



**Ecuador was, is and always  
will be an Amazonian country**

**OFFICIAL REGISTER  
ORGAN OF THE GOVERNMENT OF ECUADOR**

**Administration of Dr. Jamil Mahuad Witt  
Constitutional President of the Republic**

**CONSTITUTIONAL COURT**

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**No. 508**

**Jamil Mahuad Witt**

**CONSTITUTIONAL PRESIDENT OF THE REPUBLIC**

**Whereas:**

the Law on Intellectual Property was published in Official Register No. 320 of May 19, 1998; -  
the corresponding implementing regulation must be issued; and,  
by the powers invested by Article 171(5) of the Political Constitution in force,

**Decrees:**

the following REGULATIONS UNDER THE LAW ON INTELLECTUAL PROPERTY.

**TITLE I**

**THE ECUADORIAN INSTITUTE OF INTELLECTUAL PROPERTY**

**Art. 1** The Ecuadorian Institute of Intellectual Property (IEPI) shall exercise those powers and -  
competencies established by the Law on Intellectual Property. -

IEPI shall be deemed to be the competent national office for the purposes set out in the decisions of -  
the Andean Community Commission. -

**Art.2** IEPI shall be subject to the following regulations with regard to its organization and -  
operations: -

- (a) -IEPI shall enjoy economic and administrative autonomy;
- (b) -any funds whatsoever collected by IEPI shall be directly managed by the Institute, although  
IEPI shall still be subject to the supervisory mechanisms established by the Law;
- (c) -IEPI may establish offices that provide intellectual property advisory, information and  
dissemination services, as well as receiving documents in the provinces. An official shall be  
appointed for this purpose who shall have experience and expertise in this field;

- (d) in order to optimize IEPI's functions, an information service targeting industry, universities, polytechnic schools, technology centers, research centers and private researchers shall be set up; and,
- (e) -IEPI shall organize registers of recordings, licenses for use and transfers in its fields of competency.

**Art. 3** As well as meeting the requirements set out under Article 350 of the Law on Intellectual Property, potential Presidents of IEPI must:

- (a) -be Ecuadorian by birth;
- (b) be in exercise of the rights of citizenship;
- (c) -not be the subject of any final judgment declaring that there are grounds for process of law or summons to plenary action;
- (d) be at least 45 years of age;
- (e) -have exercised the profession of lawyer in an exemplary fashion for at least 15 years; and
- (f) - must not have any links with sectors related to the field at the time of taking up the post.

**Art. 4** As well as meeting the requirements set out under Article 355 of the Law on Intellectual Property, potential National Directors must:

- (a) -be Ecuadorian by birth;
- (b) be in exercise of the rights of citizenship;
- (c) -not be the subject of any final judgment declaring that there are grounds for process of law or summons to plenary action;
- (d) be at least 40 years of age;
- (e) -have exercised the profession of lawyer in an exemplary fashion for at least 10 years; and
- (f) - must not have any links with sectors related to the field at the time of taking up the post

**Art. 5** National Directors may delegate specific functions to subordinate officials in accordance with the Law and the present Regulations in order to carry out appropriate decentralization of functions.

**Art. 6** As well as the powers and duties provided for under Article 351 of the Law on Intellectual Property, the President of IEPI shall:

- (a) -submit a sworn statement of assets to the Governing Board at the beginning and at the end of his term in office; and
- (b) -submit an annual progress report to the Governing Board.

## TITLE II

### COPYRIGHT AND RELATED RIGHTS

#### CHAPTER I

##### The National Register of Copyright and Related Rights

**Art.7** The National Register of Copyright and Related Rights shall be the responsibility of the IEPI National Directorate of Copyright and Related Rights.

**Art. 8** It shall be compulsory to record the following details in the National Register of Copyright and Related Rights:

- (a) -the statutes, and amendments thereto, of collective management societies, the operating authorization of such societies and the suspension or cancellation thereof;
- (b) -appointments of the legal representatives of collective management societies;
- (c) -agreements concluded by collective management societies between each other or with similar bodies abroad; and
- (d) -mandates entrusted to collective management societies or third parties for the collection of remunerations arising from economic rights.

**Art. 9** The following details may be recorded in the National Register of Copyright and Related Rights on an optional basis:

- (a) -the works and creations protected by copyright or related rights;
- (b) -the acts and contracts related to copyright and related rights; and,
- (c) -the transmission of rights to heirs and legatees.

**Art. 10** The recordings referred to in Article 9 of the present Regulations shall have only declaratory value and are not constitutive of rights, and shall not therefore be required for the exercise of the rights provided for under the Law.

**Art. 11** The ruling of the National Director of Copyright and Related Rights approving the statutes, or amendments thereto, of a collective management society, or authorizing its operations, shall stipulate that the society shall be recorded in the National Register of Copyright, accompanied by two copies and proof of payment of the respective fee.

In cases in which the legal personality of a management society has been suspended or cancelled, the National Director of Copyright and Related Rights shall stipulate that this ruling shall be recorded in the National Register of Copyright and Related Rights.

**Art. 12** The appointments of legal representatives of collective management societies, the agreements concluded between those management societies or with similar societies abroad, and the mandates entrusted to those societies or to third parties for the collection of remunerations arising from economic rights shall be recorded on presentation of such documents.

**Art. 13** Applications for the recordable of works shall contain:

- (a) -the title of the work;
- (b) -the nature and form of representation of the work; and
- (c) -identification and domicile of the author or authors.

**Art. 14** Depending on the case, applications for recordable of works shall be accompanied by two copies of the work or by the means to assess it, as well as by proof of payment of the corresponding fee.

In order to maintain control over restricted information, applicants may deposit fixations or other means that incorporate protected services with a notary public.

**Art. 15** The acts and contracts for transfer of economic rights shall be recorded upon presentation, once proof of payment of the corresponding fee has been provided.

**Art. 16** The recordable referred to in this Chapter shall be granted upon submission of an application meeting the abovementioned requirements and containing copies of the work or the means to assess it.

**Art. 17** The National Director of Copyright and Related Rights shall determine which record books shall be kept at the National Registry of Copyright and Related Rights.

## **CHAPTER II**

### **Collective Management Societies**

**Art. 18** The National Directorate of Copyright and Related Rights, in accordance with the Law on Intellectual Property, shall approve the founding statutes of collective management societies and shall grant authorization for their operations.

The authors, holders of related rights and their national or foreign successors in title may form part of the societies within the limits provided for by the Law and by these Regulations.

Persons authorized to form part of a society may belong to one or more societies in accordance with the diversity of the ownership of the economic rights that they hold.

**Art. 19** The following documentation must be presented for the purposes of the approval of statutes:

- (a) -the founding act of the collective management society as a private, not-for-profit legal entity governed by the Law on Intellectual Property and Title XXIX, Book I of the Civil Code; and
- (b) -the statutes that shall govern the collective management society.

**Art. 20** Statutes of collective management societies shall contain at least the following elements:

- (a) -the trade name, which may not be identical to that of other entities or so similar as to lead to confusion;

- (b) -the aim or purposes, with specific reference to the category or categories of rights administered, which shall be limited to the protection of copyright or related rights; -
- (c) -the classes of right holders covered by the management activity and the various categories of members, such as partners and right holders without partner status, for the purposes of their participation in the running of the society;
- (d) -the conditions for admission as partners for rights holders who have requested to be granted such status and who are able to prove their status as such, as well as the reasons for the loss or suspension of that status;
- (e) -the duties of the partners and their disciplinary regime, as well as their rights, in particular those regarding information and voting;
- (f) - the appointment of administrative bodies and their respective competencies, as well as decisions regarding the selection of legal representatives.

The duration of the term of office of legal representatives may not be less than two years and no more than five years.

The status of legal representative of the society shall necessarily involve the following powers that must be included in the statutes:

1. - the power to sign any kind of act or contract on behalf of the society;
2. - the capacity to appear before the courts on behalf of the society;
3. - the power to convene and preside over sessions of the General Assembly;
4. - the power to recruit workers providing services to the society;
5. - the power to reinvest profits based on instructions that must be requested from the General Assembly.

- (a) -the determination that the General Assembly, made up of the members of the society, is the highest governing body and is exclusively authorized to approve regulations concerning fees and to rule on the percentage set aside to cover administrative costs;
- (b) -the initial capital and resources provided for;
- (c) -the rules governing the monitoring of the economic and financial management of the body;
- (d) -the fate of the assets in the event of the dissolution and liquidation of the body, which in no case may be shared among the partners; and,
- (e) -the standards governing the body's liquidation and the way in which the liquidator/s is/are appointed.

**Art. 21** Partners shall only lose their status as such owing to reasons arising from harmful acts, duly verified and declared as such by a competent judge, which have caused prejudice to the collective management society or to other holders of copyright or related rights in relation to such rights.

**Art. 22** Collective management societies must at least have established the following bodies:

- (a) -a General Assembly;
- (b) -an Executive Board; and
- (c) -a Monitoring Committee.

**Art. 23** The General Assembly shall be the highest body of the collective management society and shall elect the members of the Executive Board and the Monitoring Committee.

The Executive Board shall appoint a Director General from among its members, who serves as the legal representative of the society. The duration of the term of office of the Director General and the duties entrusted to him shall be set out in the statutes of each collective management society.

**Art. 24** The members of the Executive Board, Monitoring Committee and the Director General, shall submit to the National Directorate of Copyright and Related Rights a sworn statement of assets on taking up and leaving their posts.

**Art. 25** Membership of a collective management society shall be voluntary for right holders. However, a right holder may not belong to more than one society of the same type, either in Ecuador or abroad, and must have previously resigned from any other collective management society.

**Art. 26** In order to determine whether the requirements set out in Article 112 of the Law have been met, the National Directorate of Copyright and Related Rights shall require the following conditions to be fulfilled:

- (a) -provision of proof that a number of right holders, not less than 25 per cent of the total number of partners, have undertaken to entrust the administration of their rights to the applicant collective management society;
- (b) -confirmation of the appropriateness of the human resources and technical, financial and material means available to the society when meeting its aims; and
- (c) -provision of proof of the possible effectiveness of the management abroad of the list of rights the society wishes to administer through probable reciprocal representation agreements with societies of the same kind operating outside of Ecuador.

**Art. 27** The members of the Executive Board, the Monitoring Committee and the Director General shall submit to the National Directorate of Copyright and Related Rights a sworn annual statement of assets.

**Art. 28** Collective management societies may not maintain undistributable funds. For this purpose, for three years as of January 1 of the year following that of distribution, said societies shall make available to their members and the management organizations that they represent the documentation used during distribution and shall maintain under their control sums corresponding to the works, services or productions, the identity of which has not been ascertained. Once said term has elapsed, the additional sums mentioned shall be distributed among the right holders who participated in the original distribution, in direct proportion to their participation in that original distribution and on an individual basis.

**Art. 29** For the purposes of supervision and monitoring, the National Directorate of Copyright and Related Rights may, at any time, require collective management societies to provide any kind of information related to their activities, order inspections or audits, examine the records and documents of societies, or appoint a representative to attend the meetings of any of their bodies.



Reasons shall be provided for any ruling ordering the implementation of the measures referred to in the previous paragraph.

**Art. 30** For the purposes of Article 112 of the Law on Intellectual Property, the National Directorate of Copyright and Related Rights may, *ex officio* or at the request of any of the partners in a collective management society or of the right holders it represents or concerned third parties, intervene in the functioning of a collective management society if it has been determined that said society has failed to comply with the provisions of the Law, the present Regulations or its own statutes, or if it has carried out acts that could prejudice its partners, the right holders it represents or third parties.

Before authorizing any such intervention, the National Directorate of Copyright and Related Rights shall order the inspection of the collective management society in order to determine whether the situation corresponds to any of the circumstances described in the previous paragraph.

**Art. 31** The National Director of Copyright and Related Rights shall appoint one or more intervening officials who shall be granted the necessary powers to intervene and shall empower them to authorize acts or contracts involving the collective management society in order to render them valid. Under the same ruling, the National Director of Copyright shall set the fee to be paid to the intervening official/s, which shall be paid by the respective collective management society.

The Director General of the society shall be notified of the intervention, as shall the administrative and supervisory bodies of the society and the Offices of the Bank and Company Regulators and the Property Registrars of the cantons in which said society has fixed assets.

**Art. 32** For the purposes of Article 115 of the Law on Intellectual Property, the National Directorate of Copyright and Related Rights shall grant the collective management society a period of 30 days to rectify its failure to comply or to prove that it is in compliance. Should the society fail to rectify its failure to comply, the National Directorate of Copyright and Related Rights shall suspend its authorization to operate. Should said failure to comply last more than 180 days, such authorization shall be revoked and the collective management society shall be declared dissolved. This step shall be published in a major national newspaper. Liquidation shall be carried out in accordance with the statutes of the society.

**Art. 33** In cases in which there are two or more collective management societies for one type of work and should they fail to set up among themselves a single collecting agency, the National Directorate of Copyright and Related Rights shall, *ex officio* or at the request of any of the societies, convene a meeting with the aim of attempting to establish a single collecting agency. Should this not be possible, having heard the parties and examined the conditions of representativeness and solvency of each of the bodies, the Directorate shall proceed in accordance with the provisions of Article 111 of the Law.

**Art. 34** Collective management societies shall be authorized, under the terms of their own statutes, to exercise the rights entrusted to their administration and to enforce them in all types of administrative and judicial proceedings, without presenting any legal title other than those statutes. There shall be a presumption, in the absence of evidence to the contrary, that the rights so exercised have been directly or indirectly entrusted to them by their respective holders.

Without prejudice to the provisions of Article 110 of the Law on Intellectual Property, for authorization purposes collective management societies shall make available to users the forms used by them in their management activities, the activities they administer, for the purposes of consultation at the central offices of said associations. All forms of consultation shall be carried out at the expense of the requesting party.

### CHAPTER III

#### Obligations and Functions of Collective Management Societies

**Art. 35** Management bodies shall be obliged to:

- (a) -register the following documents with the National Directorate of Copyright: their founding acts and statutes; their regulations covering membership, general/collection/distribution fees, elections, loans and membership assistance funds and other regulations covered by the statutory principles; contracts signed with user associations and representation agreements signed with foreign agencies of the same type, as well as any modification to any of the documents indicated; the acts or documents through which the members of executive and supervisory bodies, as well as the administrators of those bodies and their agents, are appointed, as well as to submit annual balance sheets, audit reports and amendments thereto. Registration must be carried out within the 30 days following approval, conclusion, preparation, election or appointment, as appropriate;
- (b) -agree to administer copyrights and related rights when directly requested to do so by Ecuadorian right holders or foreign right holders legally resident in Ecuador, in accordance with their purpose or aims, on the condition that the rights in question cannot be effectively exercised without the intervention of such societies and that the applicant is not a member of another management society, either Ecuadorian or foreign, of the same type or that he has cancelled such membership;
- (c) -recognize the right of those represented to participate appropriately in the decisions of the body, allowing for the establishment of a voting system that takes into account reasonable weighting criteria that remain in proportion with the effective use of the works, performances or productions, the rights to which are administered by the body;
- (d) -make available to the public the general fees and amendments thereto, these necessarily being published in a major national daily newspaper no less than 30 calendar days prior to the date of their entry into force in order for them to take effect;
- (e) -prepare and approve their budgets. Administrative costs may not exceed 30 per cent of the total sum actually collected for the use of the rights of their partners and of the members of foreign collective management societies which administer copyright and related rights or similar bodies with which they have reciprocal representation agreements;
- (f) -implement proper, balanced distribution systems based on the principle of equal distribution between rights holders, proportional to the use of the works, performances or productions concerned, as appropriate;
- (g) -produce a regular publication aimed at their members, containing information on their activities as well as the text of rulings adopted by their governing bodies. Similar

information must be sent to the foreign bodies with which representation agreements have been concluded for the national territory, as well as to the IEPI National Directorate of Copyright;

- (h) prepare, within the 90 days following the end of each financial year, the general balance sheet and the activity report corresponding to the previous year, documents that shall be made available to the members at least 30 days prior to the meeting of the General Assembly at which those documents will either be approved or rejected;
- (i) - submit the balance sheet and accounting documentation for examination by an external auditor appointed by the Executive Board on the basis of a list of candidates put forward by the Supervisory Committee. The report of this auditor shall be made available to the members, with a copy being sent to the Office of Copyright within five days of its completion, without prejudice to the examination and report corresponding to the internal supervisory bodies, in accordance with the statutes; and,
- (j) - publish the annual balance sheet of the body in a major national daily newspaper, within the 20 days following the meeting of the General Assembly. The costs arising from the publications stipulated as a part of the cost of the audits ordered by the National Directorate of Copyright shall not be calculated as a part of the administrative costs.

### TITLE III

#### INDUSTRIAL PROPERTY

##### CHAPTER I

##### Invention Patents

**Art. 36 Applications** for invention patents shall be filed using the form prepared for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant and the inventor, as well as their domiciles and nationalities;
- (b) identification of the representative or agent, as well as his domicile and *casilla juridical* (PO box for legal correspondence) for the purpose of receipt of notifications;
- (c) -title or name of the invention; and
- (d) identification of any priority claimed, as the case may be.

**Art. 37 Applications** for invention patents shall be accompanied by:

- (a) -a detailed description and summary of the invention, one or more claims and the necessary plans and designs. When the invention involves biological material, this shall be duly described in the record. Said material shall be deposited at a depository institution designated by IEPI;
- (b) proof of payment of the corresponding fee;
- (c) -a copy of the patent application filed abroad, should priority be claimed;
- (d) -a document attesting to the assignment of the priority rights claimed, as the case may be;
- (e) -a document attesting to the assignment of the invention or the employment relationship between the applicant and the inventor, as the case may be; and

(f) a document attesting to the representation of the applicant, as the case may be.

**Art. 38** The National Directorate of Industrial Property shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indents (a) and (b) of Article 36 are missing, in which case the application shall neither be accepted for processing nor granted a filing date.

**Art. 39** Applications filed in Ecuador may not claim priority over subject matter not included in the priority application. The text of the description and claims may also be a combination of two or more applications related to the first application filed abroad if a single inventive concept is formed.

Applicants claiming priority shall stipulate the legal instrument on the basis of which they are acting.

The priority right may also be based on a previous application filed with the National Directorate of Industrial Property on the condition that no other priority is invoked as a part of that application. In such a case, the granting of a patent in accordance with the previous application shall imply the abandoning of the previous application with regard to the subject matter common to both applications.

**Art. 40** In accordance with Article 137 of the Law on Intellectual Property, should the application be divided into several applications, the new applications shall bear the same number as the original application, while also incorporating a distinguishing element. Each new application shall be published separately and the respective applications shall be filed along with proof of payment of the corresponding filing fees.

**Art. 41** In the case provided for under Article 138 of the Law on Intellectual Property, the National Directorate of Industrial Property shall grant the applicant a period of 30 days, as of the notification, a period that may be extended once only and for the same duration, during which time the applicant must decide whether to accept or reject the proposal. The lack of a reply from the applicant shall be deemed to be tacit acceptance of the proposal. The filing date of the amended application shall be the same as that which corresponded to the original application.

**Art. 42** Under the terms of Article 140 of the Law on Intellectual Property, the National Directorate of Industrial Property shall determine the international class or classes corresponding to the invention, a decision which may be amended up to the time when the patent is granted.

**Art. 43** Patent titles shall contain:

- (a) the number of the patent;
- (b) the date and number of the application;
- (c) the denomination of the invention;
- (d) the international class;
- (e) the name of the right holder and his domicile;
- (f) the name/s of the inventor/s;
- (g) the identity of the representative or agent, as the case may be;
- (h) the date of grant;
- (i) the date of expiry;
- (j) a description of the invention;

- (k) -the claims accepted; and,
- (l) - the signature of the National Director of Industrial Property.

The patent title shall be accompanied by a copy of the description and the claims accepted, where requested by the applicant.

The National Director of Industrial Property may not remove or reduce the number of claims accepted from the patent title if the final examination was favorable.

## **CHAPTER II**

### **Utility Models**

**Art. 44** In accordance with Art. 161 of the Law on Intellectual Property, the provisions on invention patents contained in the present Regulations shall be applicable to utility models, as appropriate.

## **CHAPTER III**

### **Protection Certificates**

**Art. 45** Applications for protection certificates shall be filed with the National Directorate of Industrial Property using the form drawn up for that purpose by the National Directorate of Industrial Property, and shall contain:

- (a) -identification of the applicant, as well as his domicile and nationality;
- (b) identification of the representative or agent, as well as his domicile and *casilla judicial* for the purposes of receiving any notifications; and
- (c) -title or name of the planned invention;

**Art. 46** Applications for protection certificates shall be accompanied by:

- (a) -a description and summary of the proposed invention, together with the necessary plans and designs;
- (b) proof of payment of the corresponding fee; and,
- (c) -a document attesting to the fact that the applicant has a representative, as the case may be.

**Art. 47** Protection certificates shall grant their holders the preferential right in cases in which another person attempts, during the year of protection, to apply for a patent or utility model for the same subject matter.

Should the period of a year go by without the holder of a protection certificate applying for the patent or utility model, he shall lose the preferential right referred to in the previous paragraph.

## CHAPTER IV

### Industrial Designs

**Art. 48** Applications to register industrial designs shall be filed with the National Directorate of Industrial Property using the form drawn up for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant, as well as his domicile and nationality;
- (b) identification of the representative or agent, as well as his domicile and *casilla judicial* for the purposes of receiving any notifications;
- (c) -title or name of the industrial design;
- (d) international class; and
- (e) -identification of the claimed priority, as the case may be.

**Art. 49** Industrial design applications shall be accompanied by:

- (a) -a clear and complete description of the industrial design;
- (b) proof of payment of the corresponding fee;
- (c) -copy of the application filed abroad, should priority be claimed;
- (d) -a document attesting to the assignment of the priority right claimed, as the case may be;
- (e) -a document attesting to the assignment of the industrial design or a document attesting to the employment relationship between the applicant and the creator, as the case may be; and,
- (f) -a document attesting to the fact that the applicant has a representative, as the case may be.

**Art. 50** The National Directorate of Industrial Property shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indents (a) and (b) of Article 48 are missing, in which case the application shall neither be accepted for processing nor granted a filing date.

**Art. 51** The registration title of an industrial design shall contain:

- (a) -the number of the industrial design;
- (b) -the date and number of the application;
- (c) -the denomination of the design;
- (d) -the international class;
- (e) -the name of the holder and his domicile;
- (f) -the name of the creator, as the case may be;
- (g) -identification of the representative or agent, as the case may be;
- (h) -the date of grant;
- (i) - the expiry date;
- (j) - a description of the design;
- (k) -a graphic representation of the design; and,
- (l) - the signature of the National Director of Industrial Property.

## CHAPTER V

### Layout Designs (Topographies) of Semi-conductor Circuits

**Art. 52** Applications for the registration of layout designs (topographies) of semi-conductor circuits shall be filed with the National Directorate of Industrial Property using the form drawn up for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant, as well as his domicile and nationality;
- (b) identification of the representative or agent, as well as his domicile and *casilla judicial* for the purposes of receiving any notifications;
- (c) -identification or denomination of the layout design (topography) of semi-conductor circuits; and
- (d) -a summary of the electronic function that the integrated circuit must perform.

**Art. 53** Applications for registration of layout designs (topographies) of semi-conductor circuits shall be accompanied by:

- (a) -a copy or drawing of the layout design and, if the integrated circuit has been commercially exploited, a sample of the integrated circuit, together with information defining the electronic function that the integrated circuit must perform. Applicants may exclude parts from the copy or drawing relating to the manner of production of the integrated circuit, on the condition that the parts submitted are sufficient to allow the layout design (topography) to be identified;
- (b) proof of payment of the corresponding fee; and,
- (c) - a document attesting to the fact that the applicant has a representative, as the case may be.

**Art. 54** Once an application for registration has been filed, the National Director of Industrial Property shall examine it to determine whether the requirements set out under Articles 50 and 51 of these Regulations have been satisfied and shall without any further delay grant the corresponding registration certificate.

Should the application not satisfy the abovementioned requirements or should the information provided prove to be insufficient to identify the layout design (topography), the National Directorate of Industrial Property shall stipulate that the interested party must provide clarification or additional information within a period of 90 days.

Once the missing information has been submitted, the National Directorate of Industrial Property shall grant without any further delay the corresponding certificate of registration. If the information is not forthcoming, then the procedure shall be shelved.

**Art. 55** The registration title of the layout design (topography) of semi-conductor circuits shall contain:

- (a) -the number of the layout design (topography) of semi-conductor circuits;
- (b) -the date and number of the application;
- (c) -identification or denomination of the layout design (topography) of semi-conductor circuits;

- (d) -the name of the right holder and his domicile;
- (e) -identification of the representative or agent, as the case may be;
- (f) - date of registration; and,
- (g) -signature of the National Director of Industrial Property.

Registration titles for layout designs (topographies) of semi-conductor circuits shall be accompanied by a stamped copy or drawing of the layout design, together with information defining the electronic function that the integrated circuit is designed to perform.

**Art. 56** Registrations of layout designs (topographies) of semi-conductor circuits shall have only declaratory value and shall not be constitutive of rights, although they represent a presumption of ownership in favor of the person who obtained the registration. Consequently, registration shall not be required for the exercise of the rights provided for under the Law on Intellectual Property.

## **CHAPTER VI**

### **Undisclosed Information**

**Art. 57** For the purposes of the deposit of undisclosed information, provided for under Article 193 of the Law on Intellectual Property, the notary public shall draw up an act bearing the name of the depositor and the date of deposit. A copy of said act shall be submitted to the President of IEPI, together with proof of payment of the respective fee.

## **CHAPTER VII**

### **Marks**

**Art. 58** Applications for registration of marks shall be filed with the National Directorate of Industrial Property, using the form drawn up for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant, as well as his domicile and nationality;
- (b) identification of the representative or agent, as well as his domicile and *casilla judicial* for the purposes of receiving any notifications;
- (c) -a clear and complete description of the mark to be registered;
- (d) precise indication of the type or nature of the mark being requested, depending on the form in which recognition is ensured;
- (e) -a breakdown of each of the products or services covered by the mark and determination of the corresponding international class; and
- (f) - identification of the claimed priority, as the case may be.

For the purposes of the calculation of the terms of priority and preference contained in the Law and international instruments, said term shall begin as of the filing date of the first application.

**Art. 59** Applications for mark registration shall be accompanied by:



- (a) -a reproduction of the mark and five labels, should the mark contain graphic elements, or any other medium that allows for the appropriate recognition and representation of the mark, as the case may be;
- (b) proof of payment of the corresponding fee;
- (c) -a copy of the mark application filed abroad, should priority be claimed;
- (d) -a document attesting to the fact that the applicant has a representative, as the case may be; and
- (e) -in the case of collective marks, applications shall also be accompanied by the documents provided for under Article 203 of the Law on Intellectual Property.

**Art. 60** The National Directorate of Industrial Property shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indent (b) of Article 59 are missing, in which case the application shall neither be accepted for processing nor granted a filing date.

**Art. 61** The registration title shall contain:

- (a) -the registration number;
- (b) -the filing date and number of the application;
- (c) -an indication of the mark;
- (d) -the nature or type of mark applied for, depending on the form in which recognition is ensured;
- (e) -the name of the right holder and his domicile;
- (f) - identification of the applicant, legal representative or agent, as the case may be;
- (g) -date of grant;
- (h) -expiry date;
- (i) - a description of the mark and its reservations;
- (j) - graphic reproduction or indication of the form of recognition;
- (k) -indication of the products or services protected by the mark and the international class to which they belong: and
- (l) - the signature of the National Director of Industrial Property.

**Art. 62** The term of grant of renewal shall be calculated as of the date of expiry of the last term granted.

## CHAPTER VIII

### Trade Names

**Art. 63** Ownership of trade names shall be acquired in accordance with the provisions of the Law on Intellectual Property.

**Art. 64** Trade names may be registered with the National Directorate of Industrial Property, following the same procedure established for the registration of marks, where applicable.

**Art. 65** The duration of registrations of trade names shall be open-ended.

## CHAPTER IX

### Trade Dresses

**Art. 66** The ownership of trade dresses shall be acquired in accordance with the provisions of the Law on Intellectual Property.

**Art. 67** Trade dresses may be registered with the National Directorate of Industrial Property, following the same procedure established for the registration of marks, where applicable.

In addition to the requirements provided for regarding the registration of marks, the corresponding application shall be accompanied by the means to assess the identifying characteristics of the trade dress.

**Art. 68** The duration of registrations of trade dresses shall be open-ended.

## CHAPTER X

### Geographical Indications

**Art. 69** Applications for the declaration of protection of a geographical indication shall be filed with the National Directorate of Industrial Property using the form drawn up for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant/s, as well as his/their domicile/s and nationality/ies;
- (b) identification of the representative or agent, as well as his domicile and *casilla judicial* for the purposes of receiving any notifications;
- (c) -clear and complete identification of the geographical indication;
- (d) geographical area of production, extraction or preparation of the product/s distinguished by the geographical indication; and,
- (e) -precise indication of the product/s concerned, with the determination of the quality, reputation or characteristic unique to it/them. -

**Art. 70** Applications for declaration of protection of a geographical indication shall be accompanied by:

- (a) -proof of payment of the corresponding fee;
- (b) -an appropriate document attesting to the right of the applicant/s; and
- (c) -a document attesting to the fact that the applicant/s has/have a representative, as the case may be.

**Art. 71** The National Directorate of Industrial Property shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indent (a) of Article 68 are missing, in which case the application shall neither be accepted for processing nor granted a filing date.

**Art. 72** Once an application has been accepted for processing, the procedure established for the registration of marks shall be applied.

**Art. 73** Declarations of protection of a geographical indication shall contain:

- (a) -the serial number;
- (b) -the filing date and number of the application;
- (c) -the denomination of the geographical indication;
- (d) -the determination of the geographical area of production, extraction or preparation of the product/s distinguished by the geographical indication;
- (e) -precise indication of the product/s concerned, with the determination of the quality, reputation or characteristic unique to it/them; -
- (f) - date of grant; and,
- (g) -the signature of the National Director of Industrial Property.

**Art. 74** Applications for authorization of use of a geographical indication shall be filed using the form drawn up for that purpose by the National Directorate of Industrial Property and shall contain:

- (a) -identification of the applicant, as well as his domicile and nationality;
- (b) identification of the geographical indication in question;
- (c) -certification of the site/s where the product is exploited, produced or prepared, which shall be attested to by an act drawn up following an inspection visit carried out by the Directorate of Industrial Property or by a body authorized by IEPI; and,
- (d) -certification of the characteristics of the product for which a geographical indication is sought, including its components, methods of extraction, production or preparation and factors linking it to the protected geographical area, which shall be attested to by an act drawn up following an inspection visit carried out by the Directorate of Industrial Property or by a body authorized by IEPI.

**Art. 75** Applications for authorization of use of a geographical indication shall be accompanied by:

- (a) -proof of payment of the corresponding fee;
- (b) -a document attesting to the right of the applicant/s; and
- (c) -a document attesting to the fact that the applicant/s has/have a representative, as the case may be.

**Art. 76** The National Directorate of Industrial Property shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indent (a) of Article 75 are missing, in which case the application shall neither be accepted for processing nor granted a filing date.

**Art. 77** Should the application for authorization of use not satisfy the abovementioned requirements, the National Directorate of Industrial Property shall notify the applicant of that fact in order to allow him/her to satisfy said requirements, granting the applicant a non-extendable period of 30 days to take the necessary steps.

**Art. 78** Authorization of use shall be granted or denied within 15 days of the date of filing of the application or of the date on which additional information or clarification was provided regarding the application. Reasons for refusing applications shall be given.

## TITLE IV

### PLANT VARIETIES

#### CHAPTER I

##### National Register of Protected Plant Varieties

**Art. 79** The IEPI National Directorate of Plant Varieties shall be responsible for the National Register of Protected Plant Varieties.

The President of IEPI shall decide on the record books to be kept at the National Registry of Protected Plant Varieties.

**Art. 80** Varieties complying with the conditions provided for under the Law on Intellectual Property and in the present Regulations shall be recorded in the National Register of Protected Plant Varieties.

#### CHAPTER II

##### Registration Procedure

**Art. 81** Applications for the grant of a breeder's certificate shall be filed with the National Directorate of Plant Varieties using the form drawn up for that purpose by the National Directorate of Plant Varieties and shall contain:

- (a) -identification of the applicant and the breeder, as well as their domiciles and nationalities;
- (b) identification of the representative or agent, as well as their domiciles and *casillas judiciales* for the purposes of receiving any notifications;
- (c) -the common and scientific names of the species;
- (d) -the original name of the variety;
- (e) -the proposed designation of the variety, which shall differ from other previously registered denominations and allow for clear identification of the variety;
- (f) - the place where the variety was bred; and,
- (g) -identification of the priority claimed, as the case may be.

**Art. 82** Applications for the grant of a breeder's certificate shall be accompanied by the documents referred to under Article 260 of the Law on Intellectual Property, as well as:

- (a) -a copy of the application filed abroad, should priority be claimed;
- (b) -a document attesting to the assignment of plant variety rights, as the case may be;
- (c) -a document attesting to the fact that the applicant/s has/have a representative, as the case may be.
- (d) -the application for designation of the variety, which shall differ sufficiently from other previously registered denominations and allow for clear identification of the variety; and
- (e) -a certificate attesting to the deposit of the live sample.

**Art. 83** Detailed descriptions of breeding procedures for varieties shall include:

- (a) -genealogy: a definition of the variety's genetic origin and breeding methodology. If one or more of the parents are varieties of wild species of Andean origin, the applicant shall submit the certification granted by the corresponding competent national authority for the application of the Common Regime on Access to Genetic Resources, established through Decision 391 of the Andean Community Commission, allowing legal access to the resource;
- (b) -the morphological, physiological, phytosanitary, phenological, physicochemical, industrial and agronomic characteristics that make it possible to distinguish a plant variety from other similar varieties;
- (c) -designs, photographs or any other technical element adopted to illustrate the morphological aspects;
- (d) -substantiation of the variety's condition of novelty, uniformity, distinctiveness and stability;
- (e) -the geographical origin of the genetic material from which the variety for which protection is being sought was bred; and
- (f) - the mechanism of reproduction or propagation.

**Art. 84** The National Directorate of Plant Varieties shall certify the date and time of the filing of the application, assigning it a serial number that shall be successive and continuous, except in cases in which the documents referred to in indents (a) and (b) of Article 260 of the Law on Intellectual Property are missing, in which case the application shall neither be accepted for processing nor granted a filing date

**Art. 85** Any person who claims a priority shall stipulate the legal instrument on the basis of which the claim is being made.

**Art. 86** The breeder's certificate shall contain:

- (a) -the number of the certificate;
- (b) -the date and number of the application;
- (c) -the common and scientific names of the species;
- (d) -the original name of the variety;
- (e) -the designation of the variety;
- (f) - the registration number in the country of origin and the date of grant;
- (g) -the name of the right holder and his domicile;
- (h) -a description of the variety;
- (i) - identification of the representative or agent, as the case may be;
- (j) - the date of grant
- (k) -date of expiry; and
- (l) - the signature of the National Director of Plant Varieties.

**Art. 87** The Secretariat of the Andean Community shall be informed of the granting of all breeder's certificates within five days.

### **CHAPTER III**

#### **Registration of Designations of Protected Plant Varieties**

**Art. 88** Having filed an application for the granting of a breeder's certificate, in accordance with - Article 81(d), applicants shall file an application for the designation of the variety using the form -

drawn up for that purpose, a designation that shall be sufficiently distinctive and in keeping with the documents for classification of plant species for the purposes of denomination, drawn up by the International Union for the Protection of New Varieties of Plants (UPOV).

**Art. 89** In the event that an application for designation of a variety is not sufficiently distinctive, the National Directorate of Plant Varieties shall inform the applicant of that fact in order to allow him to file an alternative within 30 days and to put forward arguments or to propose a new denomination. Once the denomination has been filed, and if it is sufficiently distinctive, it shall be published in the Intellectual Property Bulletin.

The designation of the variety shall be the same as the name under which the end product is marketed.

## TITLE V

### ADMINISTRATION, ADMINISTRATIVE PROCEDURES AND APPEALS

#### CHAPTER I

**Art. 90** The appeals provided for under Article 357 of the Law shall be processed according to the Administrative and Legal Statute of the Executive Branch and shall be filed with the respective National Directorates. The Directorates shall accept or reject appeals depending on whether they have been lodged in a timely fashion or not and shall transfer the files to the corresponding Committees for a ruling.

**Art. 91** The IEPI National Directorates may, *ex officio* or at the request of a party, carry out inspections to verify the violation of intellectual property rights, and as the case may be, adopt any precautionary measure for the urgent protection of rights, when evidence of infringements exists or when there is a demonstrable risk of destruction of proof.

The National Directorates may also request in writing any information that makes it possible to establish whether an alleged violation took place, in accordance with Article 337 of the Law on Intellectual Property. Without prejudice to the sanctions provided for under the Law, failure to meet the requirements in terms of information or data shall be held to be evidence against the alleged offender for the purposes of the precautionary measures, either in interim or administrative proceedings.

**Art. 92** Inspections shall be carried out without the alleged offender receiving prior notification. Alleged offenders shall be informed of the contents of the administrative act ordering the execution of the inspection when said inspection is carried out.

**Art. 93** During inspections, the alleged offender and the party concerned, should they agree, shall be heard. Should the competent official make any observations, they shall be recorded in the document drawn up to that effect, and the official shall draw up a detailed inventory of the assets related to the alleged infringement, if any.

A record shall be kept of the material inspected by such means as to allow its state to be best appreciated.

In the case of copies of works, productions, performances, broadcast programs or other services which might have been employed or exploited without the authorization provided for under the Law, such examples shall be seized, with the Secretary General of IEPI acting as depositary, without prejudice to the adoption of any other precautionary measure that might be necessary, depending on the circumstances surrounding the infringement.

**Art. 94** The document shall contain details of any action to remove labels, or to seize merchandise or other objects violating patent or mark rights or other forms of intellectual property.

**Art. 95** Should an application be made for interim precautionary measures, the competent official shall verify that the provisions of Article 306 of the Law have been complied with and shall immediately inform the competent judge.

**Art. 96** In accordance with the provisions of the final indent of Article 336 of the Law on Intellectual Property, IEPI, through the corresponding National or Regional Directorate, shall consider and accept any application for precautionary measures within 48 hours of its filing, on the condition that it is accompanied by the evidence or information provided for under Articles 306 and 308 of the Law.

The authority responsible for implementing the precautionary measure may require a deposit, depending on the circumstances. Should there not be sufficient evidence to support the presumption that an infringement has been committed or leading to reasonable suspicion regarding actual or imminent perpetration of an infringement, a deposit shall be required.

The authorities shall abstain from requiring a deposit in cases in which sufficient evidence exists and shall furthermore abstain from setting deposits that might dissuade right holders from seeking access to the administration of intellectual property rights.

Once the application for precautionary measures has been provisionally accepted, an inspection shall be carried out in accordance with the terms of these Regulations during the course of which the experts appointed by IEPI shall issue an opinion which shall be implemented at the end of the corresponding inspection. The competent Director or his agent may during the course of the inspection adopt any further precautionary measures, *ex officio* or at the request of one of the parties, should he deem it necessary for the urgent protection of rights.

## TITLE VI

### RECORD BOOKS

**Art. 97** The IEPI National Directorates shall keep complete indexes with sufficient information on all the applications and registrations of forms of intellectual property, as well as the licenses and powers registered.

The record books for each form of intellectual property shall contain the same information required for grant, registration or recordation of titles.

Users shall have access to the registers and indexes of the IEPI National Directorates during the working week.

## TITLE VII

### COMMON PROVISIONS

**Art. 98** Under the terms of the Law, the various forms of intellectual property shall be transferable between living persons or transmissible as a result of death.

For the purposes of the registration of said acts, the interested party shall file an application, accompanied by a document granting or attesting to the status of heir or legatee, proof of payment of the corresponding fee, as well as documents demonstrating the legal representation and existence of the applicant, as the case may be.

**Art. 99** In cases in which applicants wish to change the name of the owner of any form of intellectual property, be that change under consideration or duly granted, an application shall be made, accompanied by a document attesting to such a change and proof of payment of the corresponding fee. Applicants must also comply with the requirements referred to in the previous article.

The Directorates shall grant certificates for renewals of registration of transfer, transmission, change of name, as required, as well as making a note in the record book containing the original registration. They shall also record such acts in the book containing renewals, transfers, transmissions or changes of name corresponding to each form of intellectual property. Such certificates shall not be issued unless proof of payment of the corresponding fee has been provided.

**Art. 100** Licenses and sub-licenses shall be granted in writing and shall be registered with the corresponding Directorates. Sub-licenses may only be granted and registered with the authorization of the holder of the intellectual property right that is the subject of the license.

**Art. 101** Attestation of legal personality, with regard to applications concerning any of the forms of intellectual property or administrative procedures, shall follow the general rules of procedure. In any case, if the power has already been filed with the corresponding IEPI Directorate all that shall be required is the number and date of the instrument from the corresponding record book or an indication of the file within which the power was originally granted, as the case may be.

**Art. 102** In cases in which the Law on Intellectual Property allows for the use of the intellectual property rights of third parties for scientific, pedagogical, cultural or information purposes, such use must not be for financial or commercial gain.

Neither may portraits, busts or images be used for commercial purposes, even when they are related to facts or events that are of public interest or that took place in public.

## TITLE VIII

### GENERAL PROVISIONS

**Art. 103** There shall be no requirement to legalize or authenticate documents being processed or applications for registration of any form of intellectual property. Documents originating from national or foreign public authorities shall be certified by the competent officials of the office which issued them or by a notary public.



**Art. 104**                      Apart from the exceptions provided for under the Law on Intellectual Property, applications and files are public and may be consulted by anyone.

**Art. 105**                      The publications referred to by the Law on Intellectual Property shall be carried out once only in the Intellectual Property Gazette. The Intellectual Property Gazette shall be published in the medium determined by the President of IEPI and which is the most appropriate for its purposes.

The Intellectual Property Gazette shall be published on a monthly basis and shall contain summaries of the applications for all the forms of intellectual property, as well as an index of the registrations and grants, their renewals, transfers, transmissions, changes of name and licenses for use granted during the month immediately preceding publication.

The date of publication of the Intellectual Property Gazette shall, for all legal purposes, be that of the act ordering its distribution.

**Art. 106**                      All hierarchically equal or inferior provisions opposed to these Regulations are hereby expressly repealed.

**FINAL ARTICLE.**            The Minister for Industries, Trade, Integration and Fisheries is responsible for the implementation of the present Decree, which shall enter into force as of the date of its publication in the Official Register.

Done at the National Palace, Quito, on January 25, 1999.

Signed: Ramón Yulee Ch., Secretary General of the Office of the President of the Republic.

Signed: Héctor Plaza Saavedra, Minister for Foreign Trade, Industrialization and Fisheries.

I certify that this document is a true copy of the original:

Signed: Ramón Yulee Ch., Secretary General of the Office of the President of the Republic