 197. The proceedings concerning the matter referred to in the present tile, shall fall within the exclusive jurisdiction of the courts, in accordance with articles 141 and 143 of Law 29 of 1996, and with the rules of engagement set forth in said provisions.

Article 198. The rules of procedure established in this Law shall come immediately in force. However, the proceedings that have started prior to the date on which this law shall be enforced, shall be declined by The Ministry of Commerce and Industry in favor of the courts designated in accordance with the foregoing article, but shall be governed by the contemporary law in force since its initial date. The proceedings commenced there after shall be governed by this Law in its entirety.

Article 199. The provision of the Judicial Code on summary proceedings shall apply concerning the procedure to be followed to determine any issues not provided for in the proceedings established by this Law.

Title IX

Of Taxes and Fees for Services

Chapter I

Tax Rates and Surcharge

Article 200. The DIGERPI shall charge fees for services in the following cases:

Application for a trademark or commercial name	B/. 10.00
Application for a patent, model of use, industrial model or drawing	B/. 10.00
Availability of a trademark	B/. 1.00
Petition of certification	B/. 1.00
Itemization of each file	B/. 1.00
Petition for change of domicile of the owner of a patent or of a registration	B/. 5.00
Petition for change of name of the owner of a	

trademark or of a commercial name	B/. 5.00
Sale of the BORPI	B/. 15.00
Petition for a license of use of a trademark or commercial name	B/. 5.00
Petition for the assignment or the transfer of a trademark or commercial name	B/. 5.00
Application for a certified copy of a document	B/. 0.50
Application for availability of a model of use, or industrial model or drawing	B/. 25.00
Application for report on the state of the technique	B/.200.00
For each application for an extension of time	B/. 10.00
For each publication of an application, or correction of a trademark	B/. 6.00
For each publication of an application, correction or any other change on a patent, model of use, or industrial model or drawing.	B/. 6.00

Article 201. The Executive Branch of Government is empowered to establish, through the Ministry of Commerce and Industry, the taxes for services that must be paid by interested parties not included in the previous. This authorization is extended to the variations and new rates, which are deemed necessary and convenient, from time to time and with the favorable opinion of the General Director of the DIGERPI.

Article 202. A surcharge is established equal to twenty percent (20%) of the sum of the fees set forth in article 200 and those authorized by article 201 that the users of the services of the DIGERPI must pay. This surcharge shall be paid in addition to the rates set forth in the aforesaid articles.

The sums to be received by the DIGERPI as a result of this surcharge shall be used to cover incentives for the productivity of its employees, in addition to the amounts assigned in the General Budget of the State for the operations of said entity, in accordance with the procedures and principles established by the Executive Branch of the Government to that effect, through the Ministry of Commerce and Industry for its due management and distribution.

The sums assigned to each officer shall not exceed fifty per cent (50%) of the total basic salary remuneration per month.

Article 203. The revenues from the fees referred to in the foregoing article, shall be deposited in a special account at the National Bank of Panama, identified as fees for services, to the order of the Ministry of Commerce and Industry, and those arising from the surcharges, shall be deposited in a

special account identified as surcharge for services. Both accounts shall be supervised by the Accounting Department of said Ministry and by the General Comptroller Office of the Republic.

The investment of the proceeds arising from the rates shall be programmed annually by the DIGERPI, for the development of its plans for services, training and others, which would improve the attention to the users; the proceeds arising from the surcharges shall be used for the purpose set forth in article 202.

Chapter II

Registration Fees

Article 204. The registration of a trademark for goods or services shall cause the fees set forth hereunder:

1. Fifty Balboas (B/.50.00) for the first five years of protection, which shall be paid upon filing of the application for registration.
2. Fifty Balboas (B/.50.00) for the remaining five years of protection, which shall be paid at any time prior to the expiration of the first five year period.

The registration of a trademark is deemed deserted by the owner, if the fees for the second five-year term are not paid at the expiration of six months from the date thereof and it shall expire due to law. The owner could within the period of six months referred to in this paragraph pay his obligation, but shall be subject to a surcharge of ten balboas (B/.10.00) for each month or fraction of a month elapsed until the payment thereof.

Article 205. The fees for the renewal of the registration of any trademark shall cause the same as those set forth in the preceding article. The surcharge to which said article refers shall be ten balboas (B/.10.00) for each month or fraction of a month, until the payment thereof.

Article 206. The registration fees for a commercial name shall be the same as those set forth for the trademarks.

Article 207. The granting of a patent of invention, shall cause the fees set forth hereunder:

One hundred balboas (B/.100.00), for the first five years of protection;

Two hundred balboas (B/:200.00), for the next five years;

Two hundred balboas (B/.200.00), for the next five years;

Three hundred balboas (B/.300.00), for the remaining time of protection.

The first payment shall be made upon the filing of the application, and the following payments, every five-years, starting with the date when the application deposit was posted. Payment may be made at any time, before the expiration of the corresponding five-year period.

After six months have elapsed from the date on which the payment of any of the fees to which this article refers should have been made, without such payment having been made, the patent shall be

deemed deserted by the owner and it shall be extinguished due to law. The payment made within the six-month period to which this paragraph refers, shall be subject to a surcharge of ten balboas (B/.10.00) for each month or fraction thereof, until its presentation.

Article 208. The granting of a model of use or of an industrial model or industrial drawing, shall be subject to the payment of the fees set forth hereunder:

1. Fifty Balboas (B/.50.00) for the first five years of protection;
2. One Hundred Balboas (B/.100.00) for each additional five years of protection.

The first payment shall be made upon the filing of the application, and the next payment, at the expiration of five years from the date on which the application is filed. The payment may be made at any time, before the expiration of the corresponding five-year period.

After three months have elapsed, from the date on which payment of any of the fees to which this article refers should have been made, without such payment having been made, the registration shall be deemed deserted, and it will be extinguished due to law. The payment made within the grace period established herein, shall be subject to a surcharge of ten balboas (B/.10.00) for each month or fraction of a month until its cancellation.

Article 209. If for any reason, the patent of invention, model of use, industrial model or drawing is not granted, or the registration of the trademark, commercial name or slogan or advertisement sign is not issued, the petitioner may obtain the refund of half of the fees paid.

Article 210. All fees set forth in the present Law, must be paid in advance. No application shall be processed at the DIGERPI, without payment of the corresponding fee having been made.

Article 211. The filing of a registration of a trademark or commercial name, shall be subject to a fee of four balboas with fifty cents (B/.4.50). The filing of an assignment, change of name, domicile, merger, limitation of goods, correction or renewal shall be subject to a fee of ten balboas (B/.10.00).

Article 212. Revenue stamps of four balboas and fifty cents (B/.4.50) shall be affixed to the copy of the certificate of patent, model of use, industrial model or drawing, trademark, commercial name and slogan or advertisement sign, and to the copies of the resolutions issued for each one of the registrations referred to in the foregoing article. The provisions of the Fiscal Code shall be applicable to any other copies not mentioned in this Article.

Article 213. Revenue stamps of one balboa (B/.1.00) shall be affixed to the certification of availability of trademarks. Revenue stamps of one balboa (B/.1.00) shall be affixed to the first page, or part thereof, of every certification not contemplated herein; and five balboas (B/.5.00) for each additional page or part thereof.

Article 214. Revenue stamps of ten balboas (B/.10.00) shall be affixed to the certification on searched within the national territory, of prior patents, model of use and industrial model or drawing. Revenue stamps in the amount of fifty balboas (B/.50.00) shall be affixed to the certification in searches in the national territory, of prior patents, model of use and industrial model or drawing.

Revenue stamps in the amount of ten balboas (B/.10.00) shall be affixed to the first page partially or totally written of every other certification not stated herein, and five balboas (B/.5.00) for each additional page or part thereof.

Article 215. When the applicant for a patent is the inventor himself, and his economic situation would not enable him to pay the amount of the rates and fees, which he must pay for filing or processing his application, or maintain in force the patent granted, he could declare this circumstance at the time of payment of the corresponding fees for the patent application. In such case, the applicant shall only be bound to pay ten percent (10%) of the amount due, for as long as the referred economic situation is maintained.

If before two years have elapsed from the date of filing of the pending patent application, or if the patent granted has been assigned to a person who is not found in the referred economic situation, the assignment shall not be recorded until the payment is made of the amount of the taxes and fees, which would have been paid if the declaration mentioned in this article would not have been made.

The DIGERPI may request to the applicant who had availed himself of the benefit provided in this article, that he proved his economic situation, whenever there are reasons to doubt the declaration, or whenever it were evident that his economic situation has improved after the previous declaration.

Title X

Of Transitory Provisions

Single Chapter

Article 216. The registration of a trademark granted before the enforcement of this Law, shall become registered with the same number that had been granted to it and with the same expiration date. A certificate of registration shall be granted to the applications pending registration at the DIGERPI at the time of the enforcement of this Law, provided they had complied with the requirements established by the Law in force at the time of its presentation.

Article 217. The certificate of origin granted is not required to be filed with applications for patent or registration, which had been filed prior to the enforcement of this Law. The DIGERPI shall issue the corresponding certificate of registration to the applications filed before such entry into force, provided that they comply with the established requirements.

Article 218. Proof of renewal of the registration of origin shall not be required for the issuance of the certificate of renewal of the registration, regarding applications for renewals filed before the entry into force of this Law. In the cases of application for renewal pending in the DIGERPI at the time of entry into force of this Law, the certificate of renewal shall be issued without the need of filing proof of the renewal of the registration of origin.

Title XI

Final Provisions

Article 219. An inter - institutional commission is created to safeguard the harmonization, coordination and follow-up of the polices on matters of intellectual property, which shall be composed as follows:

1. A member of the Ministry of Commerce and Industry appointed by the DIGERPI;
2. A member appointed by the Directorate of Copyright, from the Ministry of Education;
3. A member from the Ministry of Finance, appointed by the General Directorate of Customs;
4. A member appointed by the Attorney General Office, and,
5. A member appointed by the state institution in charge of the relations between the Republic of Panama and the World Trade organization.

The operation procedure of this commission shall be implemented by the Ministry of Commerce and Industry.

Article 220. The Executive Branch of Government is empowered to adopt the regulations of this Law, through the Ministry of Commerce and Industry.

Article 221. The article 1980 of the Judicial Code will be amended thus: Article 1980. In crime of bigamy and unfair competition, no criminal proceedings shall be started without formal accusation by the aggrieved party. In the slander, libel and noncompliance with the family obligations, the informal complaint by the aggrieved party will suffice.

Article 222. The third paragraph of article 141 of Law 29 of 1996 is amended thus:

Article 141. ...

The controversies concerning matters of industrial property, copyrights and related rights, or when the goods or relations concerning the complaint made, have circulated, in its entirety or in part, within the jurisdiction of the First Judicial District of Panama, the courts established by this Law shall be competent with exclusion, at the choice of the complainant, with the corresponding court, to take cognizance of any of the foregoing causes.

Article 223. The present Law amends article 1980 of the Judicial Code, and the third paragraph of article 141 of Law 29 of 1996, and repeals articles 1987 to 2035 of the Administrative Code, articles 2100, 2101, 2102 of the Judicial Code, articles 329 to 335 of the Fiscal Code, article 2 and 3 of Law 11 of 1974, articles 6 and 7 of Law 45 of 1975, articles 3 and 4 of Cabinet Decree 389 of 1969, the Executive Decree 1 of 1939 and every provision to the contrary.

Article 224. This Law shall enter into force six months after its enactment.

LET IT BE KNOWN AND EXECUTED

Approved in third debate, at the Justo Arosemena Palacio, in the City of Panama, on the 9th day of the month of April, nineteen hundred and ninety six.

FRANZ. O. WEVER Z.

ERASMO PINILLA C.

The President a.i.

General Secretary

NATIONAL EXECUTIVE BRANCH, PRESIDENCY OF THE REPUBLIC

PANAMA, REPUBLIC OF PANAMA, MAY 10TH, NINETEEN HUNDRED AND NINETY SIX (1996)

ERNESTO PEREZ BALLADARES

NITZIA DE VILLARREAL

PRESIDENT OF THE REPUBLIC

MINISTER OF COMMERCE AND INDUSTRY