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Patents and Industrial Designs Regulation 2002.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 5 of 2002

Patents and Industrial Designs Regulation 2002.

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Patents and Industrial Designs Regulation 2002.

Being a Regulation,

MADE by the Head of State, acting with and in accordance with the advice of the National Executive Council, under the ***Patents and Industrial Designs Act 2000*** and shall come operation on the date of the coming into operation of the ***Patents and Industrial Design Act 2000***.

PART I. – PRILIMINARY.

INTERPRETATION.

In these Regulations, unless the contrary intention appears –

- “Minister” means the Minister responsible for Trade and Industry matters or the Department under which the administration of this Act is vested;
- “Regulations” means these Regulations;
- “Act” means the ***Patents and Industrial Designs Act, 2000***.

2. FEES.

The fees to be paid in respect of matters arising under the Act or these Regulations shall be those specified in the first Schedule to these Regulations.

3. FORMS.

(1) The forms referred to in these Regulations are those set out in second Schedule to these Regulations.

(2) Copies of the printed forms shall be furnished by the Registrar upon request and may be subject to the payment of the prescribed fee.

4. LANGUAGE OF DOCUMENTS AND TRANSLATIONS.

Applications shall be in the English language, and any document forming part of an application or submitted to the Registrar pursuant to the Act or these Regulations and which is in a language other than English shall be accompanied by an English translation.

5. INDICATION OF NAMES, ADDRESS, NATIONALITY AND RESIDENCE.

(1) Names of natural persons shall be indicated by the person’s family name and given name(s), the family name being indicated before the given name(s).

(2) Names of legal entities shall be indicated by their full, official designations.

(3) Addresses shall –

- (a) be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address; and
- (b) consist of all the relevant administrative units, including the house number, if any; and

(c) indicate telegraphic and telex addresses and telephone numbers.

(4) Nationality shall be indicated by the name of the State of which a person is a national. Legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.

(5) Residence shall be indicated by the name of the State of which a person is a resident.

6. SIGNATURES BY PARTNERSHIPS, COMPANIES AND ASSOCIATIONS.

(1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners, or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document.

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfied the Registrar that he is authorized to sign the document and shall bear the seal of the body corporate.

(3) A document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he is duly authorized to sign the document.

(4) The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

7. REPRESENTATION BY AGENT.

(1) The power of attorney appointing an agent may be filed together with the application or within two months from its filing date.

(2) If the appointment is not thus made and is not in accordance with Section 54 of the Act and Section 39 of these Regulations, any procedural steps taken by the agent, other than the filing of the application, shall be deemed not to have been taken.

**PART II. – PATENTS APPLICATION AND PROCEDURE FOR GRANT
OF PATENTS.**

8. CLASSIFICATION OF PATENTS.

The Registrar shall apply the *International Patent Classification*, as adopted under the *Strasbourg Agreement* of March 24, 1971, and updated in its subsequent editions, for all purposes relating to the grant and publication of patents, as well as for the maintenance of classified search files.

9. REQUEST FOR GRANT OF PATENT.

(1) The request for the grant of a patent shall be made on Form No.1 and shall be signed by each applicant.

(2) The request shall indicate each applicant's name, address, nationality and residence.

(3) Where the applicant is the inventor, the request shall contain a statement to that effect, and, where he is not, it shall indicate each inventor's name and address and be accompanied by the statement justifying the applicant's right to the patent.

(4) If the applicant is represented by an agent, the request shall indicate and state the agent's name and address.

(5) The title of the invention shall be short preferably from two to seven words and precise.

10. DESCRIPTION.

(1) The description shall first state the title of the invention as appearing in the request and shall -

- (a) specify the technical field to which the invention relates; and
- (b) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art; and
- (c) disclose the invention in such terms that it can be understood and state its advantageous effects, if any, with reference to the background art; and
- (d) briefly describe the figures in the drawings, if any; and
- (e) set forth at least one mode contemplated by the applicant for carrying out the invention and this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any; and
- (f) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is industrially applicable and the way in which it can be made and used, or, if it can only be used, the way in which it can be used.

(2) The manner and order specified in paragraph (1) shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more concise presentation.

11. CLAIMS.

(1) The number of the claims shall be reasonable taking into account the nature of the invention and if there are several claims, they shall be numbered consecutively in Arabic numerals.

(2) The claims shall define the invention in terms of the technical features of the invention.

(3) Whenever appropriate, claims shall contain –

(a) a statement indicating those technical features of the invention which are necessary for the definition of the latter but which, in combination, are part of the prior art; and

(b) a characterizing portion –preceded by the words “characterized in that,” “characterized by,” “wherein the improvement comprises,” or any other words to the same effect-stating concisely the technical features which, in combination with the features stated under subsection (1), it is desired to protect.

(4) Claims shall not, except where absolutely necessary, rely in respect of the technical features of the invention on references to the description or drawings; in particular, they shall not rely on such references as “as described in part of the description,” or “as illustrated in figure ... of the drawings.”

(5) Where the application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features; when used, the reference signs shall preferably be placed between parentheses; if inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made.

(6) Any claim submitted after filing date of the application and which is not identified with the claims previously appearing in the application shall, at the choice of the applicant, be submitted either as an amended claim or as a new claim.

(7) The deletion of any claim previously appearing in the application shall be made by indicating the number of the previous claim followed by the word “cancelled.”

12. DRAWINGS.

(1) Drawings forming part of an application for a patent shall be on sheets the usable surface area of which shall not exceed 26.2 cm by 17 cm.

(2) The sheets shall not contain frames round the usable or used surface and the minimum margins shall be as follows:-

top: 2.5 cm;
left side: 2.5 cm;
right side: 1.5 cm;
bottom: 1.0 cm;

(3) Drawings shall be executed as follows:-

- (a) without coloring in durable, black sufficiently dense and dark, uniformly thick and well-defined lines and strokes to permit satisfactory reproduction; and
- (b) cross-sections shall be indicated by hatching, which does not impede the clear reading of the reference signs and leading lines; and
- (c) the scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If, as an exception, the scale is given on a drawing it shall be represented graphically; and
- (d) all numbers, letters and reference signs appearing in the drawings shall be simple and clear and brackets, circles and inverted commas shall not be used in association with numbers and letters; and
- (e) elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure;
- (f) the height of the numbers and letters shall not be less than 0.32 cm and for the lettering of drawings, the Latin and, where customary, the Greek alphabet shall be used; and
- (g) the same sheet of drawings may contain several figures. Where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, clearly separated from one another. The different figures shall be numbered consecutively in Arabic numerals, independently of the numbering of the sheets; and
- (h) reference signs not mentioned in the description or claims shall not appear in the drawings, and vice versa.
- (i) the drawings shall not contain textual matter,
- (j) the sheets of the drawings shall be numbered in accordance with Section 15(7) below.

(4) Flow sheets and diagrams are considered drawings.

13. ABSTRACT.

(1) The abstract shall be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art.

- (2) The abstract shall consist of the following:-
 - (a) a summary of the disclosure as contained in the description, the claims, and any drawings, indicating the technical field to which the invention pertains and drafted in a way which allows the clear understanding of the technical problem the gist of the solution of that problem through the invention and the principal use or uses of the invention; and
 - (b) where applicable, the chemical formula which, among all the formulae contained in the application, best characterizes the invention.
- (3) The abstract shall be as concise as the disclosure permits (preferably 50 to 150 words).
- (4) The abstract shall not contain statements on the alleged merits or value of the invention or on its speculative application.
- (5) Each main technical feature mentioned in the abstract and illustrated by a drawing in the application shall be followed by a reference sign, placed between parentheses.
- (6) The abstract shall be accompanied by the most illustrative of any drawings furnished by the applicant.

14. MEASURES, TERMINOLOGY AND SIGNS.

- (1) Units of weights and measures shall be expressed in terms of the metric system.
- (2) Temperatures shall be expressed in degrees centigrade (Celsius).
- (3) Density shall be expressed in metric units.
- (4) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, rules in general use shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.
- (5) In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.
- (6) The terminology and the signs shall be consistent throughout the application.

15. NUMBER OF COPIES AND PHYSICAL REQUIREMENTS.

- (1) Subject to Section 19(7), the application and any accompanying statements or documents shall be filed in three copies, but the Registrar may require the applicant to supply additional copies.
- (2) All elements of the application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and microfilming.
- (3) Only one side of each sheet contained in the application shall be used.
- (4) All elements of the application shall be on paper, which is flexible, strong, white, smooth, non-shiny and durable.

(5) The size of the sheets shall be A4 (29.7cm x 21cm), although the Registrar may accept sheets of other sizes.

(6) The minimum margins of sheets shall be as follows:-

- (a) upper margin of each page, except the first page: 20 mm; and
- (b) upper margin of the first page: 30 mm; and
- (c) side margin adjacent to the binding: 25 mm; and
- (d) other side margin: 20 mm; and
- (e) bottom margin : 20 mm

(7) All sheets shall be numbered at the top of the sheet, in the middle, in consecutive Arabic numerals.

(8) In effecting the sequential numbering of the sheets, the elements of the application shall be placed in the following order: the request, the description, the claims, the abstract, the drawings.

(9) The sequential numbering of the sheets shall be effected by using three separate series of numbering, the first series applying to the request only and commencing with the first sheet of the request, the second series commencing with the first sheet of the description and continuing through the claims until the last sheet of the abstract, and the third series being applicable to the sheets of the drawings only and commencing with the first sheet of the drawings.

(10) The text matter of the application shall be typed; graphic symbols, chemical or mathematical formulae and certain characters, if necessary, may be handwritten or drawn.

(11) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes without colorings.

16. UNITY OF INVENTION.

(1) Section 21 of the Act shall be construed as permitting, in particular, one of the following three possibilities:-

- (a) in addition to an independent claim for a given product, the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the said product, and the inclusion in the same application of an independent claim for a use of the said product; or
- (b) in addition to an independent claim for a given process, the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the said process; or
- (c) in addition to an independent claim for a given product, the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the product, and the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the process.

(2) Subject to Section 21 of the Act, it shall be permitted to include in the same application two or more independent claims of the same category which cannot readily be covered by a single generic claim.

(3) Subject to Section 21 of the Act, it shall be permitted to include in the same application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim.

17. DIVISION OF APPLICATION.

(1) A divisional application shall contain a reference to the initial application.

(2) If the applicant wishes a divisional application to benefit from any priority claimed for the initial application, the divisional application must contain a request to that effect; in such a case, the declaration of priority and the documents furnished in accordance with Section 19 for the initial application shall be deemed to relate also to the divisional application.

(3) Where the priorities of two or more earlier applications were claimed for the initial application, a divisional application may benefit only from the priority or priorities that are applicable to it.

18. DISCLOSURES TO BE DISREGARDED FOR PRIOR ART PURPOSES.

An applicant who wishes a disclosure of the invention to be disregarded, in accordance with Section 13(2) and (3) of the Act for prior art purposes, shall so indicate on the application and shall furnish, in writing, with the application or within one month of filing the application, full particulars of the disclosure; where the disclosure was made at an exhibition, the applicant shall file, within the same period, a duly authenticated certificate issued by the authority responsible for the exhibition containing particulars of the exhibition and stating that the invention was in fact exhibited there.

19. DECLARATION OF PRIORITY AND TRANSLATION OF EARLIER APPLICATION.

(1) The declaration referred to in Section 23(1) of the Act shall be made at the time of filing the application for the patent and shall indicate -

- (a) the date of filing of the earlier application; and
- (b) the number of the earlier application, subject to paragraph (2); and
- (c) the symbol of the *International Patents Classification* which has been allocated to the earlier application, subject to paragraph (3); and
- (d) the State in which the earlier application was filed or, where the earlier application is a regional or an international application the State or States for which it was filed; and
- (e) where the earlier application is a regional or an international application, the Office with which it was filed.

(2) Where at the time of filing the declaration referred to in paragraph (1) the number of the earlier application is not known, that number shall be furnished within the period of 16 months after the priority date.

(3) Where a symbol of the *International Patent Classification* has not been allocated to the earlier application, or had not yet been allocated at the time of filing the declaration referred to in Paragraph (1), the applicant shall state this fact in the said declaration and shall communicate such symbol as soon as it has been allocated.

(4) The applicant may, at any time before the grant of the patent, amend the contents of the declaration referred to in Paragraph (1) by writing to the Registrar.

(5) The period for furnishing the certified copy of the earlier application, referred to in Section 23(2) of the Act, shall be three months from the date of the request by the Registrar; where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.

(6) Where the earlier application is in a language other than English, the applicant shall, within six months from the date of the aforementioned request, furnish an English translation of the earlier application.

(7) Unless the Registrar requests otherwise, the earlier application and any translation thereof shall be filed in one copy.

20. TIME FOR FURNISHING INFORMATION CONCERNING CORRESPONDING FOREIGN APPLICATIONS, PATENTS AND OTHER TITLE PROTECTION.

(1) The time limits to be specified for furnishing the information requested under Section 24 of the Act shall not be less than two or more than six months from the date such a request is made; upon a reasoned request by the applicant, the Registrar may extend such time limit.

(2) If the applicant replies that the documents requested under Section 24 of the Act are not yet available, the Registrar may suspend the procedure for the examination of the application until such time as the documents are furnished.

21. WITHDRAWAL AND AMENDMENT OF APPLICATION.

(1) The application shall be withdrawn by written declaration submitted to the Registrar and signed by each applicant.

(2) The application fee shall not be refunded if the application is withdrawn.

(3) Any amendment pursuant to Section 22(1)(a) of the Act shall be made subject to the payment of the prescribed fee.

22. MARKING APPLICATION.

(1) Upon receipt, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters LC, slant, the letter P, slant, the last two numbers of the year in which the initial papers were received, slant, and a five-digit number allotted in the sequential order in which applications are received and where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for grant of the patent in Form No. 1.

(2) The application number allotted under paragraph (1) shall be quoted in all subsequent communications concerning the application.

23. ACCORDING AND NOTIFYING FILING DATE.

(1) The Registrar shall examine whether the application fulfills the requirements of Section 19(2) and (4) of the Act.

(2) The invitation to file any correction, under Section 25(2)(a) of the Act, shall be in writing; it shall specify the correction or corrections required and request that these be

filed within two months from the date of the invitation, together with the payment of the prescribed fee.

(3) Once the Registrar accords a filing date, he shall notify the applicant in writing and if the application is treated as if it had not been filed, under Section (25)(2)(c) of the Act, the Registrar shall notify the applicant in writing, specifying the reasons.

24. EXAMINATION AS TO FORM.

(1) In addition to the requirements of Section 19(2) and (4) of the Act and the Regulations pertaining thereto, the requirements of Sections 24 and 12(2) of the Act and Sections 4, 5, 7, 14 and 15 of these Regulations, to the extent applicable, shall be considered formal requirements for the purposes of the Act.

(2) Where the Registrar finds that the conditions referred to in Section 26(a) of the Act are not fulfilled, he shall -

- (a) invite the applicant, in writing, to file the required correction within two months from the date of the invitation, together with the payment of the prescribed fee; and
- (b) where no abstract is provided, the Registrar shall invite the applicant to correct the deficiency either by providing an abstract or by paying the prescribed fee for the preparation of the abstract by the Registrar himself.

(3) If the applicant does not comply with the invitation to correct a deficiency, or where, despite the corrections submitted by the applicant, the Registrar is of the opinion that the conditions referred to in Section 26(a) of the Act are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.

(4) Refusal of the application shall not affect its filing date, which shall remain valid.

25. DECISION TO GRANT OR REFUSE TO GRANT PATENT.

(1) Where two or more applications for grant of a patent for the same invention, having the same filing or, where applicable, the same priority date, are filed by the same applicant, the Registrar may, on that ground, refuse to grant a patent in pursuance of more than one of the applications.

(2) The Registrar shall notify the applicant, in writing, of this decision to grant or to refuse to grant a patent, and, in the case of a refusal, stating the reasons therefor, and in the case of a decision to grant a patent, requesting the applicant to pay the grant and publication fee within three months from the date of the notification.

26. GRANT OF PATENT, PUBLICATION OF REFERENCE THERETO, ISSUANCE OF CERTIFICATE.

(1) Subject to the payment of the grant and publication fee within the period prescribed in Section 25(2), the Registrar shall grant the patent in accordance with Section 27 of the Act and these Regulations.

(2) The Registrar shall allot to each patent he grants a number (*publication number of the patent*) in the sequential order of grant.

(3) The patent shall be granted on Form No. 3 and shall contain, in addition to the information indicated in Subsection (5) the date of publication of the patent, the documents or references cited of the prior art, the description, the claims and the drawings if any.

(4) The patent shall be deemed to be granted on the date the Registrar publishes a reference to the grant in accordance with Section 27(2)(c) of the Act.

(5) The publication of the reference to the grant of the patent shall include -

- (a) the number of the patent; and
- (b) the name and address of the owner of the patent; and
- (c) the name and address of the inventor, except where he has asked not to be named in the patent; and
- (d) the name and address of the agent if any; and
- (e) the filing date; and
- (f) if priority has been claimed and the claim has been accepted, a statement of the priority, the priority date and the name of the country or countries in which or for which the earlier application was filed; and
- (g) the effective date of grant of the patent; and
- (h) the title of the invention; and
- (i) the abstract; and
- (j) the most illustrative of the drawings, if any; and
- (k) the symbol of the *International patent Classification*.

(6) The certificate of grant shall be issued on Form No. 4, shall be signed by the Registrar and shall contain -

- (a) the number of the patent; and
- (b) the name and address of the owner of the patent; and
- (c) the filing date and, where applicable, priority date of the application; and
- (d) the effective date of grant of the patent; and
- (e) the title of the invention.

27. EXPLOITATION OF PATENTED INVENTION BY GOVERNMENT OR BY THIRD PERSONS AUTHORISED BY GOVERNMENT.

(1) The Minister shall, before making a decision under Section 32(1) of the Act consult the Registrar, and give the owner of the patent, and any other persons whose participation he considers useful, at least 21 days' written notice of the date on which they may be heard; the owner of the patent shall give all licensees written notice of the hearing and they shall have the right to participate therein.

(2) The Minister shall make his decision after the hearing, in writing, stating the grounds upon which it is based, and, if he has decided that the invention shall be exploited under Section 32(1) of the Act, stating the terms of exploitation, and shall transmit the decision to the Registrar.

(3) The Registrar shall record and publish the decision of the Minister and, in writing, notify, the owner of the patent and the other participants in the hearing.

(4) If the decision of the Minister is the subject of an appeal, the Registrar of the court shall notify the Registrar of the court's decision once it becomes final, and the Registrar shall record the decision and publish it.

(5) The authorized exploitation of the subject matter of a patent under Section 31(2) of the Act shall be -

- (a) non-exclusive and;
- (b) non-assignable except with that part of the enterprise or goodwill which enjoys such exploitation.

28. ANNUAL FEES.

(1) Upon payment of an annual fee in accordance with Section 31(2) of the Act, the Registrar shall, within two weeks from the date payment is received, furnish or send to the applicant or to the owner of the patent a receipt of payment.

(2) The Registrar shall record and publish a notification of the laps of a patent in the journal referred to in Section 27(2)(c) of the Act.

(3) Annual fees shall not be refundable.

29. INVALIDATION.

(1) Where the provisions of Section 37(2) of the Act apply only to some of the claims or some parts of a claim, such claims or parts of a claim shall be invalidated.

(2) The patent owner shall, in writing, notify any licensee of any court proceeding instituted for the invalidation of the patent.

(3) The person requesting invalidation shall notify any beneficiaries of authorizations granted under Section 32 of the Act and, where the ground of invalidity invoked is that the patent owner is not the inventor or his successor in title, also the person alleged to have the right to the patent.

(4) Prior to requesting the Court to invalidate a patent under Section 37 of the Act, the person making such a request shall lodge with the Registrar a notice of opposition on Form No. 2, with the prescribed fee.

PART III. - INDUSTRIAL DESIGNS.

30. APPLICATION OF PROVISIONS RELATING TO PATENTS.

Sections 19, 21, 22 and 29(4), shall apply, *mutates mutandis*, to industrial designs with the proviso that the period of 16 months referred to in Section 19(2) shall be replaced by a period of three months from the date on which the application containing the declaration was filed, and that for this purpose the letter "P", in Section 22, shall be read as the letters "ID".

31. APPLICATION FOR REGISTRATION OF AN INDUSTRIAL DESIGN.

(1) The application for the registration of an industrial design shall be made on Form No. 5 and shall be signed by each applicant.

(2) The application shall indicate each applicant's name, address, nationality and residence.

(3) Where the applicant is the creator, the request shall contain a statement to that effect, and, where he is not, it shall indicate each creator's name and address and be accompanied by the statement justifying the applicant's right to the registration of the industrial design.

(4) If the applicant is represented by an agent, the request shall so indicate and state the agent's name and address.

32. NUMBER AND SIZE OF REPRESENTATION AND SPECIMEN.

(1) The application shall be accompanied by the following:-

- (a) if the industrial design is two-dimensional, by four graphic representations or four drawings or tracings; or
- (b) if the industrial design is three-dimensional, by four graphic representations or four drawings or tracings of each of the different sides of the industrial design; and
- (c) a printing block or printing blocks of such dimensions as the Registrar may consider appropriate.

(2) A specimen shall be of a size not exceeding 20 centimeters x 20 centimeters x 20 centimeters.

(3) No graphic representation, drawings or tracings of the industrial design shall exceed 10 centimeters x 20 centimeters. Such representations, drawings or tracings, shall be affixed on four sheets of cardboard of A4 size and drawings and tracings shall be in black ink.

33. ACCORDING AND NOTIFYING FILING DATE, EXAMINATION; DECISION TO GRANT OR REFUSE APPLICATION.

(1) The Registrar shall examine whether the application fulfills the requirements of Section 43(2) (a) and (3) of the Act.

(2) The invitation to file any correction, under 46(2)(a), of the Act shall be in writing, and it shall specify the correction or corrections required and request that these be

filed within two months from the date of the said invitation, together with the payment of the prescribed fee.

(3) Once the Registrar accords a filing date, he shall so notify the applicant in writing; if the application is treated as if it had not been filed, under Sections 46(2)(c) of the Act, the Registrar shall notify the applicant in writing, specifying the reasons.

(4) Where the Registrar finds that the conditions set out in Sections 43(2) and (3), and 38(2)(a) of the Act and the Regulations pertaining thereto are not fulfilled, he shall invite the applicant, in writing, to file the required correction within two months from the date of the invitation, together with the payment of the prescribed fee.

(5) If the applicant does not comply with the invitation to correct a deficiency, or where, despite corrections submitted by the applicant, the Registrar is of the opinion that the said conditions are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.

(6) Refusal of the application shall not affect its filing date, which shall remain valid.

(7) The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse the application, and, in the case of a decision to grant the application, he shall request the applicant to pay the registration and publication fee within one month from the date of the notification.

34. REGISTRATION OF INDUSTRIAL DESIGN; PUBLICATION OF REFERENCE THERETO; ISSUANCE OF CERTIFICATE.

(1) Subject to the payment of the registration and publication fee within the period prescribed in Section 33(7), the Registrar shall register the industrial design in accordance with Section 48(1) of the Act and this Section.

(2) The Registrar shall allot to each industrial design the registers a number in the sequential order of registration.

(3) The registration of an industrial design shall include a representation of the industrial design and shall specify -

- (a) the number of the industrial design; and
- (b) the name and address of the registered owner; and
- (c) the name and address of the agent, if any; and
- (d) the name and address of the creator, except where he has asked not to be named in the registration; and
- (e) if the priority has been claimed, and the claim has been accepted, the priority date and the country or countries in which or for which the earlier application was filed; and
- (f) the kind of products for which the industrial design is to be used.

(4) The publication of the reference to the registration of an industrial design, under Section 48(1) of the Act, shall contain the particulars specified in paragraph (3) hereof.

(5) The certificate of registration of an industrial design shall be issued on Form No.6.

35. RENEWAL OF REGISTRATION.

(1) The renewal of the registration of an industrial design under Section 50 of the Act may be made by the registered owner or his agent during the six months period preceding the expiry of the registration.

(2) The renewal shall be made by payment of the renewal fee within the period specified in paragraph (1) hereof or, upon payment of the prescribed surcharge, within the grace period allowed under Section 50(3) of the Act.

(3) The renewal of an industrial design registration shall be recorded in the register and shall be published.

(4) The Registrar shall issue to the registered owner a certificate of renewal, which shall contain:-

- (a) the registration number of the industrial design;
- (b) the date of renewal and the date of expiry;
- (c) the name and address of the registered owner; and
- (d) an indication of the kind of products for which the industrial design has been registered.

PART IV. – GENERAL.

36. ADDRESS FOR SERVICE.

There shall be furnished to the Registrar :-

- (a) by every applicant for the grant of a patent or the registration of an industrial design, an address for service in Papua New Guinea for the purpose of his application; and
- (b) by every person (*including the applicant for, or the owner of, a patent, industrial design, as the case may be*) concerned in any proceedings to which any of these Regulations relate, an address for service in Papua New Guinea,

and the address so furnished or, where another address (being an address in Papua New Guinea) has been furnished in place thereof, that address shall be treated for the purposes of that application or those proceedings, as appropriate, as the address of that applicant or, as the case may be, of that person.

37. CHANGE OF NAME, ADDRESS OR ADDRESS FOR SERVICE.

(1) A request by the owner of, or applicant for, a patent, industrial design for the alternation of a name, nationality, address for service on record in respect of his patent or application shall be made in writing and shall be accompanied by the prescribed fee.

(2) Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alternation as he thinks fit.

(3) If the Registrar is satisfied that the request should be allowed, he shall cause the patent or application therefore and, where the name, nationality or address has been recorded in the register, the register to be altered accordingly.

38. CHANGE IN OWNERSHIP; LICENCE CONTRACTS.

(1) The notice, under Section 52 of the Act for the recording of a change of ownership of a title granted under the Act or of an application therefore shall be made to the Registrar on Form No. 7 and shall be subject to payment of the prescribed fee.

(2) The publication of the change of ownership shall specify -

- (a) the title of protection concerned; and
- (b) the filing date, the priority date, if any, and the date of registration or grant; and
- (c) the owner and the new owner; and
- (d) the nature of the change of ownership.

(3) A licence contract submitted for recordal under Section 53(1) of the Act shall be accompanied by the prescribed fee.

39. APPOINTMENT OF AGENT; ADDRESS FOR SERVICE.

(1) The appointment of an agent shall be by a power of attorney, which shall be signed by the applicant, or, if there are more than one, by each applicant.

(2) The address of the agent shall, for all purposes connected with the Act and these Regulations, be treated as the address to which communications to the person or persons who appointed the agent shall be transmitted.

40. EXCLUDED DAYS.

When the last day for doing any act or taking any proceeding falls on a day when the Intellectual Property Office is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Office is next open for business.

41. CONSULTATION OF REGISTERS; REQUEST FOR EXTRACTS THEREFROM AND FOR COPIES OF DOCUMENTS.

(1) Consultation of the Registrars shall be subject to payment of the prescribed fee.

(2) Requests for certified copies of extracts from a Registrar or for copies of documents shall be made to the Registrar in writing and shall be subject to payment of the prescribed fee.

42. CORRECTIONS OF ERRORS.

(1) Corrections of errors in documents filed or registered may be made by the Registrar upon receipt of a request in writing and subject to such terms as he may consider appropriate, or on his own initiative.

(2) Corrections made shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

43. HEARING.

(1) Before exercising adversely to any person any discretionary power given to the Registrar by the Act or these Regulations, the Registrar shall notify such person, in writing, of the opportunity to be heard thereon, and indicating a time limit, which shall not be less than one month, for filing a request for a hearing.

(2) The request for a hearing shall be in writing and shall be subject to payment of the prescribed fee.

(3) Upon receiving such request, the Registrar shall give the person applying, and any other interested persons, at least two weeks' notice, in writing, of the date and time of the hearing.

44. SERVICE BY MAIL.

(1) Any notice, application or other document sent to the Registrar by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail.

(2) In proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

(3) Subsection 1 does not apply to the accordance of the filing date.

45. EVIDENCE.

(1) Where under these Regulations evidence may be filed, it shall be by statutory declaration or affidavit.

(2) The Registrar may, if he thinks fit, in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit.

46. STATUTORY DECLARATIONS AND AFFIDAVITS.

(1) Any statutory declaration or affidavit filed under the Act or these Regulations shall be made before any officer authorized by law in any part of Papua New Guinea to administer an oath for the purpose of any legal proceedings.

(2) Statutory declarations or affidavits made outside Papua New Guinea shall be made before a Consul or Notary Public.

47. PUBLICATION; GAZETTE.

Particulars of patents, industrial designs and other proceedings under the Act and any other information required to be published under the Act or these Regulations shall be published, in accordance with the directions of the Registrar, in the appropriate journals referred to in Sections 27(2)(c) and 48(2)(c) of the Act.

48. INTERNATIONAL CO-OPERATION.

(1) The office administering this Act may enter into any agreement, scheme, arrangement, understanding, project or program, in cooperation with another country or legal entity for purposes of the administration of patents and industrial designs in accordance with this Act and any international treaties to which Papua New Guinea is a party to.

(2) The Registrar reserves the power to withdraw at any time from this agreement, scheme, arrangement, understanding, project or program in the event that such would not be in the best interest of the office and in the administration of this Act or international obligation.

SCHEDULE 1.

FEES

Matter or proceeding	Section reference Act	Reg.	Amount of fee	Form
Patents Fees				
Application for a Patent	19	9	K1000	1

(In a patent application), if the application includes an amino acid sequence or a nucleotide sequence filed on a compact disk or by other electronic means			K1500	
Each divisional application for a patent	22(5)	17	K300	1
Amendment of application at the instance of the Applicant	22(1)(a)	21(3)	K170	
Correction of application at the instance of the Registrar	25(2)(a)	23(2)	K50	
Preparation of Abstract by Registrar		24(2)(b)	K100	
Amendment of application on invitation of Registrar	26(b)(i)	24(2)(a)	K50	
Grant and publication fee	27	26(1)	K100	
Filing notice of opposition to grant of patent/ Utility model/industrial design certificate		29(4)	K1200	2
Annual fees for patents	31(2)	28		
2nd			K170	
3rd			K200	
4th			K240	
5th			K270	
6th			K330	
7th			K400	
8th			K460	
9th			K550	
10th			K640	
11th			K700	
12th			K750	
13th			K800	
14th			K900	
15th			K1000	
16th			K1100	
17th			K1200	

18th			K1300	
19th			K1400	
20th			Nil	
Surcharge for late payment of annual fees				In addition to any other fee payable in relation to this item – K200 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid

Industrial Designs

Application	43	31	K300	5
Correction of application on request of Registrar (this does not refer to the correction of an entry in the Register.	46(2)(a) 47(b)(i)	33(2) and (4)	K50	
Registration and publication fee	48	33(7)	K100	
Lodging of Notice of opposition to grant of Industrial design certificate		30, 29(4)	K800	2
Renewal	50(2)	35(2)		
First renewal			K150	5
Second renewal			K250	5
Surcharge for late payment of renewal fee	50(3)	35(2)		In addition to any other fee payable in relation to this item – K120 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid

GENERAL

Copies of printed forms	3		K2 per page	
Copies of extracts and copies of specifications and Any computer print-outs (excluding blank forms)	41(2)		K30	
Application for extension of time to do any act or take any proceeding under the Act	6(5)		K150	
Filing request for alteration of name, nationality, address or address for service in respect of a patent or an application	37(1)		K50	
Filing request for recordal of change in ownership	52(1)	38(1)	K200	7
Submission of license contract for recordal	53(1)	38(3)	K200	7
Inspection of Register	9	41(1)	K50	
Certified copies of documents (per page)	41(2)		K30	
Filing request for hearing	43(2)		K1000	

SCHEDULE 2.

REQUEST FOR GRANT OF PATENT OR UTILITY MODEL CERTIFICATE

For Official Use

Date of Receipt by Registrar

Registrar's office:

APPLICATION No:

(Office's Stamp)

To: The Registrar
Intellectual Property Office of Papua New Guinea
Investment Promotion Authority
PO Box 1281, PORT MORESBY
Papua New Guinea

FILING DATE:

Applicant 's or Representative's File Reference

THE APPLICANT(S) REQUEST(S) THE GRANT OF A PATENT/UTILITY MODEL CERTIFICATE IN RESPECT OF THE FOLLOWING PARTICULARS:

I. TITLE OF INVENTION:

II. APPLICANT(S) (The data concerning each applicant must appear in this box or, if the space is insufficient, in the supplemental box.) Additional information is contained in supplemental box

Name:

Address:

Nationality:

Country of residence or principal place of business:

Telephone Number

Telegraphic Address

Telex Number

III. AGENT

The following agent has been appointed by the applicant(s) in the power of attorney accompanying this Form to be filed

} within one* month
} from the filing of this Form

Name:

Address:

Telephone Number

Telegraphic Address

Telex Number

IV. INVENTOR Additional information is contained in supplemental box.

If inventor is not the applicant:

Name:

Address:

The statement justifying the applicant's right accompanies this Form

V. DIVISIONAL APPLICATION

This application is a divisional application

The benefit of the filing date priority date of the initial application is claimed inasmuch as the subject matter of the present application is contained in the initial application identified below.

Initial Application No.:

Date of filing of application:

VI. DISCLOSURES TO BE DISREGARDED FOR PRIOR ART PURPOSES

Disclosure occurred not more than twelve months before the filing date or priority date of the present application:

} by reason or in consequence of acts of the applicant or his predecessor in title.

} by reason or in consequence of an abuse committed by a third party with regard to the rights of applicant or his predecessor in title.

Additional information is contained in a statement accompanying this Form.

VII. PRIORITY DECLARATION (if any)

The priority of (an) earlier application(s) is claimed as follows

The priority of more than one earlier application is claimed; the data are indicated in the supplemental box

* Typographical error. See Section 7(1).

Country (if the earlier application is a regional or International application, indicate the office with

Filing Date:

which and the countries for which it was filed):

Application No.:

Symbol of the International Patent Classification

Not yet allocated

The certified copy of the earlier application accompanies this Form will be furnished upon request by the Registrar, as prescribed by Section 19(5).

The English translation of the earlier application accompanies this Form will be furnished upon request, as prescribed by Section 19(6).

VIII. SUPPLEMENTAL BOX*

IX. CHECK LIST

- | | | | |
|----|-----------------------------------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------|
| A. | This application contains the following | B. | This Form, as filed, is accompanied by |
| | 1. request sheet(s) | | } separate signed power of attorney |
| | 2. description sheet(s) | | } statement justifying the applicant's right |
| | 3. claim(s)sheet(s) | | } statement that certain disclosures be disregarded |
| | 4. abstract Sheet(s) | | } priority document(s) |
| | 5. drawings.....sheet(s) | | } (certified copy of earlier application(s)) |
| | | | } English translation of earlier application(s) on which priority declaration is based |
| | | | } application fee |
| | | | } other document(s) |
| | C. Figure numberof the drawings (if any) is suggested to accompany the (specify) abstract for publication | | |

X. SIGNATURE(S)**.....

(Date)

TO BE FILLED IN BY THE REGISTRAR

1. Date of receipt of corrections or later filed documents completing the application:

2. Date fees received:

* Use this box if any of the boxes is not large enough to contain information to be furnished. Indicate the boxes continued in this box by their roman numerals and title (e.g., "II. APPLICANT(S) (continued)").

**Type name(s) under signature.

Reg.

Form 2.

**NOTICE OF OPPOSITION TO GRANT OF PATENT/UTILITY MODEL
CERTIFICATE/INDUSTRIAL DESIGN**

For Official Use

Date of Receipt by Registrar
Registrar's office:
APPLICATION No:

(Office's Stamp)

To: The Registrar
Intellectual Property Office of Papua New Guinea
Investment Promotion Authority
PO Box 1281, PORT MORESBY
Papua New Guinea

FILING DATE:

Applicant's or Representative's File Reference:

In the matter of Application No. for grant
of a Patent/Utility Model/Industrial Design* Certificate

I/We*,

of

give notice of my/our* intention to oppose the grant of the above identified patent/utility
model/Industrial Design certificate* published in the Gazette of the day of
..... No.

....., page

The grounds for this opposition are as follows:

**

Name of Agent (if any):

Address of agent:

- } Supporting evidence accompanies this Form
- } Power of Attorney accompanies this Form
- } Fees accompany this Form

Date: Signature:

(Opponent/Agent)***

* Delete whichever does not apply.

** Continue on a separate sheet, if the space provided is insufficient.

*** Delete whichever does not apply and type name under signature.

(12) PATENT/UTILITY MODEL CERTIFICATE

- (19) Papua New Guinea
- (21) Application No.:
- (22) Filing date:
- (30) Priority:
- (45) Date of publication:
- (24) Effective date of grant
- (56) Documents/References cited of prior art:
- (54) Title:
- (57) Abstract (with the most illustrative of the drawings, if there are any):
- (11) Publication No.:
- (51) Int. Cl.
- (73) Owner(s)
Name: _____
Address: _____
- (72) Inventor(s)
Name: _____
Address: _____
- (74) Agent
Name: _____
Address: _____

The description and claims are attached hereto and form an integral part hereof:

Drawings are attached hereto and form an integral part hereof.

Additional Information or Comments:

*The numbers in parentheses before the bibliographic data are Internationally Agreed Numbers for the Identification of Data (INID Codes), as defined in WIPO Standard ST.9, whereby the various bibliographic data appearing on the first page of a patent document can be identified without knowledge of the language used and the industrial property laws applied.

**Delete whichever does not apply.

CERTIFICATE OF GRANT OF PATENT/UTILITY MODEL CERTIFICATE

In accordance with Section 27(1) of the *Patents and Industrial Designs Act* 2000, it is hereby certified that a patent/utility model certificate* having the Number has been granted to:

Name:

Address:

on (date), in respect of an invention disclosed in an application for that patent having a:

Filing date:

Priority date:

being an invention for:
(title)

Dated this day of

.....
Registrar

*Delete whichever does not apply.

Date of Receipt by Registrar
Registrar's office:
APPLICATION No:

(Office's Stamp)

To: The Registrar
Intellectual Property Office of Papua New Guinea
Investment Promotion Authority
PO Box 1281, PORT MORESBY
Papua New Guinea

FILING DATE:

Applicant's or Representative's File Reference:

THE APPLICANT(S) REQUEST(S) THAT THE ACCOMPANYING INDUSTRIAL DESIGN BE REGISTERED IN RESPECT OF THE FOLLOWING PARTICULARS:

- I. APPLICANT(S) (The data concerning each applicant must appear in this box or, if the space is insufficient, in the supplemental box.) Additional information is contained in supplemental box.

Name:

Address:

Nationality:

Country of residence or principal place of business:

Telephone Number

Telegraphic Address

Telex Number

II. AGENT

The following agent has been appointed by the applicant(s) in the power of attorney accompanying this Form to be filed within one month from the filing of this Form

Name:

Address:

Telephone Number

Telegraphic Address

Telex Number

III. REPRESENTATIONS OF THE INDUSTRIAL DESIGN; SPECIMEN

This Form is accompanied by:

} four graphic representations

} four drawings or tracings

} a specimen of the industrial design

IV. PRODUCTS

The kind of products of which the industrial design is to be used is (are) the following:

V. PRIORITY CLAIM (if any)

The priority of an earlier application is claimed as follows:

Country:

Filing Date:

Application No.:

The priority of more than one earlier application is claimed;
the data are indicated in the supplemental box

The certified copy of the earlier application

} accompanies this Form; or

} will be furnished within three months of the filing of this Form

VI. FEES accompany this Form

VII. SUPPLEMENTAL BOX*

VIII. SIGNATURE (Applicant/Agent)** (Date)

(To be filed in by the Registrar)

1. Date application received:

2. Date of receipt of corrections, later filed papers completing the application:

3. Date fees received:

* Use this box if any of the boxes is not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title (e.g., "II. APPLICANT(S) (continued)").

**Type name(s) under signature and delete whichever does not apply.

CERTIFICATE OF REGISTRATION OF INDUSTRIAL DESIGN

In accordance with Section 48 of the Act, it is hereby certified that an industrial design having the registration No. has been registered in the name of

Name:

Address:

on (date)

in respect of an industrial design disclosed in an application for registration of that industrial design, having a:

Filing date:

Priority date:

being an industrial design for:
(product)

created by:

Name:

Address:

A copy of the reproduction of the industrial design accompanies this Certificate.

Dated this..... day of

.....
Registrar

RECORDING OF CHANGE IN OWNERSHIP

For Official Use:

To: The Registrar
Intellectual Property Office of Papua New Guinea
Investment Promotion Authority
P O Box 1281, PORT MORESBY
Papua New Guinea.

Received on:

1. IN THE MATTER OF:*

Patent Application No:	Filing Date:
Application for Utility Model Certificate No.:	Filing Date:
Application for Registration of Industrial Design No.:	Filing Date:
Patent No.:	Date of Grant:
Utility Model Certificate No.:	Date of Grant:
Industrial Design No.:	Date of Registration:

II. APPLICANT(S) OWNER(S)*

Name:

Address:

III. REQUEST

The Registrar is hereby requested to record the change in ownership of the above-identified.....**
The present applicant(s)/owner(s)* is/are identified above.
The new applicant(s)/new owner(s)* is/are identified below.

IV. NEW APPLICANT(S)/NEW OWNER(S)*

Name:

Address:

Address for service in Papua New Guinea

Nationality

Residence or principal place of business:

Telephone Number

Telegraphic Address

Telex Number

V. ADDITIONAL INFORMATION

The following items accompany this Form:

{ the original or a certified copy of the document evidencing the change of ownership, signed by or on behalf of the contracting parties

{ other documents evidencing the change in ownership (specify)

{ fees

{ other (specify)

VI. SIGNATURES:.....

(New Applicant/New Owner*)

(Date)

.....

(Date)

(Applicant/Owner*)

* Delete whichever does not apply and type name under signature.

** Indicate application or title concern.
