

LETTER OF INSTRUCTIONS NO. 678, March 08, 1978

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TO:

The Secretary
Department of Trade

The Chairman
Board of Investments

The Governor
Central Bank of the Philippines

The Director-General
National Economic and Development Authority

The Executive Director
Technology Resource Center

WHEREAS, Presidential Decree No. 1263 amending portions of R.A. 165, otherwise known as the Patent Law, which was promulgated and became effective January 14, 1978 vested upon the Technology Resource Center the power to approve and register voluntary license contracts;

WHEREAS, P.D. No. 1263 is meant to amend the Patent Law and understandably refers to matters involving patents;

WHEREAS, there are at present studios currently being undertaken for a more wholistic approach in the field of transfer of technology;

WHEREAS, pending such overall approach, it seems essential to delineate the proper scope in the implementation of P.D. No. 1263;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and direct the following measures for the implementation of Presidential Decree No. 1263:

- The Technology Resource Center shall limit its evaluation of voluntary licensing agreements to those license contracts, agreements, letters of understanding, renewals thereof or any side letters, pertaining to the remittance of

royalty for the use of patents registered with the Philippine Patent Office, including secret formulae, processes, technical know-how and the like pertaining to such patents, which are entered into between residents and non-residents;

- For purposes of P.D. No. 1263, the following definitions shall be adopted:

- "Transfer of Technology" shall refer to the actual inflow from foreign sources of technical know-how; in the form of designs, formulae, blueprints, etc., which are patented in the Philippine Patent Office, including secret formulae, processes and the like pertaining to such patents.

- "Services respecting patents" shall refer to technical, marketing, engineering and such other forms of assistance rendered by a foreign firm in connection with the Philippine patented technology it has licensed a resident firm to utilize.

- "Royalty" shall refer to payments in the form of a foreign currency which are remitted abroad as compensation for the use of patents or related technical know-how and/or services made available by a non-resident, computation of which is based on the net wholesale price of the articles manufactured or value of services rendered.

- "Licensor" shall refer to the foreign firm who is supplying the technology and/or services which are covered by Philippine patents.

- "Licensee" shall refer to the resident firm who is will avail of the patented technology and/or services related to such patented technology.

- Residents" shall refer to:

(i)

Citizens of the Philippines, who are not permanent residents of other countries.

(ii)

Associations, partnerships or corporations including subsidiaries of foreign firms organized under Philippine law.

(iii)

Aliens and branches duly licensed to engage in trade or business in the Philippines.

- "Non-residents" shall refer to all persons, whether natural or juridical, who do not fall under definition of "residents".

- Within sixty (60) days from the date of signing, a contract shall be filed with the Technology Resource Center (TRC) for approval and registration. The efficacy of a contract filed, approved and registered shall retroact to the date of its execution, A contract filed with the TRC after sixty (60) days from its execution may still be approved and registered, but its efficacy shall take effect with respect to third parties only on the date of its registration.

- Any person, whether natural or juridical, resident or non-resident, who is a party to a contract or the assignee thereof may file an application with the TRC for the approval and registration of such contract.

- All existing voluntary licensing agreements involving patents, know-how and services relating to patents registered with the Central Bank of the Philippines and/or the Board of Investments shall remain valid and subsisting. Any renewals thereof which would relate to registered Philippine patent shall however be registered with the TRC.

- TRC in the processing, evaluation and registration of contracts shall not divulge any technological information concerning the process or products covered by the contracts. This prohibition shall not include information which is in the public domain pursuant to other laws or regulations.

- Provisions of Central Bank Circular No. 393 pertaining to remittances of royalties on voluntary transfer of technology arrangements shall remain valid and subsisting. However, with reference to new voluntary licensing agreements involving patents and know-how and services related to patents, said contracts shall previously be registered with TRC.

DONE in the City of Manila, this 8th day of March, in the year of Our Lord, nineteen hundred and seventy-eight

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

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