



# **INDUSTRIAL PROPERTY ACT OF LIBERIA**

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MINISTRY OF FOREIGN AFFAIRS  
MONROVIA, LIBERIA  
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# **INDUSTRIAL PROPERTY ACT OF LIBERIA**

## Chapter 1

### PREAMBLE

WHEREAS, meaningful industrialization has eluded us for more than 150 years due to both internal and external impediments coupled with the lack of the political will, foresight and insight on the part of our leaders,

WHEREAS, technology will not be transferred to a Third World country such as our without a set of laws on the ground to protect industrial properties consistent with international standard,

WHEREAS, consistent with national interests in the establishment and promotion of Good Governance under the Rule of Law,

WHEREAS, industrialization in the Third Millennium is one of the foremost priorities of the NPP-led Government,

WHEREAS, uniform and comprehensive code for the protection and promotion of industrial property, is the best incentive and guarantee for the attraction of foreign investment into this country,

WHEREAS, scientists, inventors, artists, engineers, both local and foreign, must be encouraged to actively engage themselves in the industrialization process of this country by recognizing the fruits of their inventive and intellectual endeavors thereby creating a just and conducive business atmosphere,

WHEREAS, it has become desirable and necessary at this point in time for Government to put in place a specialized agency consisting of technocrats who will cater directly to matters related to industrial properties exclusively for the Republic of Liberia both locally and internationally,

NOW, THEREFORE, it is enacted by the Senate and the House of Representatives of the Republic of Liberia, in Legislature Assembled

Section I: Purpose of the Act and Organizational/Administrative Structure/Instructions

Purpose  
of the Act

1.(1) This body of law shall be known by the title, "Industrial Property Act of Liberia", and shall be referred to and cited as such within the jurisdiction of the Republic of Liberia.

(2) The purpose of this Act aforesaid is to provide minimum local and international standards for the protection of all industrial properties which shall come under the control, registration and regulation of the Industrial Property Office of the Republic of Liberia

(3) The provisions of this Act shall apply to patents, trade marks/names, industrial designs and other industrial properties, except copyright.

Organizational/  
Administrative  
structure

2.(1) There is hereby established an Industrial Property Office for the purpose aforesaid in Section 1 (2) above, which shall serve as an autonomous agency of Government.

(2) There is hereby established a head of the Industrial Property Office, a Director for Industrial Property, who shall be appointed by the President of the Republic of Liberia to effectively manage the affairs of the agency and enforce all the provisions of this Act. For this purpose, he is granted the police power to discharge such duties in collaboration with the Ministry of Justice, Commerce, Finance and relevant Agencies of Government.

(3) The Office of the Director-General shall be an autonomous agency established in the City of Monrovia, County of Montserrado and Republic of Liberia, yet subject to the oversight responsibility of an established Board of Directors who shall be appointed for a four year term by the President of Liberia.

(4) The head, as in Section 2.(2), shall be entrusted with all functions relating to the procedure for the grant of patents and the registration of industrial designs, marks and collective marks and for the administration of granted patents and registered industrial designs, marks and collective marks as specified in this Act and the Regulations.

(5)(a) The Director General shall be assisted by a Deputy and such Assistant as may be appointed and shall superintend and perform all duties required by this Act and the Regulations and shall have the authority to carry out studies, programs or exchanges of items or services regarding domestic and international industrial property law.

(b) Decisions shall be signed by the Director-General or an official designated by him.

(c) The Board of Directors shall determine the organizational structure and regulate all questions concerning the financial and budgetary system of the Office of the Director General.

(7) The Office of the Director-General shall publish in the Official Bulletin all the publications provided for in this Act.

(8)(a) The Board of Directors shall issue Regulations prescribing details for the implementation of this Act. The Regulations may, in particular, provide for the payment of fees in connection with applications for the grant of patents and for the registration of industrial designs, marks and collective marks and matters related thereto

(b) The Director General may issue Administrative Instructions relating to the procedures under this Act and the Regulations as well as to the other functions of the Office of the Director General

Registers/  
Official  
Bulletin

3.(1)(a) The Office of the Director-General shall maintain separate Registers for patents, industrial designs and marks. Collective marks shall be registered in a special section of the Register of Marks. All the recordings provided for in this Act shall be effected in the said Registers.

(b) The Registers may be consulted by any person, and any person may obtain extracts therefrom, under the conditions prescribed in the Regulations.

Collection of  
Errors and  
Extension of  
time

4.(1) The Director-General may, subject to any provision in the Regulations, correct any error of translation or transcription, clerical error or mistake in any application or document filed with the Office of the Registrar or in any recording effected pursuant to this Act or the Regulations.

(2) If the Director-General is satisfied that the circumstances justify it, he may, upon receiving a written request, extend the time for doing any act or taking any proceeding under this Act and the Regulations, upon notice to the parties concerned and upon such terms as he may direct. The extension may be granted though the time for doing the act or taking the proceeding has expired

Exercise of  
Discretionary  
Powers

5. The Director General shall give any party to a proceeding before him an opportunity of being heard before exercising adversely to that party any discretionary power vested in him by this Act or the Regulations.

Competent of,  
Court: Appeals

6.(1) The Circuit Court shall have jurisdiction in cases of dispute relating to the application of this Act and the Regulations and in matters which under this Act (and the Regulations) are to be referred to the court.

(2) Any decision taken by the Director-General under this Act, in particular the grant of a patent or the registration of an industrial design or of a mark or collective mark, or the refusal of an application for such a grant or registration, may be the subject of an appeal by any interested party before the Circuit Court and such appeal shall be filed within (two) months of the date of the decision.

**Chapter 2:** Interpretations, Definition and Abbreviation

Interpretation 7. In this Act, unless the context otherwise requires:

("ARIPO" means the African Regional Industrial Property Organization.)

("Banjul Protocol" means the Protocol on Marks within the Framework of ARIPO.)

"Court" means the court referred to in Section 6 (1);

("Harare Protocol" means the Protocol on Patents and Industrial Designs Within the Framework of ARIPO.)

"International Classification" means, as regards industrial designs, the classification according to the Locarno Agreement Establishing an International Classification for Industrial Designs and, as regards marks, the classification according to the Nice Agreement Concerning the International Classification of Goods and Services for the purposes of the registration of Marks, of June 15, 1957, as last revised.

"Paris Convention" means the Paris Convention for the Protection of Industrial Property of March, 20, 1883, as last revised;

"Priority date" means the date of the earlier application that serves as the basis for the right of priority provided for in the Paris convention.

"Registers" means the Registers referred to in Section 3(1)(a),

"Regulations" means the Regulations referred to in Section 2.(8)(a).

CHAPTER 3

PART 1: PATENTS

Definitions of "Patent"  
and of "Invention";  
Matter Excluded from  
Patent Protection

8(1) For the purposes of this Act, "patent" means the title granted to protect an invention.

(2)(a) For the purposes of this Act, "invention" means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology.

(b) An invention may be, or may relate to, a product or a process.

(3) The following, even if they are inventions within the meaning of subsection (2), shall be excluded from patent protection:

- (I) discoveries, scientific theories and mathematical methods;
- (II) schemes, rules or methods for doing business, performing purely mental acts or playing games;
- (III) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision shall not apply to products for use in any of those methods.

Patentable Inventions

9(1) An invention is patentable if it is new, involves an inventive step and is industrially applicable.

(2)(a) An invention is new if it is not anticipated by prior art.

(b) Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

(c) For the purposes of paragraph (b), disclosure to the public of the invention shall not be taken into consideration if it occurred within twelve months preceding the filing date or, where applicable, the priority date of the application and if it was by reason or in consequence of acts committed by the applicant or his predecessor in title or of an abuse committed by a third party with regard to the applicant or his predecessor in title.

(3) An invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the application claiming the invention and as defined in subsection (2)(b), it would not have been obvious to a person having ordinary skill in the art.

(4) An invention shall be considered industrially applicable if it can be made or used in any kind of industry. "Industry" shall be understood in its broadest sense; it shall cover, in particular, handicraft, agriculture, fishery and services.

(5) Inventions the commercial exploitation of which would be contrary to public order or morality shall not be patentable.

Right to Patent,  
Naming of Inventor

10(1) The right to a patent shall belong to the inventor.

(2) If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly.

(3) If and to the extent to which two or more persons have made the same invention independently of each other, the person whose application has the earliest filing date or, if priority is claimed, the earliest validly claimed priority date shall have the right to the patent, as long as the said application is not withdrawn, abandoned or rejected.

(4) The right to a patent may be assigned, or may be transferred by succession.

(5) Where an invention is made in execution of an employment contract, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer.

(6) The inventor shall be named as such in the patent, unless in a special written declaration signed by him and addressed to the Registrar he indicates that he wishes not to be named. Any promise or undertaking by the inventor made to any person to the effect that he will make such a declaration shall be without legal effect.

Application

11.(1) The application for a patent shall be filed with the Director general and shall contain a request, a description, one or more claims, one or more drawings (where required), and an abstract. It shall be subject to the payment of the prescribed application fee.

(2)(a) The request shall contain a petition to the effect that a patent be granted, the name of and other prescribed data concerning the applicant, the inventor and the agent, if any, and the title of the invention.

(b) Where the applicant is not the inventor, the request shall be accompanied by a statement justifying the applicant's right to the patent.

(3) The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person having ordinary skill in the art, and shall, in particular, indicate at least one mode known to the applicant for carrying out the invention.

(4)(a) The claim or claims shall define the matter for which protection is sought. The description and the drawings may be used to interpret the claims.

(b) Claims shall be clear and concise. They shall be fully supported by the description.

(5) Drawings shall be required when they are necessary for the understanding of the invention.

(6) The abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for the purpose of interpreting the scope of the protection.

(7) The applicant may, up to the time when the application is in order for grant, withdraw the application at any time during its pendency.

Unity of Invention:  
inventions Amend-  
Division of  
Application

12.(1) The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) The applicant may, up to the time when the application is in order for grant, amend the application, provided that the amendment shall not go beyond the disclosure in the initial application.

(3)(a) The applicant may, up to the time when the application is in order for grant, divide the application into two or more applications ("divisional applications"), provided that each divisional application shall not go beyond the disclosure in the initial application.

(b) Each divisional application shall be entitled to the filing date and, where applicable, the priority date of the initial application.

(4) The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention under subsection (1) shall not be a ground for the invalidation of the patent.

Right of Priority

13.(1) The application may contain a declaration claiming the priority, as provided for in the Paris Convention, of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any State party to the said Convention (or any Member of the World Trade Organization).

(2) Where the application contains a declaration under subsection (1), the Director General may request that the applicant furnish, within the prescribed time limit, a copy of the earlier application certified as correct by the Office with which it was filed.

(3) The effect of the said declaration shall be as provided in the Paris Convention.

(4) If the Director-General finds that the requirements under this Section and the Regulations pertaining thereto have not been fulfilled, the said declaration shall be considered not to have been made.

Information  
Concerning  
Corresponding  
Foreign Application

14.(1) The applicant shall, at the request of the Director General furnish him with the date and number of any application for a patent filed by him abroad ("foreign application") relating to the same or essentially the same invention as that claimed in the application filed with the Office of the Director General.

(2)(a) The applicant shall, at the request of the Director General, furnish him with the following documents relating to one of the foreign applications referred to in subsection (1):

(i) a copy of any communication received by the applicant concerning the results of any search or examination carried out in respect of the foreign application;

(ii) a copy of the patent granted on the basis of the foreign application.



- (iii) a copy of any final decision rejecting the foregoing application or refusing the grant requested in the foreign application.

(b) The applicant shall, at the request of the Director General, furnish him with a copy of any final decision invalidating the patent granted on the basis of the foregoing application referred to in paragraph (a).

(3) Subsection (2)(a)(i) and (iii) shall not apply in respect of information relating to the examination of the same international application in another elected office where the Industrial Property Registry is an elected Office in the meaning of Section 21(ii) and has received or will receive an international preliminary examination report.

Filing Date:  
Examination

15. (1) The Director General shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contains:

- (i) an express or implicit indication that the granting of a patent is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) a part which, on the face of it, appears to be a description of invention

(b) If the Director General finds that the application did not, at the time of receipt, fulfill the requirements referred to in paragraph (a), he shall invite the applicant to file the required correction and shall accord as the filing date the date of receipt of the required correction, but if no correction is made, the application shall be treated as if it had been filed.

(2) Where the application refers to drawings which in fact are not included in the application, the Director General shall invite the applicant to furnish the missing drawings. If the applicant complies with the said invitation, the Director General shall accord as the filing date the date of receipt of the missing drawings. Otherwise, Director General shall accord as the filing date the date of receipt of the application and shall treat any reference to the said drawings as non-existent.

(3) After according a filing date, the Director General shall examine whether the application complies with the requirements of Section 11(1) and (2) and the Regulations pertaining thereto and those requirements of this Act and the Regulations which are designated by the Regulations as formal requirements for the purposes of this Act and whether information requested under Section 14, if any, has been provided.

(4) Where the Director General is of the opinion that the application complies with the requirements indicated in subsection (3), the Director General shall take a decision as to whether the requirements of Section 8(2) and (3), 31(3), (4) and (5) and 12 and the Regulations pertaining thereto are fulfilled and for this purpose may, as provided for in the Regulations, cause the application to be examined.

(5) The Director General shall take into account, for the purposes of subsection (4).

- (i) the results of any international search report and any international preliminary examination report established under the PACT in relation to the application; and/or
- (ii) any search and examination report submitted under Section 14(2)(i) relating to, or a final decision submitted under Section 14(2)(iii) on the refusal to grant a patent on, a corresponding foregoing application; and/or
- (iii) any search and examination report which was carried out upon his request by an external search and examination authority.

Grant of Patent;  
Changes in Patents

16.(1) Where the Director General finds that the conditions referred to in Section 15(3) and (4) are fulfilled, he shall grant the patent. Otherwise, he shall refuse the application and notify the applicant of that decision.

(2) When he grants a patent, the Director General shall:

- (i) publish a reference to the grant of the patent;
- (ii) issue to the applicant a certificate of the grant of the patent and a copy of the patent;
- (iii) record the patent;
- (iv) make available copies of the patent to the public, on payment of the prescribed fee.

(3) The Director general shall, whenever possible, reach a final decision on the application not later than two years after the commencement of the examination referred to in Section 15(4).

(4) The Director General shall, upon request of the owner of the patent, make changes in the text or drawings of the patent in order to limit the extent of the protection conferred thereby provided that the change would not result in the disclosure contained in the patent going beyond the disclosure contained in the initial application on the basis of which the patent was granted.

Rights Conferred  
Patent: (ARIPO  
Patents)

17.(1) The exploitation of the patented invention in Liberia by persons other than the owner of the patent shall require the latter's agreement.

(2) For the purposes of this Act, "exploitation" of a patented invention means any of the following acts:

(a) when the patent has been granted in respect of a product:

- (i) making, importing, offering for sale, selling and using the product;

- (ii) stocking such product for the purposes of offering for sale, selling or using,

(b) when the patent has been granted in respect of a process.

- (i) using the process,
- (ii) doing any of the acts referred to in paragraph (a) in respect of a product obtained directly by means of the process.

(3) The owner of the patent shall, in addition to any other rights, remedies or actions available to him, have the right, subject to subsection (4) hereof and Section 19, to institute court proceedings against any person who infringes the patent by performing, without his agreement, any of the acts referred to in subsection (2) or who performs acts which make it likely that infringement will occur:

(4)(a) The rights under the patent shall not extend:

- (i) to acts in respect of articles which have been put on the market in Liberia by the owner of the patent or with his consent; or
- (ii) to the use of articles on aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Liberia; or
- (iii) to acts done only for experimental purposes relating to a patented invention; or
- (iv) to acts performed by any person who is in good faith, before the filing or, where priority is claimed, the priority date of the application on which the patent is granted and in Liberia, was using the invention or was making effective and serious preparations for such use.

(b) The right of prior user referred to in paragraph (a)(iv) may be transferred or devolve only together with the enterprise or business, or with that part of the enterprise or business, in which the use or preparations for use have been made

(5) A patent in respect of which Liberia is a designated State, granted by ARIPO by virtue of the Harare Protocol, shall have the same effect in Liberia as a patent granted under this Act, unless the Director General has communicated to ARIPO, in respect of the application therefor, a decision, in accordance with the provisions of the Protocol, that, if a patent is granted by ARIPO, that patent shall have no effect in Liberia.

18.(1) Subject to subsection (2), a patent shall expire 20 years after the filing date of the application for the patent.

(2) In order to maintain the patent or patent application, an annual fee shall be paid in advance to the Director General for each year, starting one year after the filing date of the application for grant of the patent. A period of grace of six months shall be allowed for the late payment of the annual fee

on payment of the prescribed surcharge. If an annual fee is not paid in accordance with the provisions of this subsection, the patent application shall be deemed to have been withdrawn or the patent shall lapse.

Exploitation by  
Government or  
Person thereby  
Authorized

19.(1) Where

- (i) the public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy so requires, or
- (ii) the (name of the competent judicial or administrative body to be inserted) has determined that the manner of exploitation, by the owner of the patent or his licensee, is anti-competitive, and the Minister is satisfied that the exploitation of the invention in accordance with this subsection would remedy such practice.

the Director-General may decide that, even without the agreement of the owner of the patent, a Government agency or a third person designated by the Minister may exploit a patented invention.

(2) The exploitation of the patented invention shall be limited to the purpose for which it was authorized and shall be subject to the payment to the said owner of an adequate remuneration therefor, taking into account the economic value of the Director General's authorization, as determined in the said decision, and, where a decision has been taken under paragraph (ii) of subsection (1), the need to correct anti-competitive practices. The Director General shall take his decision after hearing the owner of the patent and any interested person if they wish to be heard.

(3)(a) A request for the Director General authorization shall be accompanied by evidence that the owner of the patent has received, from the person seeking the authorization, a request for a contractual license, but that person has been unable to obtain such a license on reasonable commercial terms and conditions and within a reasonable time.

(b) paragraph (a) of this subsection shall not apply in cases of

- (i) national emergency or other circumstances of extreme urgency provided, however, that in such cases the owner of the patent shall be notified of the Director General's decision as soon as reasonably practicable.
- (ii) public non-commercial use, and
- (ii) anti-competitive practices determined as such by a judicial or administrative body in accordance with subsection (1)(ii).

(4) The exploitation of a patented invention in the field of semi-conductor technology shall only be authorized either for public non-commercial use or where a judicial or administrative body has determined that the manner of

exploitation of the patented invention, by the owner of the patent or his licensee, is anti-competitive and if the Director General is satisfied that the issuance of the non-voluntary license would remedy such practice.

(5) The authorization shall not exclude:

- (i) the conclusion of license contracts by the owner of the patent; or
- (ii) the continued exercise, by the owner of the patent, of his rights under Section 17(2); or
- (iii) the issuance of a non-voluntary license under Section 20.

(6) Where a third person has been designated by the Minister, the authorization may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within which the patented invention is being exploited.

(7) The exploitation of the invention by the Government agency or third person designated by the Director General shall be predominantly for the supply of the market in Liberia.

Alternative:

(8) Where the exploitation of the invention by the Government agency or third person designated by the Director General is authorized under subsection (1)(i), it shall be predominantly for the supply of the market in Liberia.

(9) Upon request of the owner of the patent, of the Government agency or of the third person authorized to exploit the patented invention, the Director General may, after hearing the parties, if either or both wish to be heard, vary the terms of the decision authorizing the exploitation of the patented invention to the extent that changed circumstances justify such variation.

(10)(a) Upon the request of the owner of the patent, the Director General shall terminate the authorization if he is satisfied, after hearing the parties, if either or both wish to be heard, that the circumstances which led to his decision have ceased to exist and are unlikely to recur or that the Government agency or third person designated by him has failed to comply with the terms of the decision.

(b) Notwithstanding paragraph (a), the Director General shall not terminate the authorization if he is satisfied that the need for adequate protection of the legitimate interests of the Government agency or third person designated by him justifies the maintenance of the decision.

(11) The decisions of the Minister under subsections (1) to (9) may be the subject of an appeal before the Civil Court.

Non-Voluntary

20.(1)(a) On request, made to the Director General (Civil Court) after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last, the (Director General) (Civil Court) may issue a non-

voluntary license if (he) (it) is satisfied that the patented invention is not exploited or is insufficiently exploited, by working the invention locally or by importation, in Liberia.

(b) Notwithstanding paragraph (a) of this subsection, non-voluntary license shall not be issued if the owner of the patent satisfies the Director General (Court) that circumstances exist which justify the non-exploitation or insufficient exploitation of the patented invention in Liberia.

(2) The decision issuing the non-voluntary license shall fix:

- (i) the scope and function of the license,
- (ii) the time limit within which the licensee must begin to exploit the patented invention, and
- (iii) the amount of the adequate remuneration to be paid to the owner of the patent and the conditions of payment.

(3) The beneficiary of the non-voluntary license shall have the right to exploit the patented invention in Liberia according to the terms set out in the decision issuing the license, shall commence the exploitation of the patented invention within the time limited fixed in the said decision and, thereafter, shall exploit the patented invention sufficiently.

(4) If the invention claimed in a patent ("later patent") cannot be exploited in the country without infringing a patent granted on the basis of an application benefitting from an earlier filing or, where appropriate, priority date ("earlier patent"), and provided that the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent, the (Director General ) (Court), upon the request of the owner of the later patent, may issue a non-voluntary license to the extent necessary to avoid infringement of the earlier patent.

(5) Where a non-voluntary license is issued under subsection (4), the (Director General) (Court) upon the request of the owner of the earlier patent, shall issue a non-voluntary license in respect of the later patent.

(6) In the case of a request for the issuance of a non-voluntary license under subsections (4) and (5), subsection (2) shall apply mutatis mutandis with the proviso that no time limit needs to be fixed.

(7) In the case of a non-voluntary license issued under subsection (4), the transfer may be made only with the later patent, or, in the case of a non-voluntary license issued under subsection (5), only with the earlier patent.

(8) The request for the issuance of a non-voluntary license shall be subject to payment of the prescribed fee.

(9) Section 19(2) to (10) shall apply mutatis mutandis.

21.(1) Any interested person may request the court to invalidate a patent.

(2) The court shall invalidate the patent if the person requesting the invalidation proves that any of the requirements of Sections 8(2) and (3), 9 and 11(3), (4) and (5) is not fulfilled or if the owner of the patent is not the inventor or his successor in title.

(3) Any invalidated patent, or claim or part of a claim, shall be regarded as null and void from the date of the grant of the patent.

(4) The final decision of the court shall be notified to the Director General who shall record it and publish a reference thereto as soon as possible.

## PART II

### INTERNATIONAL APPLICATIONS UNDER THE PATENT COOPERATION TREATY

- Interpretation of Terms concerning the PCT
22. For the purposes of this Act:
- (i) "Patent Cooperation Treaty" means the Patent Cooperation Treaty done at Washington on June 19, 1970;
  - (ii) "designate," "designated Office," "elect," "elected Office," "International application," "international filing date," "international preliminary examination" and "receiving Office" have the same meanings as in the Patent Cooperation Treaty.
- Filing Date and Effects of International Application Designating Liberia.
23. An international application designating Liberia shall, subject to this Part, be treated as an application for a patent filed under this Act having as its filing date the international filing date accorded under the Patent Cooperation Treaty.
- Office of the Director General as Receiving
- 24.(1) The Office of the Director General shall, unless an agreement is in force under subsection (2) act as a receiving office in respect of any international application filed with it by a resident or national of Liberia.
- (2) With the consent of the Director General, the Office of the Registrar may make an agreement of the kind referred to in Rule 19.1(b) of the Regulations under the Patent Cooperation Treaty whereby (an intergovernmental organization or the national office of another Contracting State of the Patent Cooperation Treaty) shall act instead of the office of the Registrar as receiving office for applicants who are residents or nationals of Liberia.
- Filing of International Application with the Office of the Director General
- 25 An international application filed with the Office of the Director General as receiving Office shall be filed in English and the prescribed transmittal fee shall be paid to the Office of the Director General.
- Office of the Director as Designated Office
- 26 The Office of the Director General shall act as a designated Office in respect of an international application in which Liberia is designated for the purposes of obtaining a national patent under this Act.
- Office of the Director General as Elected Office
27. The Office of Director General shall act as an elected Office in respect of an international application in which Liberia is designated as referred to in Section 19 if the applicant elects Liberia for the purposes of international preliminary examination under Chapter 11 of the Patent Cooperation Treaty.

National Processing 28. The Office of the Director General as designated office or elected Office shall not commence processing of an international application designating Liberia before the expiration of the time limit referred to in Section 29 except if the applicant complies with the requirements of that Section and files with the Office of the Registrar an express request for early commencement of such processing

Entering National Phase 29. The applicant in respect of an international application designating Liberia shall, before the expiration of the time limit applicable under Article 22 or 39 of the Patent Cooperation Treaty or of such later time limit as may be prescribed in the Regulations:

- (i) pay the prescribed fee to the Office of the Registrar; and
- (ii) if the international application was not filed in, or has not been published under the Patent Cooperation Treaty as a translation into English, file with the Office of the Registrar a translation of the international application, containing the prescribed contents, into English.

30. If the applicant does not comply with the requirements of Section 29 within the time limit referred to in that Section, the International application shall be considered withdrawn for the purposes of this Act.

Processing International Applications in Accordance with Treaty 31.(1) The Office of the Registrar shall process international applications in accordance with the provisions of the Patent Cooperation Treaty, the Regulations established thereunder and the Administrative Instructions under those Regulations and with the Provisions of this Act and the Regulations thereunder. In the event of conflict, the provisions of the Patent Cooperation Treaty, the Regulations thereunder and the Administrative Instructions under those Regulations shall apply. The Regulations under this Act may provide for the processing of international applications in such a case

(b) Further details concerning the processing of international applications by, and other functions of, the office of the Registrar in connection with the Patent Cooperation Treaty, including fees payable, time limits and other requirements in relation to international applications, may be included in the Regulations.

**Chapter 4**

**INDUSTRIAL DESIGNS**

Definition of "Industrials Design" 32.(1) For the purposes of this Act, any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors, is deemed to be an industrial design, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.

(2) The protection under this Act does not extend to anything in an industrial design which serves solely to obtain a technical result and to the extent that it leaves no freedom as regards arbitrary.

Registrable Industrial Designs 33.(1) An industrial design is registrable if it is new.



(2) An industrial design shall be new if it has not been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration. Section 9(2)(c) shall apply mutatis mutandis.

(3) Industrial designs that are contrary to public order or morality shall not be registrable.

Right to Regulation  
of Industrial  
Design; Naming  
of Creator

34. Section 10 shall apply mutatis mutandis.

Application

35.(1) The application for registration of an industrial design shall be filed with the Registrar and shall contain a request, drawings, photographs or other adequate graphic representations of the article embodying the industrial design and an indication of the kind of products for which the industrial design is to be used. It may be accompanied by a specimen of the article embodying the industrial design, where the industrial design is two-dimensional. The application shall be subject to the payment of the prescribed application fee.

(2) Where the applicant is not the creator, the request shall be accompanied by a statement justifying the applicant's right to the registration of the industrial design.

(3) Section 13 shall apply mutatis mutandis.

(4) Two or more industrial designs may be the subject of the same application, provided they relate to the same class of the International Classification or to the same set or composition of articles.

(5) The application, at the time of filing, may contain a request that the publication of the industrial design, upon registration, be deferred for a period not exceeding 12 months from the date of filing or, if priority is claimed, from the date of priority, of the application.

(6) The applicant may withdraw the application at any time during its pendency.

Examination  
Registration  
and Publication  
of Industrial  
Design

36.(1) The Registrar shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contains indication allowing the identity of the applicant to be established and the required graphic representation of the article embodying the industrial design. Section 15(1)(b) shall apply mutatis mutandis.

(2) After according a filing date, the Registrar shall examine whether the application complies with the requirements of Section 35(1) and (2) and the Regulations pertaining thereto, whether the application fee has been paid and whether the industrial design complies with the requirements of Sections 32 and 33(3) and the Regulations pertaining thereto.

(3) Where the Registrar finds that the conditions referred to in subsection (2) hereof are fulfilled, he shall register the industrial design, publish a reference to the registration and issue to the applicant a certificate of registration of the industrial design; otherwise, he shall refuse the application.

(4)(a) Notwithstanding subsection (3), where a request has been made under Section 35(5) for deferment of publication, upon registration of the industrial design, neither the representation of the design nor any file relating to the application shall be open to public inspection. In this case, the Registrar shall publish a mention of the deferment of the publication of the industrial design and information identifying the registered owner, and indicating the filing date of the application, the length of the period for which deferment has been requested and any other prescribed particulars.

(b) At the expiry of the period of deferment, the Registrar shall publish the registered industrial design.

(c) The institution of legal proceedings on the basis of a registered industrial design during the period of deferment of publication shall be subject to the condition that the information contained in the Register and in the file relating to the application has been communicated to the person against whom the action is brought.

Rights Conferred  
Registration.  
Duration.  
Renewal:(ARIPO)  
Industrial Designs

37.(1) The exploitation of a registered industrial design in Liberia by persons other than the registered owner shall require the agreement of the latter.

(2) For the purposes of this Act, "Exploitation" of a registered industrial design means the making, selling or importation of articles incorporating the industrial design.

(3) Section 17(4)(a)(i) shall apply mutatis mutandis.

(4) The registered owner of an industrial design shall, in addition to any other rights, remedies or actions available to him, have the right to institute court proceedings against any person who infringes the industrial design by performing, without his agreement, any of the acts referred to in subsection (2) or who performs acts which make it likely that infringement will occur.

(5) The registration of an industrial design shall be for a period of five years from the filing date of the application for registration. The registration may be renewed for two further consecutive periods of five years through the payment of the prescribed fee. A period of grace of six months shall be allowed for the late payment of the renewal fee on payment of the prescribed surcharge.

(6) An industrial design in respect of which Liberia is a designated State, registered by ARIPO by virtue of the Harare Protocol, shall have the same effect in Liberia as an industrial design registered under this Act, unless the Registrar has communicated to ARIPO, in respect of the application therefor, a decision, in accordance with the provisions of the Protocol, that, if a registration is made by ARIPO, that registration shall have no effect in Liberia.

Invalidation

38.(1) Any interested person may request the court to invalidate the registration of an industrial design.

(2) The court shall invalidate the registration if the person requesting the invalidation proves that any of the requirements of Sections 32 and 33 is not fulfilled or if the registered owner of the industrial design is not the creator or his successor in title

(3) Section 21(3) and (4) shall apply mutatis mutandis.

Chapter 5

MARKS, COLLECTIVE MARKS, TRADE NAMES AND ACTS OF UNFAIR  
COMPETITION

Definition of  
"Mark" of  
"Collective Mark"  
and of "Trade  
Name"

39. For the purpose of this Act:

- (i) "mark" means any visible sign capable of distinguishing the goods ("trademark") or services ("service mark") of an enterprise;
- (ii) "collective mark" means any visible sign designated as such in the application for registration and capable of distinguishing the origin or any other common characteristic, including the quality, of goods or services of different enterprises which use the sign under the control of the registered owner of the collective mark;
- (ii) "Trade name" means the name of designation identifying and distinguishing an enterprise.

Acquisition of the  
Exclusive Right to a  
Mark: Registrability

40.(1) The exclusive right to a mark, as conferred by this Act, shall be acquired by registration in accordance with the provision thereof

(2) A mark cannot be validly registered

- (i) if it is incapable of distinguishing the goods or services of one enterprises from those of other enterprises;
- (ii) if it is contrary to public or morality;
- (iii) if it is likely to mislead the public or trade circles, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics;
- (iv) if it is identical with, or is an imitation or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initials of the name of, or official sign or hallmark adopted by, any State.

intergovernmental organization or organization created by the international convention, unless authorized by the competent authority of that State or organization

- (v) if it is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Liberia for identical or similar goods or services of another enterprise, or if it is well-known and registered in Liberia for goods or services which are not identical or similar to those in respect of which registration is applied for, provided, in the latter case, that use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark and that the interest of the owner of the well-known mark are likely to be damaged by such use;
- (vi) if it is identical with a mark belonging to a different proprietor and already on the Register, or with the earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.

Application for  
Registration

41.(1) The application for registration of mark shall be filed with the Registrar and shall contain a request, a reproduction of the mark and a list of the goods or services for which registration of the mark is requested, listed under the applicable class or classes of the International Classification. It shall be subject to the payment of the prescribed application fee

(2)(a) The application may contain a declaration claiming the priority, as provided for in the Paris Convention, of an earlier national or regional application filed by the applicant or his predecessor in title (in or for any State party to the said convention or any Member of the world Trade Organization), in which case, the Registrar may require that the applicant furnish, within the prescribed time limit, a copy of the earlier application, certified as correct by the office with which it was filed.

(b) the effect of the said declaration shall be as provided in the Paris Convention, if the Registrar finds that the requirements under this subsection and the Regulations pertaining thereto have not been fulfilled, the said declaration shall be considered not to have been made.

(3) The applicant may withdraw the application at any time during its pendency

Examination:  
Opposition  
Registration of  
Mark

42.(1)(a) The Registrar shall examine whether the application complies with the requirements of Section 41(1) and the Regulations pertaining thereto.

(b) The Registrar shall examine and determine whether the mark is a mark as defined in Section 39(i) and is registrable under Section 40(2)(i) to (v).

(2)(a) Where the Registrar finds that the conditions referred to in subsection (1) hereof are fulfilled, he shall forthwith cause the application, as accepted, to be published in the prescribed manner.

(b) Any interested person may, within the prescribed period and in the prescribed manner, give notice to the registrar of opposition to the registration of the mark on the grounds that one or more of the requirements of Section 39(i) and 40(2) and the Regulations pertaining thereto are not fulfilled.

(c) The Registrar shall send forthwith a copy of such a notice to the applicant, and, within the prescribed period and in the prescribed manner, the applicant shall send to the registrar a counter-statement of the grounds on which he relies for his application; if he does not do so, he shall be deemed to have abandoned the application.

(d) If the applicant sends a counter-statement, the Registrar shall furnish a copy thereof to the person giving notice of opposition and, after hearing the parties, if either or both wish to be heard, and considering the merits of the case, shall decide whether the mark should be registered.

(e) After an application is published and until the registration of the mark, the applicant has the same privileges and rights as he would have if the mark had been registered, however, it shall be a valid defense to an action brought hereunder in respect of an act done after the application was published, if the defendant establishes that the mark could not validly have been registered at the time the act was done.

(3) Where the Registrar finds that the conditions referred to in subsection (1) are fulfilled, and either:

- (i) the registration of the mark has not been opposed within the prescribed time limit; or
- (ii) the registration of the mark has been opposed and the opposition has been decided in the applicant's favor, he shall register the mark, publish a reference to the registration and issue to the applicant a certificate of registration. Otherwise, he shall refuse the application.

Rights Conferred  
by Registration.  
Duration. Renewal  
(ARIPO Marks)

43.(1) The use of a registered mark, in relation to any goods or services for which it has been registered, by any person other than the registered owner shall require the agreement of the latter.

(2) The registered owner of a mark shall, in addition to any other rights, remedies or actions available to him, have the right to institute court proceedings against any person who infringes the mark by using, without his agreement, the mark as aforesaid or who performs acts which make it likely that infringement will occur. The right shall extend to the use of a sign similar to the registered mark and use in relation to goods and services similar to those for which the mark has been registered, where confusion may arise in the public.

(3) The rights conferred by registration of a mark shall not extend to acts in respect of articles which have been put on the market in Liberia by the registered owner or with his consent.

(4)(a) The registration of a mark shall be for a period of ten years from the filing date of the application for registration.

(b) The registration of a mark may, upon request, be renewed for consecutive periods of ten years, provided that the registered owner pays the prescribed renewal fee.

(c) A period of grace of six months shall be allowed for the late payment of the renewal fee on payment of the prescribed surcharge.

(5) A mark in respect of which Liberia is a designated State, registered by ARIPO by virtue of the Banjul Protocol, shall have the same effect in Liberia as a mark registered under this Act, unless the Registrar has communicated to ARIPO, in respect of the application therefor, a decision, in accordance with the provisions of the Protocol, that, if a registration is made by ARIPO, that registration shall have no effect in Liberia.

Invalidation  
Removal on  
Grounds of  
Non-Use

44.(1)(a) Any interested person may request the Registrar to invalidate the registration of a mark.

(b) The Registrar shall invalidate the registration if the person requesting the invalidation proves that any of the requirements of Sections 39(i) and 40(2) is not fulfilled.

(c) Any invalidation of a registration of a mark shall be deemed to have been effective as of the date of registration, and it shall be recorded and a reference thereto published as soon as possible.

(2) Any interested person may request the Registrar to remove a mark from the Register, in respect of any of the goods or services in respect of which it is registered, on the ground that up to one month prior to filing the request the mark had, after its registration, not been used by the registered owner or a licensee during a continuous period of three years or longer, provided that a mark shall not be removed if it is shown that special circumstances prevented the use of the mark and that there was no intention not to use or to abandon the same in respect of those goods or services.

Collective Marks

45.(1) Subject to subsections (2) and (3), Sections 40 to 44 shall apply to collective marks, except that references therein to Section 39(i) shall be read as 39(ii).

(2)(a) An application for registration of a collective mark shall designate the mark as a collective mark and shall be accompanied by a copy of the regulations governing the use of the collections.

(b) The registered owner of a collective mark shall notify the Registrar of any changes made in respect of the regulations referred to in paragraph (a).

(3) In addition to the grounds provided in Section 44(1), the Registrar shall invalidate the registration of a collective mark if the person requesting the invalidation proves that only the registered owner uses the mark, or that he uses or permits its use in contravention of the regulations referred to in subsection (2)(a) or that he uses or permits its use in a manner liable to deceive trade circles or the public as to the origin or any other common characteristics of the goods or services concerned.

Licensing of Marks  
And Collective Marks

46.(1) Any license contract concerning the registration of a mark, or an application therefor, shall provide for effective control by the licensor of the quality of the goods or services of the licensee in connection with which the mark is used. If the license contract does not provide for such quality control or if such quality control is not effectively carried out, the license contract shall not be valid.

(2) The registration of a collective mark, or an application therefor, may not be the subject of a license contract.

Trade Names

47.(1) A name or designation may not be used as a trade name if by its nature or the use to which it may be put, it is contrary to public order or morality and if, in particular, it is liable to deceive trade circles or the public as to the nature of the enterprise identified by that name.

(2)(a) Notwithstanding any laws or regulations providing for any obligation to register trade names such names shall be protected, even prior to or without registration, against any unlawful act committed by third parties.

(b) In particular, any subsequent use of the trade name by a third party, whether as a trade name or a mark or collective mark, or any such use of a similar trade name or mark, likely to mislead the public, shall be deemed unlawful.

Acts of Unfair  
Competition

48.(1) Any act of competition contrary to honest practices in industrial or commercial matters shall be unlawful.

(2) The following acts, in particular, shall be deemed to constitute acts of unfair competition:

- (i) all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities of a competitor;
- (ii) false allegations in the course of trade of such a nature as to discredit the establishment, the goods or the industrial or commercial activities of a competitor;
- (iii) indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity of the goods.

PART V

GENERAL PROVISIONS

Changes in  
Ownership License  
Contracts

49.(1) Any change in the ownership of a patent, the registration of an industrial design or the registration of a mark or collective mark, or in the ownership of an application therefor, shall be in writing and shall, at the request of any interested party, to the Registrar, be recorded and, except in the case of an application, published by the Registrar. Such change shall have no effect against third parties until such recording is effected.

(2) Any change in the ownership of the registration of a collective mark, or in the ownership of an application therefor, shall require previous approval by the Director General.

(3) Any change in the ownership of a trade name must be made with the transfer of the enterprise or part thereof identified by that name and shall be in writing.

(4) A change in ownership of the registration of a mark or a collective mark shall, however, be invalid if it is likely to deceive or cause confusion, particularly in regard to the nature, origin, manufacturing process, characteristics, or suitability for their purpose, of the goods or services in relation to which the mark or collective mark is intended to be used or is being used.

(5) Any license contract concerning a patent, a registered industrial design or a registered mark, or an application therefor, shall be submitted to the Registrar who shall keep its contents confidential but shall record it and publish a reference thereto. The license contract shall have no effect against third parties until such submission has been made.

Agents

50. Where an applicant's ordinary residence or principal place of business is outside Liberia, he shall be represented by a legal practitioner resident and practicing in Liberia.

Infringement:  
Unlawful Acts:  
Offenses

51. (1) Subject to Sections 23(4), 25, 26, 43(3) and 49(3), an infringement shall consist of the performance of any act referred to in Section 23, 37 and 49 in Liberia by a person other than the owner of the title of protection and without the agreement of the latter.

(2)(a) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so, the court may grant an injunction to prevent infringement, an imminent infringement, or an unlawful act referred to in Section 4(2) and 5, award damages and grant any other remedy provided for in the general law.

(b) On the request of any competent authority or any interested person, association or syndicate, in particular of producers, manufacturers or traders, the court may grant the same relief in case of an act of unfair competition referred to the Section 5.

(3) Any person who knowingly performs an act which constitutes an infringement as defined in subsection (1) hereof or an unlawful act as defined in Section 4(2) and 48 shall be guilty of an offense punishable by a fine not less than USD500.00 or by imprisonment for a term not exceeding 5 years or both.

(4) For the purposes of proceedings, other than criminal proceedings, in respect of the violation of the rights of the owner of the patent referred to in subsections (1) and (2), where the subject matter of the patent is a process for obtaining a product, the burden of establishing that a product was not made by the process shall be on the alleged infringer if (either of ) the following condition(s) is fulfilled:

(alternative)

- (i) the product is now (or)
- (ii) a substantial likelihood exists that the product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.



(5) In requiring the production of evidence, the Court before which the proceedings referred to in subsection (4) take place shall take into account the legitimate interests of the alleged infringer in not disclosing his manufacturing and business secrets.

Application of

52. The provisions of any international treaties in respect of industrial property to which Liberia is a party shall apply to matters dealt with by this Act and, in case of conflict with provisions of this Act, shall prevail over the latter.

Entry Into Force:  
Transitional  
Provisions

53.(1) This Act shall enter into force on  
{.....}

(2) The following are hereby repealed:

{list of existing laws}

(3) Notwithstanding the repeal of Title 24 ( Patent Trade Marks and Section 2.44 (II) of the Act adopting a new Copyright Law of Liberia of August 1995, patents granted and trademarks registered thereunder shall remain in force but shall, subject to subsection (4) and (5), be deemed to have been registered under this Act.

(4) Patents granted shall remain in force for the expired portion of the period of protection provided under this Act, subject to the payment of annual maintenance fees provided for in this Act.

ANY LAW TO THE CONTRARY NOTWITHSTANDING.