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RULES AND REGULATIONS ON THE OPTIONAL REGISTRATION OF TRADEMARK AGENTS, PATENT AGENTS, PATENT AND TRADEMARK AGENTS AND RESIDENT REPRESENTATIVES

IPO OFFICE ORDER NO. 129, s. 2003, December 17, 2003

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WHEREAS, the Intellectual Property Office of the Philippines (IPOPhil) desires to grant strong intellectual property rights and for this purpose continues to pursue its program on the modernization of the IP system in the country;

Whereas, modernization encompasses development and continuing education of the country's human resource responsible for the creation, protection, utilization and enforcement of intellectual property rights;

Whereas, the successful prosecution of industrial property applications depends on regular compliance with certain formal, technical, substantive and procedural requirements requiring adequate knowledge and proficiency by agents representing or assisting applicants;

Whereas, the prosecution time and quality of industrial property rights granted depend largely on the professional ability or skill of the agents in the preparation and prosecution of their applications lodged before the Office, and, accordingly there is a need to continuously improve their capability;

Whereas, the Intellectual Property Office of the Philippines (IPOPhil), desiring to enhance the capability of person practicing before the Office, finds it necessary to establish and develop registries of agents, on optional basis, willing to comply with the educational, training and experience requirements for registration;

NOW, THEREFORE, the following rules and regulations on the optional registration of trademark agents, patent agents, patent & trademark agents and resident representatives, are hereby promulgated:

SECTION 1. Title - These rules and regulations shall be referred to as the " Patent and Trademark Agents Regulations".

SECTION 2. Voluntary Registration; Practice before the Office - Registration under these rules shall be voluntary and is not a pre-requisite to appearance as applicant, agent, representative, counsel or other capacity before the Office or any of its Bureaus; provided that, only members of the Philippine bar in good standing shall be allowed to appear as counsel in any inter partes case or any case for violation laws involving intellectual property rights filed before the Office or the Bureau of Legal Affairs.

SECTION 3. Definition of Terms - Unless otherwise specified, the following terms and acronyms shall mean or refer to:

(a) "Agent" refers to Trademark Agent, Patent Agent, Patent & Trademark Agent registered with the Office in accordance with these regulations.

(b) "Bureau" refers to any or all of the bureaus of the IPO namely:

- Bureau of Legal Affairs or BLA

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- Bureau of Patents or BOP
- Bureau of Trademarks or BOT
- Documentation, Information and Technology Transfer Bureau or DITTB
- Management Information Systems and EDP Bureau or MIS-EDPB
- Administrative, Financial and Human Resource Development Services Bureau or AFHRDSB

(c)"Director General" refers to the Director General of the IPO Phil.

(d) "Examiner" refers to an Intellectual Property Rights Specialist in the Bureau of Patents or Bureau of Trademarks

(e) "Fees" refer the appropriate fees provided for in the regulations establishing the fee structure of the Office

(f) "IP Code" means Republic Act No. 8293 or the Intellectual Property Code of the Philippines

(g) "IPOPhil" or "Office" refers to the Intellectual Property Office of the Philippines created by the IP Code

(h) "Representative" refers to Resident Representative registered with the Office in accordance with these regulations

SECTION 4. The Registries. Listings - The following registries are hereby established:

1) Trademark Agent Registry
2) Patent Agent Registry
3) Patent and Trademark Agent Registry
4) Resident Representative Registy

The registries shall have on-line or web-based, and, off-line or non-web-based, listings which shall contain the Names, Permanent Codes and other necessary data of qualified agents.

SECTION 5. Disqualification - The following shall be disqualified from registration under these rules:

a) employees of the IPOPhil;
b) former employees of the IPOPhil who are disqualified under Section 19 of the IP Code;
c) relatives of (a) and (b) to the fourth degree of consanguinity or affinity, and,
d) juridical entities where any of (a), (b), or (c) is a member, stockholder, partner or employee.

SECTION 6. General Qualification Requirements, Resident Representative - An applicant for registration under these rules whether natural or juridical must be a resident of or domiciled in the Philippines; and, must have completed at least forty hours of training organized or sponsored by the Office, provided that in the case of a juridical entity, the training requirement shall have been completed by at least one of its senior officers. Other than applicants for registration as Resident Representative, all applicants shall also comply with the Specific Requirements herein provided.

SECTION 7. Specific Requirements - An applicant must comply with the following specific requirements:

7.1 Trademark Agent:

a) If a natural person, must be a member of the Bar in good standing
b) If a juridical entity, must have at least one registered Trademark Agent as one of its senior officers.

7.2 Patent Agent:

a. If a natural person, must:

i) EDUCATION: be a professional holding a Bachelor's Degree or post-graduate degree in the following fields

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of study: Chemical, Electrical, Electronic and Communication, Mechanical, Civil, or Genetic Engineering; Biology, BioChemistry, Chemistry, MicroBiology, Molecular Biology, Medicine or any allied medical course, Pharmacy, Physics, or such other existing and emerging technical fields approved by the Director-General.

ii) TRAINING: have obtained technical training for a period of at least twelve (12) consecutive months necessarily in the area of patents which must include at least six (6) months of basic formality examination and six (6) months of basic patent search;

iii) EXPERIENCE: have experience in patent processing for at least six (6) continuous years consisting of: twelve (12) months combined advanced patent search and formality examination, one (1) year basic substantive examination and four (4) years advanced substantive examination.

The TRAINING and EXPERIENCE requirement, when applied to former employees of the IPOPhil such as patent examiners, shall be complete and shall not include the periods spent for attendance as a participant in any seminar, workshop, symposium or other training wherever held.

b) If a juridical entity, must have at least one registered Patent Agent as one of its senior officers.

7.3 Patent and Trademark Agent:

a) If a natural person, must possess all the qualifications and none of the disqualifications of both a Trademark Agent and a Patent Agent.

b) If a juridical entity, must have at least one registered Trademark Agent and at least one registered Patent Agent, or at least one registered Patent & Trademark Agent, as one of its senior officers.

SECTION 8. Use of Permanent Code - Registered Agents and Representatives shall be assigned Permanent Codes which they shall indicate in all responses, pleadings, and all other communications filed with or submitted to the Office of any of its Bureaus.

SECTION 9. Requirements for Application. Re-enlistment. Failure to Re-enlist -

9.1 After payment of the required fee, an applicant for registration shall submit to the DITTB the following:

9.1.1 Natural Persons:

a) Application Form
b) If a member of the bar, original or certified true copy of current certificate of good standing issued by the Integrated Bar of the Philippines
c) If a professional in a field of study listed herein or hereafter authorized by the Director General which requires a license, original or certified true copy of certificate of good standing issued by the Professional Regulation Commission or other body mandated to regulate the profession.
d) Certificate of completion, issued by the DITTB, of at least forty (40) hours of training organized or sponsored by the Office in the immediately preceeding two calendar years
e) If a former employee of the IPOPhil, certified service record issued by the AFHRDSB, showing the TRAINING and EXPERIENCE requirements required for Patent Agents

9.1.2 Juridical Entities: Application Form (a) indicating the name and Permanent Code of the Trademark Agent, Patent Agent, Patent and Trademark Agent, as the case may be, and (b) certifying that such Trademark Agent, Patent Agent, Patent & Trademark Agent is one of its senior officers.

9.2 Registered Agents and Representatives may re-enlist for each calendar year not later than the 20th of January by paying the required fee for the preferred listing, i.e. web-based or not web-based, and submitting the following:

9.2.1 Natural Persons

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a) Re-Enlisment Form
b) If a member of the bar, original or certified true copy of current certificate of good standing issued by the Integrated Bar of the Philippines
c) If a professional in a field of study listed herein or hereafter authorized by the Director General which requires a license, original or certified true copy of certificate of good standing issued by the Professional Regulation Commission or other body mandated to regulate the profession
d) Certificate of completion, issued by the DITTB, of at least forty (40) hours of training organized or sponsored by the Office, in the immediately preceding calendar year

9.2.2 Juridical Entities: Re-Enlistment Form (a) indicating the name and Permanent Code of the Trademark Agent, Patent Agent, Patent and Trademark Agent, as the case may be, and (b) certifying that such Trademark Agent, Patent Agent, Patent & Trademark Agent is one of its senior officers

9.2.3 If the original registration of the Agent or Representative is not for web-based listing and the re-enlistment is for web-based listing, the current fee for application for registration (web-based listing) shall be paid in addition to the re-enlisment fee (web-based listing)

9.2.4 If the original registration of the Agent or Representative is web-based and re-enlistment is not web-based, only the re-enlistment fee (not web-based listing) shall be paid.

9.2.5 There shall be no limit on the number of times that a Registered Agent or Representative may re-enlist and on the number of times that Agent or Representative may move from web-based to non-web-based listing and vice versa subject to continuous possession of all the required qualifications and none of the disqualifications and payment of all the required fees.

9.2.6 For the second and subsequent re-enlistment, only the re-enlistment fee for the preferred listing shall be paid regardless of the original listing of the Agent or Representative, subject to the provisions herein on failure to re-enlist.

9.2.7 The names of Agents and Representatives that fail to re-enlist on or before the 20th day of January shall be dropped from the listing whether web-based or non web-based effective the 21st day of January.

9.3 An Agent or Representative that fails to re-enlist for three consecutive calendar years shall be required to apply for re-registration by complying with all the requirements for application for registration. Failure to re-enlist for three consecutive calendar years following any re-registration shall be subject to the same requirement of applying for re-registration. Sections 9.2.3 and 9.2.4 shall be applied to the re-enlistment fee following any re-registration which shall be considered as the original registration

SECTION 10. Role of DITTB - The Documentation Information and Technology Transfer Bureau shall be primarily responsible for implementation of these regulations and the policies stated in the WHEREAS clauses hereof. In the peformance of this function, the DITTB shall

- maintain the Registries created under these regulations

- assign Permanent Codes to Agents and Representatives registered in accor- dance with these regulations and provide the same and all pertinent data as may be required by the MIS-EDPB for the web-based systems of the Office

- organize, sponsor, make available seminar, workshops and other opportunities for training to registered Agents and Representatives with or without cost, and may require employees from other bureaus to participate as resouce persons, speakers, experts, panelist, and the like

- design and implement such programs and projects as may be necessary to implement these regulations

SECTION 11. Role of BOP, BLA, and BOT - The Bureau of Patents, the Bureau of Legal Affairs and the Bureau of Trademarks shall organize, sponsor or make available specialist or specialized training opportunities, with or without cost, to Agents and Representatives registered in accordance with these regulations, equivalent to a minimum of thirty-two training hours each per calendar year. The BOP, BLA and the BOT may seek the assistance of the DITTB in the performance of this function and in all instances shall submit to DITTB all data on such trainings as may be needed or required to implement these regulations.

SECTION 12. Role of MIS-EDPB - The Management Information Systems-EDP Bureau shall provide the necessary automated systems for the smooth and efficient implementation of these regulations, upload in the Office website data pertaining to Agents and Representatives in the web-based listing and, where appropriate, include them in the on-line systems of the Office.

SECTION 13. Resident Agents/Representatives Registered under Previous Regulations - All resident agents/representatives registered prior to the effectivity of these regulations who have paid in full the fee for calendar year 2004 and complied with registration requirements under previous regulations shall be automatically included in the non web-based listing of Resident Representatives. However, they may apply for registration in the other registries by paying the required fee and complying with all the requirements herein provided except the forty-hour training requirement provided they apply for registration not later than 31 March 2004. Thereafter, they shall be required to submit the certificate of completion of minimum of forty hours of training organized or sponsored by the Office in the immediate past two calendar years, 2002 and 2003.

SECTION 14. Repeals - All rules and regulations and office orders inconsistent with this Regulation are hereby repealed.

SECTION 15. Separability - If any provision of these rules and regulations or application to any circumstance is held invalid, the remainder shall not be affected thereby.

SECTION 16. Furnishing of Certified Copies - Ms. Aniway E. Arbanilla, Records Officer II, is hereby directed to immediately file three (3) certified copies of this Rule with the University of the Philippines Law Center, and, one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines and the National Library not later than 23 December 2003.

Mr. Restituto E. Maligaya, Division Chief, Operations and Maintenance Division, MIS-EDP Bureau, is hereby directed to post this Office Order in the IPOPhil website not later than 23 December 2003.

SECTION 17. Effectivity - These rules and regulations shall take effect on 16 January 2004 after publication in a newspaper of general circulation not later than 31 December 2003.

Adopted: 17 Dec. 2003

(SGD.) EMMA C. FRANCISCO
Director General

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