

Intellectual Property Office Uniform Rules On Appeal

OFFICE ORDER NO. 12

Series of 2002

WHEREAS, there is a need to streamline the present procedure of filing cases in the Office of the Director General and to centralize the filing of cases on appeal;

WHEREAS, there is a need to promulgate a uniform rules on appeal to expeditiously settle the cases on appeal;

NOW THEREFORE, the IPO hereby promulgates these Uniform Rules on Appeal.

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Section

1. *Title and Coverage.* -

These

Rules shall be known as the "IPO Uniform Rules on Appeal." These Rules shall cover decisions or final orders rendered by the Director of the Documentation, Information and Technology Transfer Bureau (DITTB), the Director of the Bureau of Legal Affairs (BLA), the Director of the Bureau of Patents (BOP) and the Director of the Bureau of Trademarks (BOT).

Section

2. *Appeal to*

the Director General.- The decisions or final orders of the Bureau Director shall become final and executory thirty (30) days after receipt of a copy thereof by the appellant or appellants unless, within the same period, a motion for reconsideration is filed with the Bureau Director or an appeal to the Director General has been perfected; *Provided,* that only one (1) motion for reconsideration of the decision or order of the Bureau Director shall be allowed; and, in case the motion for reconsideration is denied, the appellant or appellants has/have the balance of the period prescribed above within which to file the appeal.

Section

3. *Appeal Memorandum.*- The appeal shall be perfected by filing an appeal memorandum in three (3) legible copies with proof of service to the Bureau Director and the adverse party, if any, and upon payment of the applicable fee, Reference Code 127 or 128, provided in the IPO Fee Structure.

Section

4. *Contents of the Appeal Memorandum.*- The appeal memorandum shall:

- a) State the full name or names, capacity and address or addresses of the appellant or appellants;
- b) Indicate the material dates showing that it was filed on time;
- c) Set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Bureau Director and the reasons or arguments relied upon for the allowance of the appeal;
- d) Be accompanied by legible copies of the decision or final order of the Bureau Director and of the material portions of the record as would support the allegations of the appeal; and
- e) Contain a certification of non-forum-shopping.

Section 5.

Action on the Appeal Memorandum- The Director General shall:

- a) Order the adverse party if any, to file comment to the appeal memorandum within thirty (30) days from notice and/or order the Bureau Director to file comment and/or transmit the records within thirty (30) days from notice; or
- b) Order the appellant/appellants to complete the formal requirements mentioned in Section 4 hereof; or
- c) Dismiss the appeal for being patently without merit, Provided, that the dismissal shall be outright if the appeal is not filed within the prescribed period or for failure of the appellant to pay the required

fee within the period of appeal.

Section

6. *Clarificatory Hearing.*- The Director

General may set the case for clarificatory hearing if necessary.

Section

7. *Submission of Memoranda and Draft Decision.*-

Within five (5) days after the filing of the comments of both parties or after the clarificatory hearing, the Director General shall require the parties to submit their respective memoranda, attaching thereto draft decisions if so desired. The memoranda and draft decisions must be submitted within fifteen (15) days from notice.

Section

8. *Submission for Decision.*- The case is deemed

submitted for decision upon the filing of the memoranda and draft decisions, if any, of the parties or the filing of the last pleading required by these Rules or by the Director General.

The case is also deemed submitted for decision after the lapse of the period prescribed by these rules or by the Director General whether or not the parties submitted the last pleading required.

Section

9. *Decision.* - The decision or order of the Director General shall be final and executory fifteen (15) days after receipt of a copy thereof by the parties unless appealed to the Court of Appeals in case of appeals from decisions or final orders of the BLA, BOP and BOT, or the Secretary of the Department of Trade and Industry in case of appeals from the decisions or final orders of the DITTB. The appeal shall not stay the decision or order of the Director General unless the Court of Appeals or the Secretary of the Department of Trade and Industry directs otherwise. No motion for reconsideration of the decision or order of the Director General shall be allowed.

Section

10. *Payment of Fees on Filing of Motions.* - All motions filed by the appellant or appellants shall require the payment of the corresponding fee prescribed by the IPO.

Section

11. *Amendments.* - The following Rules and Regulations are hereby amended:

a) Part 11, Rules 1108, 1109, 1110 and 1111 of the Trademark Regulations;

b) Part 4, Rules 27, 28, and 29 of the Rules and Regulations on Voluntary Licensing;

- c) Sections 19, 20, 21 and 22 of the Rules on Dispute Settlement;
- d) Rule 9 of the Regulations on Inter Partes Proceedings;
- e) Rule 14 of the Rules and Regulations on Administrative Complaints for Violation of Laws Involving Intellectual Property Rights;
- f) Part 7, Rules 707, 708, 709 and 710 of Utility Model and Industrial Design Regulations; and
- g) Part 13, Rules 1308, 1309, 1310 and 1311 of the Rules and Regulations on Inventions.

All other rules and regulations, office orders, memoranda, circulars and parts thereof inconsistent with these Rules are also amended: Provided, That all cases on appeal to the Director General filed prior to the effectivity of these Rules, shall continue to be governed by the applicable Rules under which said appeals were filed.

Section

12. *Separability.* If any provision in these Rules or application of such provision to any circumstance is held invalid, the remainder of these Rules shall not be affected thereby.

Section

13. *Filing of Certified Copies.* The authorized Records Officer of the IPO is hereby directed to immediately file three (3) certified copies of these Rules with the UP Law Center, and one (1) certified copy each with the Office of the President, the Senate of the Philippines, the House of Representatives, the House of Representatives, the Supreme Court of the Philippines and The National Library.

Section

14. *Effectivity.* These Rules shall take effect on 15 March 2002 after publication in the IPO website and in a newspaper of general circulation not later than 28 February 2002.

Done in the City of Makati, this 8th day of February 2002.

(Sgd.)

EMMA C. FRANCISCO, Director General