

**Law No. 35 of May 10, 1996,
Enacting Provisions on Industrial Property***

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Title I **General Provisions**

Sole Chapter

1. The purpose of this Law is to protect inventions, utility models, industrial designs, industrial and trade secrets, trademarks for goods and services, collective and guarantee marks, indications of source, appellations of origin, trade names and advertising slogans and signs.

2. The Directorate General of the Industrial Property Registry of the Ministry of Commerce and Industries, hereinafter referred to by the abbreviation DIGERPI, is the authority responsible for the application of this Law, except where expressly provided otherwise.

3. The application of these provisions is a matter of public policy, without prejudice to the provisions of international treaties to which the Republic of Panama is party.

4. For the purposes of this Law, the following expressions are defined as stated:

1. "Recognized priority" means precedence for the grant of industrial property rights based on the filing abroad of an application that relates totally or partly to the same subject matter as that for which a subsequent application is filed in the Republic of Panama.

2. "Claim" means the claim of protection for an essential characteristic of a product or process, made precisely and specifically in the patent or registration application, and granted in the corresponding title if issued.

Title II **Inventions and Utility Models**

Chapter I

Preliminary Provisions

5. The natural person who makes an invention or utility model shall have the exclusive right to the exploitation thereof for his benefit, either by himself or by others with his consent.

6. The right referred to in the foregoing Article shall be granted, in accordance with the provisions of this Law, by means of patents in the case of inventions and by means of registrations in the case of utility models and industrial designs.

7. The owner of a patent or registration may be a legal entity or a natural person.

8. The natural person designated as such in the patent or registration application shall be presumed to be the inventor. The inventor or inventors may, in the event of assignment of their invention, reserve the right to be named in publications relating to it and in the corresponding title.

9. The provisions of the Labor Code shall apply equally to inventions, utility models and industrial designs made by persons in employment, whether in the private or the public sector.

Chapter II *Inventions*

10. New inventions that are the result of an inventive step and susceptible of industrial application shall be patentable as provided in this Law.

11. “Invention” means any idea, applicable in practice, for the solution of a particular technical problem. An invention may be a product or a process or both, or a special use or non-obvious use of a product. The invention of a product includes among other things any substance, composition or material, any article, appliance, machine, piece of equipment, mechanism, device or other object or tangible result and any part thereof. The invention of a process includes among other things any method, system or sequence of stages leading to the manufacture or achievement of a product or result, and also the use or application of a process or product for the achievement of a particular result.

12. An invention shall be considered new where it is not anticipated by the relevant prior art. Prior art includes everything that has been disclosed or made accessible to the public anywhere in the world by means of tangible publication, oral disclosure, sale or marketing, use or any other means before the filing date in Panama of the patent application or, where applicable, before the date of recognized priority where claimed under this Law. Prior art shall likewise include the contents of a patent application pending in Panama whose filing date or priority date if any is earlier than that of the application under examination, provided that the said contents are included in the earlier-dated application if it is published.

13. For the purposes of determining the patentability of an invention, no account shall be taken of disclosure that occurs anywhere in the world within the 12 months preceding the filing date of the application in Panama or, the date of any recognized priority claimed under this Law, provided that such disclosure is the direct or indirect result of acts engaged in by the inventor himself or his successor in title, or of a breach of trust or contract or of an unlawful act committed against either of them.

Disclosure resulting from publication by an industrial property office in the course of a patent grant process shall not be covered by the exception under this Article except where the application that gave rise to the publication was filed by a person who had no right to the grant of a patent, or where publication was the result of an error on the part of the said industrial property office.

14. The following in particular shall not be considered inventions for the purposes of this Law:

1. theories or scientific principles;
2. discoveries that consist in publicizing or revealing something that already existed in nature, even where previously unknown;
3. plans, schemes, principles or methods pertaining to economics or business, those relating to purely mental activities, and games;
4. computer programs in themselves which relate to the intended use of a computer;
5. methods of presenting information;
6. aesthetic creations and artistic or literary works;
7. methods of surgical, therapeutic or diagnostic treatment applicable to the human body and to animals. This provision shall not apply to the products, notably the substances or

compositions, or to inventions of apparatus or instruments for the implementation of such methods;

8. the juxtaposition of known inventions or the mixing of known products, or the alteration of the form, dimensions or materials thereof, except where they are actually so combined or merged that they cannot function separately, or where their characteristic properties or functions are altered to produce an industrial result that is not obvious to a person with technical skill in the field concerned;

9. inventions that are contrary to national laws, health, public policy, morality, proper practice or State security.

15. The following inventions relating to live material are excluded from patentability:

1. essentially biological means of breeding or propagating plants, animals or varieties or breeds thereof insofar as DIGERPI considers them a violation of morality or the integrity or dignity of mankind;

2. plant species and animal species and breeds;

3. biological material as encountered in nature;

4. live material that forms part of the human body;

5. plant varieties.

16. An invention shall be regarded as resulting from an inventive step if, to a person of average skill in the technical field concerned, it is neither obvious nor obviously derived from the prior art referred to in Article 12.

17. An invention shall be considered susceptible of industrial application where its subject matter may be produced or used in any type of industry or activity. For those purposes, the expression “industry” shall be understood in its broadest sense, including in particular handicraft, agriculture, mining, fishery and services.

18. The patent shall confer on its owner the right to prohibit third parties from engaging in the following acts:

1. where it has been granted for a product:

(a) manufacturing the product;

(b) offering the product for sale, selling or using it or importing or stocking it for any of those purposes.

2. where it has been granted for a process:

(a) using the process;

(b) engaging in any act under subparagraph 1 in relation to a product directly obtained from the process.

The scope of the protection conferred by the patent shall be determined by the claims, which shall be interpreted in relation to the description and drawings.

19. The right conferred by a patent shall have no effect whatever against:

1. a third party who, in the private sphere and on a non-commercial scale, or for a non-commercial purpose, engages in acts involving the patented invention;

2. an industry or enterprise in the general sense, or an educational or scientific body, that engages in acts of manufacture or use of the invention for experimental purposes relating to the subject matter there or for the purposes of scientific or educational research;

3. any person who markets, acquires or used the patented product or the product obtained using the patented process after the said product has been lawfully placed on the market;

4. any person who, before the filing date of the patent application or, where applicable, the date of recognized priority, has used the patented process, manufactured the patented product or put in hand the necessary preparations for such use or manufacture. This exception shall not apply if the person acquired knowledge of the invention through an act of bad faith.

20. The patent shall have a non-renewable term of 20 years counted from the filing date of the application, subject to payment of the fees specified in this Law.

21. After the patent has been granted, the owner thereof may seek adequate compensation or, where appropriate, indemnification for damages from third parties if, prior to the grant, they have exploited the patented process or product without his consent, such exploitation having taken place after the date of publication of the patent application in the Official Bulletin of Industrial Property, hereinafter referred to by the abbreviation BORPI.

In the event of unauthorized exploitation of process patents, the burden of proof shall be on the defendant where either or both of the following situations obtain:

1. the product is new;

2. it is sufficiently probable that the product has been made by means of the process, and the owner of the patent, in spite of having taken the appropriate action, has been unable to determine what process actually was used.

In the gathering and analysis of evidence to the contrary, due regard shall be had to the lawful interests of the defendant regarding the protection of his industrial or trade secrets.

22. Exploitation of the patented invention shall consist in the use of the patented process, manufacture and distribution or manufacture and marketing of the patented product, or mere marketing, carried out in national or international transactions by the owner of the patent. Importation of the patented product and subsequent distribution in the Republic of Panama shall constitute exploitation of the invention for the purposes of this Law.

23. The mention of the existence of a pending patent may only be made when the minimum requirements specified by this Law have been met.

Chapter III *Utility Models*

24. A utility model is any shape, configuration or arrangement of the components of any appliance, tool, instrument, mechanism or other object, or any part thereof, that makes for the better or different operation, use or manufacture of the object incorporating it, or lends it any usefulness, advantage or technical effect that it did not have previously.

25. Utility models that are new and susceptible of industrial application shall be registrable.

A utility model shall not be registrable when it possesses only minor differences, those that lead it no discernible utilitarian characteristic as compared with previous inventions or utility models being considered such.

26. The registration of utility models shall have a non-renewable term of ten years, counted from the filing date of the application, and shall be subject to the payment of the fees laid down in the corresponding law.

27. The present provisions on patents shall be applicable as appropriate to utility models, without prejudice to the special provisions contained in this Law.

28. The rules contained in the following Chapter shall be applied as appropriate to the processing of a utility model registration.

Chapter IV Processing of Patents

29. For the grant of a patent, a patent application shall be filed with DIGERPI through an appropriate attorney or firm of attorneys in Panama, together with a description, one or more claims, the corresponding drawings, an abstract and proof of payment of the prescribed fee and charge for filing.

The application shall state the name and address of the applicant, the name of the inventor, the name and address of the agent and the name of the invention.

The applicant for a patent may be a natural person or legal entity. If the applicant is not the inventor, the application shall be accompanied by the relevant contract of assignment, or any other document that duly justifies the applicant's right to the grant of the patent.

The patent application may state the fact of a patent or other title of protection having been sought or obtained from an industrial property office in so far as it refers totally or partly to the same invention as is claimed in the application filed in Panama. That statement may be made to the relevant office of filing, or to the office from which the title, date and number were obtained.

30. The description shall consist in the disclosure of the invention in a manner sufficiently clear and complete for it be evaluated and for a person skilled in the relevant technical field to be able to carry it out.

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

1. the sector of technology to which the invention refers or applies;
2. the prior technology known to the applicant that may be considered useful for the understanding and examination of the invention, and also references to earlier documents and publications relating to the said technology;
3. a description of the invention in terms that allow the technical problem and the solution provided by the invention to be understood and also the advantages thereof compared with earlier technology to be explained;
4. an explanation of the drawings, if any;

5. a description of the best method known to the applicant of carrying out the invention or putting it into practice, making use of examples and references to the drawings;

6. the manner in which the invention may be produced or used in a given activity, except where this is obvious from the description or nature of the invention.

31. Where the invention relates to a biological product or process requiring the use of biological material that is not available to the public and cannot be so described as to allow the invention to be carried out by a person skilled in the art, the description shall be complemented with a deposit of the said material at a depositary institution such as those recognized under the 1977 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, or any other institution recognized by DIGERPI. In such a case the deposit shall be made no later than on the filing date of the application in Panama, or where appropriate on the date of the priority claim.

When a deposit of biological material is made to complement the description, that fact shall be mentioned in the description together with the name and address of the depositary institution, the date of deposit and the deposit number assigned by the institution. The nature and characteristics of the material deposited shall likewise be described where necessary for the disclosure of the invention. The biological material deposited shall form an integral part of the description.

32. Drawings or other documentation shall be submitted where necessary for the invention to be understood, evaluated or carried out.

33. The claims shall define the subject matter for which patent protection is sought; they shall in addition be clear, concise and entirely supported by the description.

34. The abstract shall consist of a summary of the disclosure in this description, an account of the claims and any drawings, and where appropriate shall include the chemical formula or the drawing that best characterizes the invention. The abstract shall make it possible to understand the essence of the technical problem and of the solution provided by the invention, and also its main use.

The abstract shall serve exclusively for the purposes of technical information, and shall not be used to interpret the scope of protection.

35. A patent application shall be allowed only if, at the time of its filing, it contains the following required elements as a minimum:

1. the identity of the applicant and his domicile;
2. a document that appears to afford a description of the invention;
3. a document that appears to contain one or more claims;
4. proof of payment of the prescribed filing fee and charge.

If the application refers to drawings which have not been included at the time of filing, the application shall neither be assigned a filing date nor be processed until such time as the drawings are received, except where the applicant states in writing that any reference to drawings in the application should be regarded as not having been made and as being without effect.

36. Where an application is filed for a patent that has been applied for in another country or other countries, the filing date in the country of the first application shall be

recognized as the priority date. To that end, the corresponding application must have been filed in the Republic of Panama within the periods prescribed by the international conventions or treaties in force on the subject that have been ratified by Panama.

37. The following rules shall be applied when the right of priority is claimed:

1. The priority claim shall be made on the filing of the patent application, with a mention of the country or office in which the priority application was filed, the date of that filing and the number assigned to the application.

2. Within the six months following the filing of the application in Panama, a copy of the priority application shall be filed together with the description, drawings and claims, the conformity thereof being certified by the industrial property office that received the priority application, and certification of the filing date assigned by the said office.

Documents and certificates that are not written in Spanish shall be accompanied by the corresponding translation with certification by the competent authority. Those documents and certificates shall be exempted from any legalization or authentication by a notary or consul.

3. One and the same application, and where appropriate one and the same claim, may claim either multiple or partial priorities, which may originate in two or more offices; in such a case the priority period shall be calculated as from the earliest priority date claimed, and the right of priority shall cover only those elements of the application filed in Panama that were contained in the application or applications the priority of which has been claimed.

38. Where two or more inventors have made the same invention independently of each other, the right to the patent shall belong to the holder of the application with the earliest date of filing or recognized priority, as the case may be.

39. The patent application shall refer to one invention or to a set of inventions so related that they constitute a single inventive concept.

40. Where the application does not comply with the provisions of the foregoing Article, DIGERPI shall notify the applicant accordingly so that within a period of six months, which shall be renewable for another two months on just grounds, he may divide it into two or more applications, which shall retain the date of the initial application and where appropriate of the recognized priority as the date for each one of them. If, on expiration of the said period, the applicant has not made the division, the application shall be considered abandoned and its consignment to the archives shall be ordered.

41. A set of inventions shall be regarded as forming a single inventive concept within the meaning of Article 39 in the following cases in particular:

1. claims of a particular product and those relating to processes specially devised for the manufacture or use thereof;

2. claims of a particular process and those relating to apparatus or means specially designed for the implementation thereof;

3. claims of a particular product, those of a process specially designed for the manufacture thereof and those of apparatus or means specially designed for the implementation thereof;

4. claims of a process and of the use of the product manufactured by means of it.

42. The process, machinery or apparatus for the production of a utility model or industrial design may be claimed in an application separate from the application for registration of the model or design.

43. When a patent application has to be divided, the applicant shall file the necessary descriptions, claims, plans or drawings for each application, but not the documentation relating to the priority claimed or any translation already appearing in the original application. The plans or drawings and descriptions submitted shall not contain alterations that modify the invention claimed in the original application.

44. The patent applicant may request that his application be converted into an application for the registration of a utility model and be processed as such. The conversion of the application shall be allowed only when the nature of the invention permits.

The applicant for the registration of a utility model may request that his application be converted into a patent application.

The request for conversion of an application shall be filed only once, and the prescribed fee shall be paid. A converted application shall retain the filing date of the initial application.

45. On receiving the application, DIGERPI shall undertake an examination of the documentation as to form, and may request further information or clarification where necessary, or the rectification of omissions. It shall also examine whether the subject matter of the patent application meets the patentability requirements laid down in this Law, with the exception of the novelty and inventive step requirements. Nevertheless, DIGERPI shall refuse the grant of a patent in a reasoned decision, after having heard the person concerned, when the invention to which the application relates is found to be clearly and overtly lacking in novelty.

Where the applicant fails to comply with the request made to him by DIGERPI to rectify defects in the application within a period of six months, which period shall be renewable for another six months at the request of the applicant, the application shall be considered abandoned and its consignment to the archives shall be ordered. The documents filed shall on no account contain additional claims or claims of greater scope than those of the original application, which would necessitate the filing of a new application.

46. DIGERPI shall reject the application totally or partly if it considers that the subject matter thereof is not patentable or that it has defects that have still not been rectified.

Where the examination by DIGERPI does not reveal defects that would prevent the grant of the patent, or where such defects have been duly rectified, it shall be made known to the applicant that, for the consideration of his application to proceed, he must request the production of a report on the state of the art within the periods laid down in this Law if he has not already done so.

47. On the expiration of 18 months following the filing date of the application, or the date of any priority claimed, if the examination finding referred to in the foregoing Article has been favorable and the applicant has filed the request for a report on the state of the art, DIGERPI shall order the publication of the patent application in BORPI. At any time prior to the expiration of the period referred to, the applicant may, in writing, request publication of his application if he has complied with the provisions of Article 46.

48. Within the 14 months following the filing date, the applicant may request DIGERPI to produce the report on the state of the art, and pay the prescribed fee for the purpose. Where priority has been claimed, the 14 months shall be counted from the priority date.

Where the applicant has to rectify defects as a result of the examination of his application, the period for rectification shall be that laid down in Article 45 of this Law. Once the notification referred to in the final paragraph of the said Article has been made, the applicant shall request the production of the report on the state of the art within the month following the said notification.

Where the applicant fails to comply with the provisions of this Article, his application shall be deemed abandoned.

The production of the report on the state of the art may not be requested with reference to an addition if it has not, either previously or at the same time, been requested for the main patent and for any earlier additions.

49. Once the examination of the application provided for in Article 45 has been completed and the applicant has requested the production of the report on the state of the art, DIGERPI shall proceed to draw up the said report with reference to the subject matter of the patent application within a period not exceeding eight months.

For the production of the report, DIGERPI may avail itself of the services of national and international bodies or counterpart offices.

DIGERPI may accept a report on the state of the art submitted by the applicant that has been drawn up by a national or international body.

That report shall mention the elements of prior art that may be taken into consideration for the assessment of the novelty and inventive step of the subject matter of the application, and it shall be evaluated on the basis of the claims of the application, due account being taken of the description and any drawings filed.

Once the report on the state of the art has been drawn up, DIGERPI shall forward it to the patent applicant and publish it in BORPI.

50. Where lack of clarity in the description or claims prevents the production of the report on the state of the art from proceeding, either entirely or in part, DIGERPI shall refuse the grant of the patent to the corresponding extent.

Before taking a final decision to refuse the grant of a patent, DIGERPI shall address the appropriate notification to the applicant, and shall allow him a period of six months, which may be extended for an additional two months, within which to present such arguments as he considers appropriate.

51. Any person may make duly reasoned and documented comments on the report on the state of the art within a period not exceeding two months following the publication thereof.

On the expiration of the period allowed for third parties to submit comments on the report on the state of the art, all written matter filed shall be passed on to the applicant so that, within a period not exceeding two months, he may make the appropriate comments and, if he sees fit, amend the claims.

52. Regardless of the contents of the report on the state of the art and of any comments made by third parties, DIGERPI shall, on the expiration of the period for comments by the applicant, proceed to grant the patent applied for against payment of the corresponding fees.

Where the claims are amended, DIGERPI shall send a copy thereof to third parties who have made comments on the report on the state of the art.

The grant of the patent shall be made without prejudice to the rights of third parties and without any State guarantee of the effectiveness of the patent, of the invention itself or of the usefulness of the subject matter to which it relates.

The applicant shall pay the grant fees within a period of two months. Where that period expires without payment having been made, the application shall be considered abandoned and its consignment to the archives shall be ordered.

53. In the case of patent applications relating to specifically State activities, the opinion of the corresponding State body shall be sought prior to publication.

54. DIGERPI shall issue a title for each patent, as an official record and acknowledgment of the ownership thereof. The title shall consist of copies of the description, the claims and any drawings, and shall show:

1. the number and classification of the patent;
2. the name and domicile of the person or persons to which it is issued;
3. the name of the inventor or inventors;
4. the filing date of the application, the date and country of any recognized priority and the date of issue;
5. the name of the invention;
6. its validity;
7. the number and date of the final decision.

Chapter V *Licensing and Transfer of Rights*

55. The rights deriving from an application, patent or registration may be totally or partly assigned or transferred on the conditions and subject to the formalities laid down by ordinary legislation. In order to be binding on third parties, the assignment or transfer of rights shall be registered with DIGERPI.

56. The owner of the patent or registration may license the exploitation thereof by contract. The license shall be registered with DIGERPI in order to be binding on third parties.

57. For the assignment or transfer of an application, patent or registration, or a license to be registered, it shall be sufficient to make the corresponding request in the manner laid down by this Law.

58. In order to be binding on third parties, any merger, change of name or address or assignment or transfer of a patent or registration shall be registered.

59. The cancellation of the registration of a license shall be admissible in any of the following cases:

1. when it is jointly requested by the owner of the patent or registration and the person to whom the license has been granted;
2. where one of the parties requests under the terms of the license contract;
3. on the invalidation or lapse of the patent or registration;

4. on the issue of a court order.

60. Unless otherwise agreed, the grant of a license shall not preclude the grant of other licenses or the carrying out of simultaneous exploitation by the owner of the patent or registration.

61. The person to whom a license has been granted and registered with DIGERPI shall have the right, unless otherwise agreed, to institute legal proceedings for the protection of the patent or registration rights as if he were the actual owner.

62. Exploitation of the patent or registration carried out by the person to whom a license has been granted and registered with DIGERPI shall be considered carried out by the owner thereof.

Chapter VI *Invalidity and Lapse*

63. At the request of any interested party, and after the owner has been heard, the courts having jurisdiction in industrial property cases shall invalidate a patent or utility model registration in any of the following cases:

1. when it is shown that the grant or registration was effected in breach of the provisions of Articles 10, 11, 14, 15, 24 or 25 or items 1 and 2 of Article 35 of this Law;

2. where, owing to an amendment or division of the application, the granted patent contains claims that are supported by subject matter not contained in the application as originally filed.

Where the circumstances mentioned in this Article relate to only one claim or a part thereof, only that claim or part shall be invalidated. Invalidity may be declared in the form of a limitation or specification of the corresponding claim.

64. A patent or utility model registration may be invalidated where it has been granted to a person not entitled to such grant under this Law, in which case invalidity may be sought only by the person to whom the right in question does belong. The action claiming the right shall be brought before the competent court and shall be statute-barred after eight years from the date of the patent grant or five years from the date of grant of the registration.

DIGERPI shall declare invalidity under this Article when a court decision has so ruled.

65. Patents and registrations shall lapse, and the rights under them shall become public property, in the following circumstances:

1. on expiration of the term thereof;

2. if the fees to which they are subject under Title IX, Chapter II of this Law are not paid by the time limit set by the same Law or within the period of grace of six months following that time limit.

Lapse due merely to the passage of time shall not call for an administrative declaration by DIGERPI.

Title III Industrial Designs

Chapter I Protection

66. Industrial design means any two-dimensional or three-dimensional shape which, when incorporated in a utilitarian product, lends it a special appearance and makes it suitable to serve as a pattern or model for manufacture.

The protection granted to an industrial design under this Law shall not include those elements or characteristics of the design that served solely to achieve a technical effect or are dictated solely by technical considerations.

67. The protection granted to an industrial design under this Law shall neither preclude nor affect any protection for which the same design might be eligible under other legal provisions, notably those relating to copyright.

68. The right to protection for an industrial design shall belong to the creator thereof. Where the industrial design has been created by two or more persons jointly, the right shall belong to them jointly. The right may be transferred by *inter vivos* transaction or by succession.

Where the industrial design has been created under a commission or service contract or an employment contract, the right to protection shall belong to the person who commissioned the work or contracted for the services, or the employer, unless otherwise provided in the contract.

69. The protection of an industrial design that meets the conditions of Article 70 shall be acquired:

1. either by first disclosure of the industrial design in Panama;
2. or by registration of the industrial design under this Title.

70. An industrial design shall benefit from protection if it is new.

The industrial design shall be considered new if it has not been disclosed or made accessible to the public anywhere in the world, either through tangible publication or by sale, marketing, use or any other means prior to either of the following dates:

1. the date on which the person with the right to obtain protection discloses the industrial design by whatever means in Panama;
2. the date on which the said person files an application in Panama for registration of the industrial design or the date of recognized priority, as the case may be.

Where there are two or more possible dates, the earliest shall be applicable.

For the determination of novelty, no regard shall be had to disclosure that occurs during the 12 months prior to the date applicable under the foregoing subparagraphs, provided that the said disclosure is the direct or indirect result of acts engaged in by the creator of the design or his successor in title, of a breach of trust or contract or of an unlawful act committed against either of them.

71. An industrial design shall not be considered new solely because it possesses minor or secondary differences in relation to other, earlier designs, or because it refers or applies to goods of another kind.

72. Industrial designs shall not be protected where their use is contrary to public policy or morality.

73. An industrial design that meets the conditions laid down in the foregoing Articles shall enjoy protection for a period of two years counted from the date of the first disclosure thereof in Panama, effected by the person to whom the right to protection belongs.

The protection of an industrial design under this Article shall be independent of that which may be obtained through registration of the same design under this Title.

74. The protection of an industrial design shall confer on the owner thereof the right to prohibit third parties from exploiting the said industrial design. By virtue of the foregoing, subject to the limitations provided for in this Law, the owner shall have the right to proceed against any person who, without his consent, manufactures, sells, offers for sale or uses, or imports or stocks for any of those purposes, a product that reproduces or incorporates a protected industrial design, or the appearance of which gives a general impression that is the same as that of the protected industrial design.

The performance of one of the acts referred to in the foregoing paragraph shall not be considered lawful merely because the reproduced or incorporated design is applied to a type of product or category of products different from that specified in the registration of the protected design.

Chapter II *Registration Procedure*

75. The application for the registration of an industrial design shall be filed with DIGERPI. It shall identify the applicant and the creator of the design, and shall specify the type of product or category of goods to which it is to be applied, and the class or classes to which the said goods belong according to the international classification adopted.

The application shall not be allowed if, at the time of its filing, it does not contain at least the following elements:

1. the identity of the applicant and his address;
2. a graphic representation of the industrial design;
3. proof of payment of the prescribed fee and charge.

76. DIGERPI shall examine the application to determine whether it meets the requirements of Article 75, and whether the industrial design fulfills the conditions laid down in Article 66 and subparagraphs 1 and 2 of Article 70. If it does, the provisions of Article 47 shall be applicable.

77. Once the application has been published in BORPI, any interested party may file opposition to the registration applied for before the competent court within a period of two months counted from the date of publication.

If on expiration of the aforesaid period without any opposition having been filed, or, as the case may be, where an opposition ruling has found for the applicant and all the prescribed

requirements have been met, DIGERPI shall register the industrial design and issue the corresponding registration certificate to the applicant.

78. The creator of the industrial design shall have the right to be mentioned as such in the registration and in the corresponding official documents, except where he has stated in a written declaration addressed to DIGERPI that he does not wish to be mentioned. Any agreement or arrangement whereby the creator of the industrial design undertakes in advance to make such a declaration shall be null and void.

Chapter III *Registered Industrial Designs*

79. The registration of an industrial design shall have a term of ten years counted from the date of filing in Panama of the application for registration.

80. The registration of an industrial design may be renewed for an additional period of five years against payment of the prescribed renewal fee. The request for renewal shall be filed within the six months prior to the expiration of the registration. The renewal fee shall be paid before the registration of the industrial design expires.

A six-month period of grace shall be allowed for payment of the fee, subject to the prescribed surcharge; the registration shall remain in full force during that time.

81. At the request of any interested party, the competent court shall invalidate the registration if it is proved that it was effected in violation of any of the provisions of subparagraphs 1 and 2 of Article 70.

In the event of non-compliance with Article 68, the aggrieved party may claim his right or seek invalidation of the registration. That action shall be brought before the competent court and shall be statute-barred after five years following the grant of the registration, except where the latter has been effected in bad faith, in which case invalidation may be sought at any time during the currency of the registration.

82. The provisions on patents contained in Articles 19, 55, 56, 57, 59, 60, 61 and 62 shall be applicable *mutatis mutandis* to industrial designs.

Title IV **Industrial and Trade Secrets**

Sole Chapter

83. Any information applicable in industry or trade shall be considered an industrial or trade secret where it is held in confidence by a natural person or legal entity and ensures that he or it obtains or retains a competitive or economic advantage over third parties in the conduct of economic activities, and where sufficient means or measures have been instituted to preserve the confidentiality thereof and restrict access thereto.

84. Information that is public property, is obvious to a person with technical skill in the field concerned or is disclosed by legal provision or court order shall not be considered an industrial or trade secret. Information that has been supplied to any authority by a person holding it as an industrial or trade secret shall not be considered public property or disclosed by legal provision where the person in question supplies it with a view to obtaining licenses, permits, authorizations, registrations or any other official enactment.

85. The information referred to in Article 83 may consist of a written document, electronic or magnetic medium, optical disc, microfilm, photographic film or any other medium or device, without prejudice to the protection of industrial or trade secrets that do not exist in material form.

86. The person keeping an industrial or trade secret may transfer it to or license its use to a third party. The licensed user shall be under obligation not to disclose the industrial or trade secret by any means.

Agreements relating to the transfer of technical knowledge or the provision of technical assistance or basic or detailed engineering may embody confidentiality clauses for the protection of any industrial secrets to which they relate, which clauses shall specify those aspects that are considered confidential.

87. Any person who, in connection with his work, employment, responsibilities or duties or the conduct of his profession or business relations, has access to an industrial or trade secret of the confidentiality of which has been warned shall abstain from making use thereof for commercial purposes of his own, or from revealing it without just cause and without the consent of the person keeping the said secret or the licensed user thereof. Violation of this provision shall afford the right to apply for immediate suspension of the disclosure of the said secret and indemnification for damages.

88. Any person who, with a view to obtaining industrial or trade secrets that belong to a third party, has dealings with an employee, professional person, adviser, director or consultant who has or has had employment, business or service relations with the said third party shall be liable for any damages that he causes by doing so.

A person who by any unlawful means obtains, discloses or uses information involving an industrial or trade secret belonging to another person shall incur the same liability.

Title V **Trademarks and Trade Names**

Chapter I *Trademarks in General*

89. For the purposes of this Law, trademark means any sign or word or combination thereof or any other medium the characteristics of which are capable of distinguishing a product or service on the market.

90. The following elements among others may constitute trademarks:

1. words or combinations of words, including those that serve to identify persons;
2. images, figures, symbols and graphic material;
3. letters, figures and combinations thereof where they consist of distinctive elements;
4. three-dimensional shapes, including the wrappers, packaging or shape of the product, the presentation thereof and holograms;
5. colors in various combinations;
6. any combination of the elements non-exhaustively listed in the foregoing subparagraphs.

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

1. reproductions or imitations of coats of arms, flags and other emblems, acronyms, names or abbreviated names of any State or national or international organization, without due authorization;

2. marks that together constitute descriptive indications of the nature, characteristics, use or application, type, quality, quantity, purpose, value, place of manufacture or origin or time of production of the product or rendering of the service concerned, or expressions that constitute the usual or generic designation of the product or service, with the exception of descriptive or generic marks that have become distinctive or special through use;

3. figures or three-dimensional shapes capable of deceiving or misleading the public, understood as being those that convey a false impression as to the nature, components or properties of the goods and services that they are intended to cover;

4. the names of peoples or places known for the manufacture of certain goods, used to cover those goods, with the exception of the names of places in private ownership where they are special and not prone to confusion and provided that the owner's consent has been obtained;

5. signs that are contrary to morality, public policy or proper practice;

6. names, pseudonyms, signatures and portraits of persons different from the one applying for registration, without the consent of those persons or, if they are deceased, that of their heirs; with the exception of portraits or names of historical figures;

7. the designs on coins, banknotes, hallmarks denoting control or warranty used by the State, seals, stamps or tax imprints in general;

8. marks that include or reproduce medals, awards, diplomas and other elements that give the impression that recognition has been received for the corresponding goods or services, except where such awards have been genuinely presented to the applicant for registration or to the person to whom the entitlement has been assigned, and where the fact is proved when registration is applied for;

9. marks that are identical, similar or comparable in orthographic, graphic, phonetic, visual or design terms to another mark that is used or known and has been registered or is undergoing registration on behalf of another person to distinguish goods or services that are the same or of the same type as those to be covered by any trademark or similar to them, provided that the similarity or identity of the one and the other are liable to cause errors, confusions, unintentional substitutions or misapprehensions in the mind of the public with respect to those goods or services or the source thereof. In the case of related goods or services, a person who considers himself affected may oppose registration on the basis of the provisions of this item;

10. marks that are identical or similar to a famous or renowned trademark and are intended for application to any product or service, or known or well-known signs for application to specific goods or services according to the group of consumers to which they are addressed;

11. proper or common geographical denominations, maps, and also nouns and adjectives, including gentilics, where they denote the source of the goods or services and are liable to cause confusion or mistakes regarding that source;

12. marks that consist basically of the Spanish translation of another mark that is already used, known, registered or undergoing registration to distinguish identical or similar goods or services;

13. marks that are total or partial reproductions, imitations, translations or transcriptions liable to deceive, confuse or mislead the public of a nationally or internationally known trade name belonging to a third party and in use prior to the date of the application for registration as a trademark;

14. three-dimensional shapes that lack such originality as will readily distinguish them, and also the usual and everyday shape of goods or that which is dictated by their nature or industrial functions;

15. animated or changing names, figures or three-dimensional shapes that are expressed by movement, even where they are visible;

16. the titles of literary, artistic or scientific works and fictional or symbolic characters, except with the author's consent where, in accordance with the relevant law, the said author retains full possession of his rights, and also characteristic human figures where their conformity is not assured;

17. letters, numerals or colors in isolation, except where they are combined with or constituted or accompanied by elements such as signs, designs or denominations that give them distinctive character;

18. words, letters, characters or signs that are used by indigenous or religious communities or associations without gainful intent to distinguish the manner of processing goods or finished goods or services and also those that constitute expressions of their culture or customs, idiosyncrasies or religious practices, except where the application is formulated on their behalf by one of the communities or associations provided for in this item;

19. marks that use, as a basis for their design, references to national historical monuments and sites that are recognized as such by Law.

92. Where the verbal or graphic elements of a trademark contain terms or signs in common or everyday use in industry, trade or service activities, protection shall be afforded only to the words, legends or signs that characterize them.

93. Any application may only serve for the registration of one trademark, and that application shall cover solely goods or services included in one class that have been duly specified.

After registration has taken place, new goods or services may not be included for registration, neither may the goods or services be limited whenever an application is filed. In the case of new goods or services, a new application for registration shall be filed.

94. Trademarks shall be registered in relation and according to the international classification system. Any doubt regarding the class to which a product or service belongs shall be resolved by DIGERPI.

95. Famous or renowned mark means a trademark which, through intensive use in the market and in advertising, has been widely publicized without loss of its distinctiveness and is known by the public at large. Well-known mark means a trademark that has the same characteristics and is known by the group of consumers to which it is addressed.

Chapter II
Ownership of Trademarks

96. The right to the registration of a trademark shall be acquired through use. The right to its exclusive use shall be acquired by registration. The effects and scope of the rights conferred by registration shall be determined by this Law.

97. Precedence in entitlement to the registration of a trademark shall be governed by the following provisions:

1. The person who has been using the trademark in trade since the earliest date shall have a preferential right to registration;

2. Where a trademark is not in use, registration shall be granted to the person who files the first application or, where applicable, claims the earliest priority date.

98. In order to oppose the use of a trademark by another person, it is necessary to own a registration of the said trademark. It is not necessary, however, to have a mark registered in order to oppose the registration of the mark by another person, or in order to seek the invalidation or cancellation thereof, provided that the opponent proves earlier use of the same mark.

The person who holds rights in a famous or renowned mark may oppose the unauthorized use and the registration thereof, and may also apply for cancellation of the registration of a mark if it has already been granted.

99. The owner of the registration of a trademark shall have the right to prohibit third parties from engaging in any of the following acts without his authorization:

1. manufacturing, printing or reproducing labels, headings, containers, wrappers and other similar means of identification, packaging or presentation that display the trademark or an identical distinctive sign when it is clear that the intention is to use those means in connection with the goods or services for which the trademark is registered, or related goods or services, and to sell them or offer them for sale;

2. applying, pasting or in any other way fixing the trademark or an identical distinctive sign or one that so resembles it as to mislead the public regarding the goods for which the trademark is registered to containers, wrappers, packaging or the presentation of such goods, to goods that have been made, transformed or processed by services for which the mark is registered, or to articles that are used for the making available of such services to the public;

3. using a distinctive sign identical or similar to the registered trademark to identify the same goods or services as those for which it is registered, or for goods related to them;

4. using a distinctive sign identical or similar to the registered trademark to identify goods or services different from those for which it is registered where the use of the said sign for such goods or services might cause confusion or a risk of association with the registered trademark;

5. using a distinctive sign identical or similar to the registered trademark in trade without just reason and in a manner liable to prejudice the owner thereof, especially where such use might dilute or destroy the distinctiveness or commercial value of the trademark;

6. using, in connection with a particular trademark, terms of comparison with another trademark used for goods or services that are similar or identical for the sole purpose of

diluting or destroying the distinctiveness or commercial value of the latter and thereby prejudicing the owner thereof.

100. Registration of a trademark shall not confer the right to prohibit a third party:

1. from engaging in commercial acts in relation to legitimately marked goods that the owner thereof, or his licensee or another person authorized for the purpose, has sold or otherwise lawfully introduced to the market under the said trademark, on condition that those goods and the containers or packaging that have been in direct contact with the said products have not undergone any modification or alteration;

2. from using the mark to advertise, offer for sale or announce the existence or availability of the legitimately marked goods, or to make known the compatibility or suitability of spare parts or accessories usable with the goods covered by the registered trademark, provided that such use is confined to public information purposes and does not cause confusion as to the corporate origin of the goods concerned;

3. from using his own name, pseudonym or address, or a geographical name or other specific particular concerning the type, quality, quantity, purpose, value, place of origin or time of production of his goods or rendering of his services, provided that such use is confined to identification or public information purposes and does not cause confusion as to the source of the goods or services.

101. The use of a trademark shall be taken to mean the production, manufacture, development or assembly of articles, goods or merchandise and the rendering of services covered by the said trademark, followed by their introduction to the national or international market.

102. In order to secure registration of a trademark, an application shall be filed with DIGERPI through an attorney, which application shall state the following:

1. the name, nationality, full address and personal identity card or document number of the applicant and attorney;
2. in the case of a legal entity, its business style, place of incorporation and full address;
3. the name or design of the trademark, or both, as used on the market;
4. a list of the goods or services in connection with which the trademark is or will be used.

103. The application provided for in the foregoing Article shall be accompanied by the following elements:

1. in the case of an unofficial proceeding, the guarantee certificate referred to in this Article; in the contrary situation, a power of attorney which, in the case of a legal entity, shall require a notarized statement or certificate attesting the existence and legal representation of the said entity or, failing that, a certificate issued by a competent authority. In the case of a foreign corporation, the said certification may be issued by a competent authority of the country of its incorporation;

2. a sworn statement concerning the use of the trademark;

3. six labels featuring the trademark, or a representation thereof in the form of a drawing, one of which shall be affixed to the application;

4. proof of payment of the registration, recording and publication fees;

5. the claim of a right of priority, if any, in accordance with international treaties. For the filing of an application in an unofficial proceeding, a guarantee certificate to the value of 100 balboas shall be deposited, accompanied by the form supplied for the purpose by DIGERPI. The security deposited shall be refunded on the filing of the documents, for which purpose a period of two months shall be allowed, renewable for another month on legitimate grounds. In the contrary situation the security shall revert to the National Treasury, the application shall be rejected and the consignment of the file to the archives shall be ordered.

104. DIGERPI shall examine the application to determine whether it meets the requirements laid down in Articles 102 and 103.

When it is found that the application does not meet one or more of the said requirements, the person concerned shall be informed so that he may rectify the error or omission within a period of three months counted from the service of the notice provided for in Article 162 of this Law, together with a warning that, on expiration of the said period without the error or omission having been rectified, the application shall be considered abandoned, in which case the consignment of the file to the archives shall be ordered.

105. After the examination as to form provided for in the foregoing Article has taken place, an examination shall be made to determine whether the application is affected by any of the substantive prohibitions provided for in this Law. If DIGERPI considers that any of the said prohibitions does apply, a reasoned decision rejecting the application for registration shall be issued and the consignment of the application concerned to the files shall be ordered.

106. Where the application for registration is found to be in order, a single publication thereof in BORPI, mainly with the following details, shall be ordered:

1. number of the application;
2. date of filing;
3. date of priority;
4. country of origin;
5. international classification;
6. distinctive sign;
7. goods or services covered;
8. information concerning colors and claims;
9. name, nationality and address of the applicant;
10. legal agent.

107. During a two-month period, calculated from the day following that of the publication referred to in the foregoing Article, any person may file opposition to the registration applied for. Where no opposition is filed, registration shall be ordered in a reasoned decision, and the corresponding certificate of registration shall be issued to the person concerned, without prejudice to the rights of third parties.

108. The certificate of registration shall state the following:

1. name or business style, address and other particulars concerning the owner of the mark;

2. number and date of the decision ordering registration;
3. date and term of registration;
4. data concerning the entry in the register;
5. name or reproduction of the mark;
6. class number and particulars of the goods or services covered by the mark or limitation thereof, as the case may be;
7. date of issue of the certificate of registration.

109. Registration of a mark shall have a term of ten years counted from the filing date of the application, and may be renewed indefinitely for equal periods, provided that the appropriate request is filed by the prescribed time limit and administrative charges are paid.

110. Renewal of the registration of a mark shall be requested within a period running from one year before to six months after the expiration date of the registration concerned. Where the said period expires without renewal having been requested, the registration shall lapse as of right. Renewal of the registration during the six months following expiration shall require payment of the prescribed surcharge. The registration shall remain in full force during the latter period.

The renewal request may not introduce changes to the mark or extend the list of goods or services for which it is registered; nevertheless, the owner may limit the said list. For the introduction of changes or the addition of goods or services, a new application shall be filed.

111. Renewal of the registration of a mark shall not give rise to publication or to any possibility of opposition, and shall come into effect on the expiration date of the previous registration.

112. Where the request is found to be in order, renewal shall be ordered and the person concerned shall be issued an authenticated copy of the decision ordering renewal.

Chapter III *Collective and Certification Marks*

113. Any association of producers, manufacturers, traders or providers of services or any association without gainful intent may apply for the registration of collective marks to distinguish the goods or services of its members on the market from the goods and services of those who do not form part of the applicant association.

114. The application for registration of a collective mark shall include rules of use which, in addition to the particulars identifying the applicant association, shall mention the persons authorized to use the mark, the conditions of membership of the association, the conditions governing use of the mark and the grounds on which a member of the association may be prohibited from using the mark.

Failure to observe the rules of use of the collective mark by any of the members may be punished by the owner of the mark with prohibition of the use thereof or with other sanctions specified in the said rules of use.

115. The owner of the collective mark shall submit to DIGERPI any amendment to the rules of use. No account shall be taken of amendments that do not meet the requirements laid down in this Law.

Amendments to the rules of use of the collective mark shall come into effect on registration with DIGERPI.

116. The collective mark may not be transferred to third parties, neither may persons not officially recognized by the association be authorized to use it.

117. A certification mark is a sign or medium that certifies the common characteristics, notably the quality, components and origin, of goods produced or distributed or services rendered by persons duly authorized and supervised by the owner of the mark.

118. The application for registration of a certification mark shall include rules of use which shall mention the quality, components, origin or any other characteristics of the goods or services concerned. The rules of use shall likewise specify the means of supervision that the owner of the certification mark has undertaken to introduce, and the sanctions applicable.

The rules of use shall require a favorable report from the competent administrative body with respect to the nature of the goods or services to which the certification mark refers. In the event of an adverse report, the application for registration of the certification mark shall be rejected.

Failure by the users to observe the rules of the certification mark may be punished by the owner with revocation of the authorization to use the mark or with other sanctions laid down in the rules of use.

119. The owner of the certification mark shall submit to DIGERPI any amendment to the rules of use. Any amendments that do not comply with the requirements laid down in this Law shall be disregarded.

Amendments to the rules of use of the certification mark shall come into effect on registration with DIGERPI.

120. Collective marks and certification marks shall be subject to the provisions laid down in this Law.

Chapter IV *Licensing*

121. The owner of a registered trademark may, by contract, license one or more persons to use the trademark for all or some of the goods or services covered by the registration.

The owner may reserve the right of simultaneous use of the trademark.

122. For the registration of a license to use a trademark, a request shall be filed with DIGERPI through an attorney which shall state the following:

1. name or business style, nationality or place of incorporation, full address and personal identity card or document number of each party;
2. name or description of the trademark or both, with an indication of the number and date of registration;
3. particulars of the goods or services in relation to which authorization to use the trademark has been granted;
4. type and term of the license.

123. The application provided for in the foregoing Article shall be accompanied by the following documents:

1. a power of attorney or guarantee certificate as referred to in Article 103;
2. an authenticated copy of the contract or deed evidencing the license to use the trademark. In the case of an unofficial agent, the provisions of Article 103 shall be applied.

124. Use of a mark by the licensee shall be assimilated to use by the owner for any purpose to which the use is relevant under this Law.

125. Any license for use shall be registered with DIGERPI and shall be enforceable against third parties only as from the date of the relevant entry, subject to payment of the corresponding administrative and other fees.

The license for use may not be registered with DIGERPI when the registration of the trademark is pending.

126. A franchise shall exist where, together with the licensing of the use of a trademark, technical knowledge is transferred or technical assistance supplied so that the person to whom it is granted may produce or sell goods or render services in a uniform manner and according to the operational, commercial and administrative methods established by the owner of the trademark that will ensure the quality, prestige and image of the goods or services distinguished by it.

127. Cancellation of the registration of a license for use shall be considered in the following cases:

1. when it is jointly requested by the owner of the mark and the licensee;
2. when one of the parties so requests according to the terms of the license contract;
3. on account of the invalidity, lapse or cancellation of the registration of the mark;
4. by court order.

Chapter V Assignment or Transfer of Rights

128. Any merger or change of name or address of the owner of the registered trademark shall be registered in order to be enforceable against third parties.

129. The rights deriving from an application or registered trademark may be assigned or transferred to one or more persons. The transfer of rights shall be registered with DIGERPI in order to be binding on third parties.

130. When legal entities are merged or consolidated, it shall be understood that, unless otherwise specified, the rights in their registered trademarks have been transferred.

Chapter VI Indications of Source and Appellations of Origin

131. For the purposes of this Law, an indication of source is the expression or sign used to indicate that a product or service comes from a particular country or group of countries, region or place.

132. The geographical denomination of a country, region or locality that serves to designate a product originating therein whose quality or properties are exclusively or essentially due to the geographical environment, including both natural and human factors, shall be considered an appellation of origin.

133. Any industrialist, trader or provider of services established in a particular country, place or region shall have the right to use the geographical name concerned as an indication of the source of his goods or services.

134. The geographical name used as indication of source or appellation of origin shall correspond exactly to the place in which the product or service acquired its nature or substance.

135. It is prohibited to make use of indications of source and appellations of origin that do not genuinely correspond to the specific country, place or geographical region in which the goods were manufactured, produced, harvested or mined or the services provided, even when the true origin of the product is specified or where the geographical indication is used in translation or together with expressions such as “make,” “type,” “style,” “imitation” or the like.

136. The protection accorded to appellations of origin shall be known by a declaration issued by DIGERPI at the instigation of a third party or *ex officio*.

137. The Panamanian State shall be the owner of appellations of national origin, which may only be used with permission from the Executive.

Chapter VII

Cancellation and Invalidation of Registration

138. The property rights in a registered trademark shall end through cancellation of the registration concerned, which shall occur in any of the following situations:

1. express renunciation by the owner;
2. failure to use the trademark for more than five consecutive years;
3. expiration of the term of the registration without renewal having been requested at the appointed time and in the manner provided for in this Law;
4. an enforceable ruling by a competent authority declaring the registration invalid and ordering its cancellation.

139. Any person who considers himself within his rights may request the cancellation or invalidation, or both, of the registration of a trademark according to the procedure laid down for the filing of opposition.

140. Actions seeking the invalidation of the registration of a trademark under the foregoing Article shall be statute barred after ten years counted from the date of registration, except where the said registration has been applied for in bad faith, in which case the action may be brought at any time throughout the term thereof.

141. The owner of a trademark may renounce the registration thereof. Renunciation shall be notified in a written declaration addressed to DIGERPI, which shall enter it in the register.

Where there is a license for use of the trademark registered with DIGERPI, renunciation of registration shall be entered only after the filing of a declaration in which the licensee agrees to the renunciation, except where he has himself expressly renounced that right in the license contract.

142. The registration of a trademark shall be null and void in the following cases:

1. where it has been granted in breach of Article 91 of this Law;
2. where it has been granted on the basis of essential particulars that are false or inaccurate in the application, or in the accompanying documents, in which case registration shall be deemed to have been obtained in bad faith;
3. where the holder of the power of attorney, the legal representative, the user or the distributor of the owner of a trademark registered abroad applies for and obtains registration of the said trademark or of another confusingly similar trademark in his own name or in that of a third party without the express consent of the owner of the foreign trademark, in which case registration shall be deemed to have been obtained in bad faith.

143. Where the causes of invalidity of the registration of a trademark exist only in relation to some of the goods and services for which it has been registered, the registration shall be declared invalid solely in respect of those goods or services. Where the decision declaring a registration totally or partly invalid has come into force, the registration shall be deemed to have been null and void, within the limits of the decisions, since the date of registration thereof.

Without prejudice to indemnification for damages that may have been suffered when the owner of the trademark has acted in bad faith, the retroactive effect of invalidity shall not affect the following:

1. judgments on violation of the trademark that have become *res judicata* and been enforced prior to the invalidation;
2. contracts entered into prior to the invalidation, in so far as they have been fulfilled in good faith prior to the declaration; nevertheless, for reasons of equity, and to the extent justified by the circumstances, it shall be possible to claim the repayment of sums paid under the contract.

144. Trademark files that are canceled or trademark registrations that are refused shall be preserved at DIGERPI for a period of two years from the date on which the decision ordering cancellation or denying registration came into effect, after which they shall be sent to the General Board of the National Archives at the National Institute of Culture.

Chapter VIII *Trade Names and Associations*

145. For the purposes of this Law, a trade name is the proper or fanciful name, business style or denomination by which a commercial, industrial or professional enterprise or an association is identified.

146. The following may not be registered as trade names or as elements thereof:

1. those that are identical or similar to trade names or famous or renowned trademarks;
2. those that consist of words or legends that contain deceptive or potentially confusing signs, or those that are contrary to morality, public policy or proper practice;

3. those that do not correspond to the name of the establishment referred to in the commercial or industrial license, or to the certification of the user's operations in a free zone, with the exception of associations;

4. those that feature names, business styles, portraits or facsimile signatures that are not those of the persons applying for registration, except where they are filed with the appropriate authorization from the owners or their heirs, which shall expressly state that they are entitled to use the said names, portraits, business styles or facsimile signatures;

5. those that are identical or similar to those being used by another person or registered for another person;

6. those that are identical or similar to a trademark in use, awaiting registration or registered for another person, provided that the use of the trade name is liable to cause confusion on the market or create a risk of association with the earlier trademark;

7. words, letters, characters or signs that are used by indigenous or religious communities or associations without gainful intent to distinguish the means of processing goods or to distinguish finished goods or services, or those that constitute an expression of their cult or custom, idiosyncrasy or religious practice, except where the application is made on their behalf by one of the communities or associations provided for in this subparagraph.

147. The right to the registration of a trade name shall be acquired by first adoption or use thereof in trade; the right to the exclusive use thereof, however, shall be acquired by registration with DIGERPI.

148. A person who wishes to obtain registration of a trade name shall file an application with DIGERPI through an attorney, which application shall state the following:

1. name, nationality, full address and identity card or document number of the applicant;
2. in the case of a legal entity, its business style, place of incorporation and full address;
3. full information on the trade name to be registered, with particulars of business sector or activity, location and management.

149. The application provided for in the foregoing Article shall be accompanied by the following documents:

1. the guarantee certificate referred to in Article 103, or power of attorney, including, in the case of a legal entity, a notarized statement or certificate concerning its existence and legal representation or, failing that, a certificate issued by the competent authority. In the case of a foreign company, the said certification shall be issued by the competent authority of the country of its incorporation;
2. a sworn statement regarding the use of the trade name;
3. a certified photocopy of the commercial or industrial license or of the provisional license. In the case of foreign companies, a certificate issued by the competent authority shall be filed to show that the applicant devotes itself to the trade or industry that makes use of the trade name filed for registration;
4. six labels showing the trade name, or a representation thereof in the form of a drawing or other graphic presentation;
5. proof of payment of the corresponding administrative charges and fees.

In the case of an unofficial agent, the provisions of Article 103 shall apply.

A person not requiring a commercial or industrial license shall produce the appropriate certification by the General Department of Internal Trade of the Ministry of Commerce and Industries.

150. Any person wishing to secure protection for a trade name before using it may apply for such protection and enclose the documents referred to in Article 149, with the exception of that mentioned in item 3 thereof. The applicant shall be allowed a period of one year from the filing of the application within which to submit the document referred to in the aforementioned item, failing which the application shall lapse as of right.

151. The registration of a trade name shall have a term of ten years from the filing date of the application, and may be renewed indefinitely for equal periods, provided that renewal is requested within the corresponding term, that the provisions of item 3 of Article 149 are applicable and that the prescribed fees and charges are paid.

152. The renewal of the registration of a trademark may not be the subject of opposition, shall produce its effects from the date of expiration of the previous registration and shall be presumed known to third parties without publication being necessary. The time limits for requesting the renewal of the registration of a tradename shall be the same as for trademarks.

153. Where the application is found to be in order, renewal shall be ordered and the person concerned shall be issued an authenticated copy of the relevant decision.

154. The property rights in a trade name shall end on cancellation of the relevant register entry, either *ex officio* or at the request of an interested party. Cancellation shall occur through:

1. express renunciation by the owner;
2. cancellation of the commercial or industrial license;
3. expiration of the term without renewal having been requested in due time and in the manner provided for in this Law;
4. cessation of trading on the part of the establishment;
5. an enforceable judgment handed down by a competent authority invalidating the registration or ordering the cancellation thereof.

155. Any legal void or doubt as to the registration, cancellation and invalidation of trade names shall be rectified through application by analogy of the provisions on trademarks in similar situations.

Chapter IX *Advertising Slogans or Signs*

156. Advertising slogan or sign means any announcement, legend, saying, phrase, combination of words, design, engraving or other similar medium, provided that it is original and characteristic and that it is used with a view to attracting the attention of consumers or users to a particular product, merchandise, service, enterprise or establishment.

157. Trademarks and trade names may form part of the advertising slogan or sign in so far as they are registered in favor of the same owner.

158. Advertising slogans or signs may be used on posters, hoardings and, generally in any advertising medium.

159. The protection conferred by the registration of a commercial advertising slogan or sign shall apply to the slogan or sign as a whole, and shall not extend to its component parts or elements considered separately.

160. The registration of an advertising slogan or sign shall have a term of ten years from the filing date of the application, and may be renewed indefinitely for equal periods, provided that renewal is requested within the current term and the prescribed fees and charges are paid.

161. Any legal void or doubt affecting the registration, cancellation and invalidation of advertising messages or signals shall be rectified through application by analogy of the provisions of this Law concerning trademarks, in so far as they are not incompatible having regard to the nature of the institutions.

Title VI Notifications and Administrative Appeals

Sole Chapter

162. Notice of decisions, reports and resolutions shall be given by means of announcements posted in visible places within DIGERPI for a period of five working days, on the expiration of which notification shall be understood to have taken place. Personal notifications expressly provided for in this Law shall be excepted from this procedure.

The announcements shall be serially numbered and shall be produced in the original and one copy. The originals shall constitute an archive collection which shall be kept at DIGERPI, and the copy shall be added to the file. The original announcement shall clearly state the date and time of its posting and removal.

163. Decisions issued by DIGERPI may be the subject of a request for reconsideration or an appeal.

On receiving notice of a decision, the applicant's agent shall have a period of ten working days within which to lodge the request for reconsideration with DIGERPI and substantiate it. In the case of an appeal, the applicant's agent shall have a period of ten working days within which to lodge the appeal with DIGERPI and substantiate it, whereas DIGERPI shall forward the file without further processing to the Minister of Commerce and Industries for a ruling.

Title VII Improper Use of Industrial Property Rights

Sole Chapter

164. Liability for improper use of a patent, utility model, industrial design, trademark, trade name or advertising slogan or sign shall fall on the manufacturer, marketer, distributor and all persons who in any way have taken part in the production and circulation thereof. The following shall therefore be liable to the appropriate sanctions:

1. those who manufacture or develop goods covered by a patent or utility model registration without the consent of the owner thereof or without the appropriate license;
2. those who place on sale or bring into circulation goods that are covered by a patent or utility model registration in the knowledge that they have been manufactured or developed without the consent of the owner of the patent or registration, or without the appropriate license;
3. those who make use of patented processes without the consent of the owner of the patent, or without the appropriate license;
4. those who place on sale or in circulation goods that are the result of the use of patented processes in the knowledge that they have been used without the consent of the patent owner or of the holder of the exploitation license;
5. those who reproduce industrial designs protected by registration without the consent of the owner thereof, or without the appropriate license;
6. those who in any way falsify or adulterate a trademark or trade designation;
7. those who use on their own goods or articles in trade, or in connection with services, or on commercial labels or publicity, use a trademark or trade name or designation that is identical or essentially similar to one belonging to another person;
8. those who in any way make use of trademarks or trade names or designations in a manner that flagrantly reveals the intention to imitate, by whatever means, a trademark or trade name or designation that is registered in favor of another person;
9. those who sell, offer for sale or consent to sell or distribute articles or services that bear falsified or fraudulently affixed trademarks, and those who identify their business or manufacturing establishments through the use of labels, stationery and other distinctive material bearing falsified or fraudulently affixed trademarks or trade names or designations;
10. those who mark articles, or cause articles to be marked, with false designations or labels relating to their nature, quality, quantity, number, weight or amount, or regarding the country of source or manufacture, or who use notices of trademark registration or the equivalent abbreviations M.R. or R. when the mark is not registered;
11. those who knowingly sell or offer for sale articles or services bearing false indications as referred to in the foregoing item;
12. those who in any way make use of a trademark using terms of comparison with another trademark when the goods or services covered are similar or identical, for the sole purpose of diluting or destroying the distinctive power or commercial value of the latter trademark and thereby causing the owner thereof a prejudice.

165. Without prejudice to the sanctions provided for in the Criminal Code, the court shall impose all or any of the following sanctions on the person who commits any of the acts provided for in the foregoing Article:

1. a fine of 10,000 to 200,000 balboas. This fine shall be imposed both on those who violate the provisions of this Chapter and on their accomplices or intermediaries;

In the case of businesses that operate in the Colón Free Zone or other free zone or re-export zone in Panama, the fine applicable shall be equivalent to 25% of the monthly turnover of the business, provided that it shall at no time be less than 75,000 balboas;

2. suspension of the right to trade or engage in industry for a period of three months;
3. suspension or cancellation of the operating license granted by the administration of the Colón Free Zone or other free zone or re-export zone in Panama. In the case of suspension, it shall be for a minimum of three months.

In the event of a repeat offense, the sanctions provided for in items 2 and 3 of this Article shall be applied for a period of one year, while the fine provided for in item 1 may be up to four times the maximum specified, without prejudice to the provisions of the legislation governing the conduct of commercial and industrial activities.

166. In any case of improper use of industrial property rights, it shall be appropriate to effect the seizure of the articles and machinery used in the said improper use, whereupon they shall be donated to charity, free of any encumbrance, by the institution concerned, after removal of elimination of any distinguishing symbols.

Where it is not possible to remove distinguishing symbols, and where the owner of the protected rights does not give his express authorization for the donation, the articles shall be destroyed by the competent authority in the presence of a representative of the owner of the protected rights.

167. The owner of rights protected under this Law may institute civil proceedings before the competent court against any person who infringes his rights.

In the event of joint ownership of rights, any of the joint owners may institute proceedings for the infringement of those rights without the consent of the others, unless otherwise agreed.

168. Actions for infringement of the rights conferred by this Law shall be statute-barred after six years, counted from the most recent date on which the infringing act was committed.

169. One or more of the following measures may be applied for and ordered in an action for infringement of rights protected under this Law:

1. cessation of the acts infringing the rights;
2. indemnification for damages sustained;
3. the measures necessary to prevent the continuation or repetition of the infringement;
4. publication of the condemnatory sentence in the Official Gazette.

170. The following criteria may be used, at the discretion of the plaintiff, for the calculation of indemnification for damages:

1. the profits that the owner of the rights would presumably have earned if the infringement had not occurred;
2. the profits actually earned by the infringer as a result of the infringing acts;
3. the price or royalty that the infringer would have paid to the owner of the rights if a contractual license had been agreed upon, due regard being had to the commercial value of the subject matter of the rights infringed and contractual licenses already granted.

171. Any person who initiates an action for infringement of industrial property rights protected under this Law may request the court to order immediate precautionary measures with a view to ensuring the effectiveness of the action or compensation for damages. The precautionary measures shall be processed in a separate proceeding without the parties being

heard, and the court shall order them immediately without further formality, and may, once they have been instituted, order the party who requested them to deposit security, the amount of which shall not exceed 50% of the total estimated value of the infringing material and the means of committing the infringement. The said security shall be deposited, and a guarantee certificate issued, within a period of three working days counted from the date on which the request was filed.

If only the measure provided for in item 5 of the following Article is requested, the court shall set an amount of security that it considers sufficient once the measure has been implemented.

172. The court may order the appropriate precautionary measures to ensure the execution of whatever sentence may be handed down in the related action. The following precautionary measures, among others, may be ordered:

1. immediate cessation of the infringing acts;
2. retention or deposit of the infringing material and of the means exclusively intended for the commission of the infringement;
3. suspension of the importation or exportation of the material or means referred to in the foregoing item;
4. provision by the alleged infringer of a bond or other guarantee of payment of any indemnification for damages;
5. suspension of the operating license granted by the administrative authorities of the Colón free zone or other Free Zone or re-export zone in Panama. The said suspension shall be lifted on the provision of a bank, monetary or insurance guarantee or State debenture certificates, the amount of which shall be proportional to the estimate of the damages caused;
6. retention or sequestration by the competent customs authorities of the merchandise or material constituting the infringement that is awaiting customs clearance or is in transit anywhere on the national territory. Where the infringement action is not initiated within the ten days following the imposition of the precautionary measure, the latter shall be void as of right and the plaintiff shall be liable for indemnification for damages caused by him.

173. In cases of offenses against the rights of others, and also those against copyright and other related rights deriving from intellectual and industrial property, the agents of the Office of Public Prosecutions shall make a summary investigation *ex officio* when notice of the perpetration of such offenses comes to their notice by any means.

The investigating agent shall immediately put in hand all the necessary precautionary measures to ensure the effective conduct of the criminal action, including, among other things, the provisional seizure of property under investigation and also of the means used for the commission of the offending act.

At any stage in this criminal procedure, the court or tribunal shall, before a final judgment is handed down, order the conclusion of the proceedings and the consignment of the file to the archives when the owner of the trademark and the accused jointly so request.

174. Provided that the performance of the acts associated with the investigation of the offenses provided for in the foregoing Articles is not thereby affected, the agent of the Office of Public Prosecutions shall, within a period not exceeding five days, inform the owner of the protected right, through his general representative or authorized distributor, of the initiation of summary proceedings.

175. Without prejudice to the provisions of Article 173, the owner of the rights protected in the Republic of Panama may at any time, and without any formality other than the proof of that fact to the satisfaction of the investigating agent or judge, take an active part in the summary proceedings and the criminal trial in either of the following capacities:

1. as a collaborating party, with the power to adduce or submit proof and other evidence in substantiation of the offending act and the liability therefor. Such action may be initiated through an unofficial agent, in accordance with the provisions of the Judicial Code relating to such circumstances. In that case, the guarantee payable for recognition as an agent shall be set by the investigating official and shall not be less than 2,000 or more than 5,000 balboas.

In the case of foreign corporations not domiciled in the Republic of Panama, the negotiator shall not be required, on making his intervention, to file a certificate proving the legal existence of the said corporations, such certificate having in any event to be filed together with the ratification of the steps already taken in the action by the corresponding legal time limit;

2. as a specific accuser, subject to the relevant procedural provisions.

176. The General Customs Administration, acting *ex officio* or on the instructions of the competent authority, or where by whatever means it has knowledge of merchandise awaiting customs clearance anywhere in the national territory that may be in breach of the provisions of this Law or of the Law on Copyright and Neighboring Rights, may order an inspection of the said merchandise, or withhold it, or both.

The authorities of the Colón Free Zone and other free zones and re-export zones administered by the State shall have the same powers as described above in the case of merchandise in transit on their territory.

177. Once withholding has taken place, the authority that has effected it shall inform the owner of the protected right of its action, either direct or through the said owner's agent or authorized distributor. It shall likewise send to the owner of the protected rights, at his request, samples of the merchandise withheld, provided that the nature thereof permits.

For the above purposes and without prejudice to the provisions of international conventions signed by the Republic of Panama, until such time as a central register of the owners of the rights protected by this Law and by the Law on Copyright and Neighboring Rights is created within the General Customs Administration, the archives of DIGERPI and of the Directorate General of Copyright shall serve as the basis for determining the ownership of such rights.

The owner shall reply in writing if he opposes the introduction or transit of the merchandise withheld. If he does not oppose it, the merchandise shall be immediately released, but if he does, he shall be under obligation to deposit security under the conditions laid down in Article 171 of this Law. Security may however be deposited in the form of a guarantee certificate, a bank or insurance guarantee or public debenture certificates.

When opposition has been filed, the authority that ordered the withholding shall hand the file over to the Office of Public Prosecutions for subsequent processing and shall place the merchandise in its custody until such time as the competent authority hands down the ruling that puts an end to the proceedings. Except where the owner of the protected rights deposits the security referred to, the withholding of the merchandise shall continue for a maximum period of 30 calendar days.

At any stage in the investigation, but before the owner of the protected rights deposits the security, the person affected may submit a license or written authorization from the owner of the protected rights or the person who represents him, which shall serve as *prima facie* evidence of the lawfulness of the merchandise and bring about the immediate release thereof.

178. The preceding two Articles shall enter into force when the Ministry of Finance and the Treasury approves the regulations for their implementation; consequently, pending such approval, the legal and administrative provisions currently in force in that connection shall continue to apply.

179. The owners of the protected rights referred to in the provisions of this Title shall include the owners of the rights recognized by this Law, by the Law on Copyright and Neighboring Rights or by international conventions on the subject matter concerned that have been signed by the Republic of Panama.

180. The provisions of the Judicial Code shall apply to any matter not provided for in the procedure laid down in this Title.

Title VIII Procedural Provisions

Sole Chapter General Provisions

181. The procedure provided for in this Title shall apply to the following subject matter:

1. disputes that arise in connection with opposition to applications for the registration of trademarks, trade names, industrial designs or advertising slogans or signs;
2. actions seeking the invalidation and cancellation of industrial property rights;
3. actions for improper use of industrial property rights.

182. Conflicts of competence arising in connection with a request for precautionary measures shall be ruled upon by the higher court of the relevant judicial district.

183. A copy of the complaint shall be conveyed to the defendant within a period of five days. A copy of any cross-action shall be communicated within a period of the same duration. The following rules shall be observed for the notification of the decision to the defendant:

1. If the defendant is resident in the same area as the court, notice shall be served in person.
2. If the defendant is resident outside the location of the court but in the Republic of Panama, or if he is resident abroad, notice shall be served on him in the manner laid down in the Judicial Code.

184. A cross-action shall be allowed in the following instances:

1. where the defendant opposes the registration of a trademark or trade name of the plaintiff, as a means of formally registering his opposition;

2. where the defendant brings the action to effect cancellation of the trademark, trade name, patent, utility model, industrial design or advertising slogan on the registration of which the plaintiff is basing his own opposition.

185. Where the case has been prepared and the decision setting a date for the hearing has been notified, notices shall be served by announcement even where the procedure has been held up for more than a month.

The foregoing shall not apply to the notification of the sentence or to rulings that put an end to the process or prevent its continuation.

186. Where the case has been answered, the court shall set the date and time for the parties to appear at the hearing and adduce and submit such proof as they consider appropriate for the defense of their rights.

187. Up to three days prior to the hearing, the attorneys shall request the court to summon the parties, witnesses and experts to which end they shall state their private or office addresses; the court shall avail itself of such coercive measures as may be necessary.

188. The hearing shall be held with the intervention of the parties who are present, and only one postponement shall be allowed on just grounds, invoked prior to the commencement thereof. Otherwise the hearing shall take place on the appointed date with whichever of the parties are present, provided that, should none appear in spite of a second summons, the sentence shall be handed down without further formality based on the evidence accompanying the complaint and the rebuttal and on such other evidence as the court may see fit to recognize.

189. In the course of the hearing, or before it, a request may be filed for the conduct of judicial inspections of places, documents or objects that bear a relation to the matters at issue in the trial.

The inspection may be conducted in the presence of experts appointed by the court and by the parties. Where the court appoints experts to act *ex officio*, it shall allow the parties to appoint experts of their own, and the inspection may be supported by objects and documents as exhibits where necessary for recognition by the court.

At the discretion of the court, or at the request of a party, photographs shall be taken of the objects or places inspected and, in the case of documents, the examination and copying thereof shall be permitted by means of image and sound capturing apparatus.

The decision ordering the conduct of a judicial inspection shall by implication embody a search warrant.

190. At any stage in the proceedings, the court may *ex officio* order the bringing of evidence and evaluate the mass of evidence according to the rules of fair criticism, having due regard to the rules laid down in the Judicial Code on the authenticity of documents.

191. Where the judge hearing the case considers himself duly informed by the evidence brought forward in the proceedings, he may hand down his ruling in the course of the hearing, once he has heard the submissions of the parties. If he does not, he shall have a period not exceeding 20 working days within which to pronounce his finding.

192. The only incidental matters admissible in this type of proceeding shall be those that are moved by way of exceptions for an extemporaneous action, *res judicata* and the lapse of claims. Such incidental matters shall be settled in prior special rulings.

193. Where an appeal has been allowed, a term of ten days shall be set, the first five days for the appellant to substantiate his appeal, and the last five for the rebuttal by his adversary.

194. In the second instance, proof invoked in the first instance that was not produced may only be submitted if the person who invoked it submits a statement to the court not later than at the time specified for that purpose, in which he declares that it was impossible to submit it and the reasons therefor, or if he submits evidence that was not considered by the court through no fault of the person concerned.

Where evidence has to be considered, a non-renewable period of ten days shall be set for the purpose, at the end of which the court shall have ten days within which to hand down its ruling.

195. At the start of the proceedings, the judge shall be under the obligation to provide the interested party with a note addressed to DIGERPI informing the latter of the bringing of the action, and another announcing the result once the judgment has duly become enforceable. In both cases the note in question shall be conveyed to the party concerned in the shortest possible time, with a clear mention of the type of proceeding involved and also of the trademark, trade name, patent, utility model, industrial design or advertising slogan or sign that is involved in the said proceedings.

196. In any sentence or other ruling, the party against which it is pronounced shall be condemned to pay costs except where, in the court’s opinion, the said party clearly acted in good faith, in which case it shall expressly mention the reasons for that opinion.

197. Proceedings relating to the subject matter provided for in this Title shall be within the exclusive jurisdiction of the courts and tribunals, as provided in Articles 141 and 143 of Law 29 of 1996, and the rules of jurisdiction laid down in those provisions.

198. The procedural provisions laid down in this Law shall have immediate effect. However, proceedings initiated before the date on which this Law enters into force shall be referred by the Ministry of Commerce and Industries to the courts designated under the foregoing Article, but they shall be governed by the Law that was in force when they began. Proceedings initiated thereafter shall be entirely governed by this Law.

199. With regard to any matter not provided for in the procedural rules established by this Law, the provisions of the Judicial Code on summary proceedings shall apply.

Title IX
Fees and Charges for Services

Chapter I
Fees and Surcharges

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

| | Balboas |
|---|---------|
| Application for a trademark or trade name..... | 10.00 |
| Application for a patent, utility model or industrial design..... | 10.00 |
| Request for trademark anticipation search | 1.00 |

| | |
|--|--------|
| Request for certification | 1.00 |
| Retrieval of a document..... | 1.00 |
| Request for change of address of the owner of the patent or registration | 5.00 |
| Request for change of ownership of a trademark or trade name..... | 5.00 |
| Sale of BORPI..... | 15.00 |
| Application for a license for use of a trademark or trade name | 5.00 |
| Request for assignment or transfer of a trademark or trade name | 5.00 |
| Request for a certified copy of a document..... | 0.50 |
| Request for a utility model or industrial design anticipation search..... | 25.00 |
| Request for a state-of-the-art-search report..... | 200.00 |
| Request effecting renewal | 10.00 |
| Publication of a trademark application or correction..... | 6.00 |
| Publication of an application, correction or any other act concerning a patent, utility model or industrial design..... | 6.00 |

201. The Executive is empowered to set, through the Ministry of Commerce and Industries the amounts payable by the persons concerned as fees for services not included in the foregoing Article. That power shall extend to changes and the setting of new fees as considered necessary or appropriate from time to time, subject to a favorable opinion from the Director General of DIGERPI.

202. A surcharge of 20% is introduced on sums which, by way of fees provided for in Article 200 and those allowed under Article 201, are payable by users of the services of DIGERPI. This surcharge shall be paid in addition to the fees laid down in the Articles in question.

Sums received by DIGERPI from surcharges shall be applied to the financing of incentives to promote productivity on the part of its officials, in addition to the allocations set aside in the general budget of the State for the operation of the said entity, according to the procedures and principles introduced for the purpose by the Executive through the Ministry of Commerce and Industries, with a view to its proper administration and distribution work. The amounts accruing to each official shall not exceed 50% of the total amount of his basic monthly salary.

203. The proceeds from the fees referred to in the foregoing Articles shall be deposited in a special “service fees” account at the National Bank of Panama, under the control of the Ministry of Commerce and Industries, and those from surcharges shall be deposited in a special account called “surcharges for services.” Both accounts shall be overseen by the accounts department of the said Ministry and by the General Audit Office of the Republic.

The investment of the proceeds from fees shall be programmed annually by DIGERPI with a view to the development of its service, training and other plans for the improvement of services to users; the proceeds from surcharges shall be set aside for the purpose specified in Article 202.

Chapter II
Registration Fees

204. The fees specified below shall be charged for registration of a trademark for goods or services:

1. 50 balboas for the first five years of protection, which shall be paid on the filing date of the application for registration;
2. 50 balboas for the five remaining years, which shall be paid at any time prior to the expiration of the first five-year period.

Where the fee for the second five-year period has not been paid after six months following the date on which it should have been paid, the owner shall be presumed to have abandoned the registration of the trademark, which shall lapse as of right. The owner may discharge his obligation within the period of six months referred to in this paragraph, discharge his obligation, but a surcharge of ten balboas shall be imposed for every month or fraction thereof that elapses until the time of payment.

205. Renewal of the registration of any trademark shall be subject to payment of the fee specified in the foregoing Article. The surcharge referred to in the said Article shall be ten balboas for every month or fraction thereof until the time of payment.

206. The registration fees for a trade name shall be the same as those payable for marks.

207. The grant of a patent shall be subject to payment of the fees specified below:

1. 100 balboas for the first five years of protection;
2. 200 balboas for the following five years;
3. 200 balboas for the next five years;
4. 300 balboas for the balance of the term of protection.

The first payment shall be made on the filing of the application and the subsequent payments every five years as from the filing date of the application. Payment may be made at any time prior to the expiration of the five-year period concerned.

On the expiration of six months from the date on which any of the fees referred to in this Article should have been paid without such payment having been made, the owner shall be presumed to have abandoned the patent, which shall lapse as of right. Payment effected within the six-month period referred to in this paragraph shall be subject to a surcharge of ten balboas for every month or fraction thereof until the time of payment.

208. The grant of a utility model or industrial design registration shall be subject to payment of the fees specified below:

1. 50 balboas for the first five years of protection;
2. 100 balboas for every five years of protection thereafter.

The first payment shall be made on the filing of the application and next payment on the expiration of five years as from the filing date of the application. Payment may be made at any time prior to the expiration of the five-year period concerned.

On the expiration of three months following the date on which any of the fees referred to in this Article should have been paid without such payment having been made, the owner shall be presumed to have abandoned the registration, which shall lapse as of right. Payment effected within the period of grace provided for in this paragraph shall be subject to a surcharge of 10 balboas for every month or fraction thereof until the time of payment.

209. If for any reason the patent or utility model or industrial design registration is not granted or registration of the trademark, trade name or advertising message or slogan does not take place, the applicant may claim a refund of half the fees that he has paid.

210. All fees provided for in this Law shall be paid in advance. No action shall be taken on any request filed with DIGERPI until the relevant fee or charge has been paid.

211. The registration of a trademark or trade name shall be subject to payment of a fee of four balboas 50 centesimos. Registration of a transfer, change of name or address, merger, limitation of goods, correction or renewal shall be subject to payment of a fee of ten balboas.

212. Copies of the patent certificate and of certificates attesting the registration of utility models, industrial designs, trademarks, trade names and advertising slogans or signs, and also copies of decisions issued concerning any one of the registrations referred to in the foregoing Article, shall bear tax stamps to the value of four balboas 50 centesimos. Any other copy not provided for in this Article shall be governed by the provisions of the Tax Code.

213. Trademark anticipation certificates shall bear tax stamps to the value of one balboa. Any certificate provided for in this Article shall bear tax stamps to the value of ten balboas for the first full page or part thereof and five balboas for each additional page or part thereof.

214. Certificates of searches on the national territory for anticipation of patents, utility models and industrial designs shall bear tax stamps to the value of ten balboas. Certificates of searches at the international level for anticipation of patents, utility models and industrial designs shall bear tax stamps to the value of 50 balboas.

Any other certificate not provided for in this Article shall bear tax stamps to the value of ten balboas for the first full page or part thereof and five balboas for each additional full page or part thereof.

215. Where the applicant for a patent is the actual inventor and his economic circumstances are such that he cannot pay the amount of fees and charges due for the filing or processing of his application, or for keeping the granted patent in force, he may declare that fact at the time of paying the fees for the patent application. In that case he shall only be obliged to pay ten per cent of the amount due for as long as the economic circumstances referred to persist.

If [the applicant has not fulfilled his obligations], before two years have elapsed from the filing date of the pending patent application, or if the granted patent is transferred to a person who is not in the economic circumstances referred to, the transfer shall not be registered until proof is given of payment of the amount of fees and charges that would have been paid had the declaration provided for in this Article not been filed.

DIGERPI may request the applicant who has availed himself of the faculty provided for in this Article to prove his economic circumstances where there is reason to doubt the truth of the declaration, or where his economic circumstances have clearly improved since it was made.

Title X Transitional Provisions

Sole Chapter

216. Trademark registrations granted prior to the entry into force of this Law shall become trademark registrations with the numbers originally designed to them and the same expiration dates. Trademark registration certificates shall be granted for trademark applications pending at DIGERPI on the entry into force of this Law provided that they comply with the requirements of the Law that was in force at the time of the filing thereof.

217. Applications for patents or registrations filed prior to the entry into force of this Law shall not require the filing of the original granted registration. DIGERPI shall grant the appropriate registration certificate for applications filed prior to the said entry into force provided that the prescribed conditions have been met.

218. Proof of renewal of the original registration shall not be required for the grant of a renewal certificate in the case of requests for renewal filed prior to the entry into force of this Law. In the case of requests for renewal that are pending at DIGERPI on the entry into force of this Law, the renewal certificate shall be issued without proof of renewal of the original registration having to be provided.

Title XI Final Provisions

219. An interdepartmental commission is hereby created to ensure the harmonization, coordination and monitoring of intellectual property policy, the composition of which shall be as follows:

1. one member designated by DIGERPI from the Ministry of Commerce and Industries;
2. one member designated by the Directorate of Copyright from the Ministry of Education;
3. one member designated by the General Customs Administration from the Ministry of Finance and the Treasury;
4. one member designated by the Public Prosecutor's Office;
5. one member designated by the State body responsible for the relations of the Republic of Panama with the World Trade Organization.

The operating methods of the Commission shall be determined by the Ministry of Commerce and Industries.

220. The Executive is authorized to enact regulations under this Law through the Ministry of Commerce and Industries.

221. Article 1980 of the Judicial Code shall read as follows:

“Article 1980. In cases of bigamy and unfair competition, criminal proceedings shall be instituted only on a formal accusation by the aggrieved party. In cases of slander, injury and non-compliance with family duties, a simple complaint by the aggrieved party shall be sufficient.”

222. The third paragraph of Article 141 of Law 29 of 1996 shall read as follows:

“Article 141. (...)

Disputes that arise in connection with industrial property, copyright and neighboring rights, or where the property or relations to which the complaint relates have circulated or operated wholly or partly within the area of concern of the First Judicial District of Panama, the courts created by this Law shall have alternative jurisdiction, at the discretion of the plaintiff, together with the appointed court, for the hearing of any of the aforementioned cases.”

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

224. This Law shall come into effect six months after its promulgation.

* *Spanish title:* Ley N° 35 (de 10 de mayo de 1996) por la cual se dictan disposiciones sobre la propiedad industrial.

Entry into force: November 18, 1996.

Source: Communication from the Panamanian authorities.

Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.