

**COMMONWEALTH OF DOMINICA**

## ARRANGEMENT OF REGULATIONS

**PART I  
PRELIMINARY**

1. Short title.
2. Interpretation.

**PART II  
FEES**

3. Fees.
4. Currency.
5. Excess fee.
6. Fee refund.
7. Refund of advance fee.
8. Payment of fees.
9. Cheques.

**PART III  
FORMS**

10. Form required.
11. Replacing documents.
12. Paper requirements.
13. Paper requirements.
14. Language of documents.

**PART IV  
TITLE OF INVENTION**

15. Title.
16. Words of title.

**PART V  
ABSTRACT OF INVENTION**

17. Abstract.
18. Content of description.
19. Completeness.
20. Additions.
21. Identification.
22. Measurements.

**PART VI  
DRAWINGS**

23. Drawing requirements.
24. Photographs.
25. No drawing in text.
26. Folds, breaks, etc.
27. Explanation of drawings.

**PART VII  
CLAIMS**

28. Claims limited in number.
29. Numbering.
30. Dependent claims.

**PART VIII  
CORRESPONDENCE**

31. Communicating with Office.
32. Mode of communication.
33. Communication from Office.
34. Multiple applicants.
35. Limited correspondents.
36. Address and presumption.
37. Address for service.
38. Patent agent.
39. Service on agent.

**PART IX  
TIME LIMITS**

- 40. Filing time.
- 41. Replacement of correspondence.
- 42. Interruptions of mail.
- 43. Fixing time limits.
- 44. Changing time limits.

**PART X  
JOINT APPLICANTS**

- 45. Procedure with regard to withdrawal.

**PART XI  
JOINT INVENTORS**

- 46. Changes of inventors' names.
- 47. Inventors not applying.

**PART XII  
CONVENTION PRIORITY**

- 48. When priority claimed.
- 49. Required information.
- 50. Divisional application.

**PART XIII  
DIVISIONAL APPLICATION**

- 51. Requirements of application.
- 52. Single inventive concept.
- 53. Improper application.
- 54. Proper division.
- 55. Accorded filing date.
- 56. Convention priority date

**PART XIV  
PATENTS AGENTS**

- 57. Licensing of patent agents.
- 58. Revocation and restoration.
- 59. Unlicensed agent.
- 60. Change of agents.

**PART XV  
CLERICAL ERRORS**

- 61. Correcting errors.

**PART XVI  
GENERAL**

- 62. Providing for deficiencies.
- 63. Unpaid annual fees.
- 64. Inquiries made to the Office.
- 65. Registrar's certificate.
- 66. Repeal.
- 67. Commencement.

SCHEDULE I  
SCHEDULE II

2008

PATENT REGULATIONS

S.R.O. 43

## COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS No. 43 OF 2008

### REGULATIONS

**MADE by the Minister under section 68 of the Patents Act, 1999 (Act No. 8 of 1999)**

(Gazetted 23<sup>rd</sup> October, 2008).

#### **PART I PRELIMINARY**

1. These Regulations may be cited as the -

Short title.

**PATENTS REGULATIONS, 2008.**

2. In these Regulations, unless the context otherwise requires -

Interpretation.

“Act” means the Patents Act, 1999;

Act No. 8 of 1999.

“applicant” means a person for whom an application is made;

“Office” means the Companies and Intellectual Property Office;

#### **PART II FEES**

3. The fees to be paid under the Act and these Regulations are those specified in Schedule I.

Fees.  
Schedule I.

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Currency.	<p><b>4.</b> Fees and any other payments shall be paid in Eastern Caribbean currency, but the equivalent amount in a foreign currency that is convertible in Dominica may be accepted.</p>
Excess fees.	<p><b>5.</b> When a fee paid by a person to the Registrar for any purpose exceeds the fee fixed by these Regulations for the purpose by more than \$10, the person who paid the fee is entitled to be refunded the amount of excess less \$10.</p>
Fee refund.	<p><b>6.</b> When a fee is paid to the Registrar by any person by mistake for an application that is withdrawn before it is given an application number, or for a service that cannot be provided, the person who paid the fee is entitled to a refund of the fee less \$25, if he claims the refund within one year of the payment of the fee.</p>
Refund of advance fee.	<p><b>7.</b> When a person pays a fee in advance for the grant of a patent, renewal of a patent or for any other purpose, he is entitled to a refund of that fee, less \$15, if he decides not to proceed with the application for the patent, renewal or other matter to the stage where the fee would be required.</p>
Payment of fees.	<p><b>8.</b> (1) Fees that are paid by cheque, bank draft or money order shall be forwarded to the Registrar and made payable to him.</p> <p>(2) Fees may be paid by cash at the office.</p>
Cheques.	<p><b>9.</b> A payment of a fee by cheque may be accepted by the Registrar as being a payment of the fee when the cheque is received by him, but if the cheque is not paid when presented to the bank on which it is drawn and not made good within such time as the Registrar may fix, the acceptance of the fee is revoked and any thing done pursuant to the payment is void and, if the Registrar considers it appropriate, shall be so recorded in the Register.</p>

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**PART III**  
**FORM**

**10.** (1) A person submitting a document to the Office for any purpose, shall use the form set out in Schedule II that is appropriate for the purpose, but the form may be modified in such manner as is necessary in the circumstances.

Form required.  
Schedule II.

(2) In submitting a document to the Office, one copy only of the document need be submitted.

**11.** If a document that is submitted to the Office differs significantly from the form in Schedule II intended to be used for the purpose of the submission, the Registrar may require that the document be replaced, within a time fixed by the Registrar, by one that conforms to the document required in Schedule II to be used for the purpose.

Replacing documents.  
Schedule II.

**12.** (1) All applications, notices, statements, papers having representations affixed, or other documents authorized or required by the Act or these Regulations to be made, left with or sent to the Registrar must be on strong, durable white paper and , except in the case of statutory documents and affidavits, must be written on one side of the paper only.

Paper requirements.

(2) Each sheet of paper, other than drawings, shall have its short sides at the top and bottom of the sheet.

(3) Each sheet of paper shall be of the same size and on A-4 paper or such other size as the Registrar may permit.

**13.** (1) The pages of documents, other than drawings, shall be numbered consecutively, preferably at the top of the page.

Page requirements.

(2) Page margins shall be at least 2 centimetres.

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(3) Except for drawings, pages must be typed or printed, preferably with one and a half spacing or double spacing.

Language of documents. **14.** An application shall be in English.

#### **PART IV TITLE OF INVENTION**

Title. **15.** The title of an invention given in an application must be short and indicate the subject matter to which the invention relates.

Words of title. **16.** The title of an invention shall not include any trade mark, coined word or personal name.

#### **PART V ABSTRACT OF INVENTION**

Abstract. **17.** The abstract of an invention shall be a brief summary of the invention being disclosed, indicating its main features and use and the manner in which the invention differs from other inventions.

Content of description. **18.** (1) The description of an invention shall state the title of the invention as it appears in the petition for the patent and shall-

(a) specify the technical field to which the invention relates;

(b) indicate the background art that, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention;

(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;



- 
- (d) briefly describe the figures in any drawings;
  - (e) set forth at length, in terms of examples when appropriate, and with reference to the drawings, if any, the best mode contemplated by the applicant for carrying out the invention; 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 this provision in respect of a description shall be followed in all descriptions of inventions 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 practical presentation.

**19.** A description in an application shall be complete and not depend on any document not available to the public when the application was filed and shall, without reference to other applications mentioned in the description, be sufficient to support the claims made in the application. Completeness.

**20.** No matter contained in a document referred to in a description in an application and not available to the public when the application was filed may be added to the description after the application is filed. Additions.

**21.** A document referred to in a description in an application shall be fully identified. Identification.

**22.** Units of weights and measures in a description shall be expressed in the metric system. Measurements.

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**PART VI  
DRAWINGS**

Drawing requirements.

**23.** All drawings in an application shall satisfy the following requirements-

- (a) the drawings shall be on white paper or other material suitable for reproduction;
- (b) the sheets of drawings shall be the same size as those used for the description in the application;
- (c) the drawings shall be prepared with durable dark lines suitable for reproduction;
- (d) the drawings shall be on a scale sufficiently large to show the invention clearly;
- (e) the drawings shall appear on only one side of the sheet;
- (f) figures in the drawings shall be numbered consecutively without regard to the number of sheets in the drawings and so far as possible the figures shall be arranged in numerical order;
- (g) the figures shall be identified and explained in the description;
- (h) figures in the drawings may be continued on subsequent sheets if necessary or several figures can appear on the same page;
- (i) the drawings shall be identified with the name of the applicant or inventor; and
- (j) the drawings shall not contain textual matter other than that needed to identify parts.

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- 24.** Photographs may be used instead of drawings in an application if the photographs clearly illustrate the invention and can be readily reproduced. Photographs.
- 25.** No drawings or sketches shall be placed in the textual part of a disclosure in an application except to show graphic chemical formulas, mathematical formulas, symbols or equations. No drawing in text.
- 26.** Drawings in an application shall be free of folds, breaks or creases which render them unsuitable for reproduction. Folds, breaks, etc.
- 27.** The description in the application shall briefly explain the drawings in the application. Explanation of drawings.

## PART VII CLAIMS

- 28.** No more claims shall be permitted in an application than are necessary to adequately protect the invention disclosed in the application. Claims limited in number.
- 29.** Claims must be numbered consecutively. Numbering.
- 30.** (1) Claims may be made dependent upon preceding claims in order to add features to what is claimed in the preceding claims. Dependent claims.
- (2) A dependent claim shall refer by number to the claim upon which it depends.
- (3) A dependent claim may refer by number to not more than three preceding claims and any claim so referred to shall not itself refer by number to more than one other claim.

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**PART VIII  
CORRESPONDENCE**

Communicating with  
Office.

**31.** (1) Applicants, correspondence related to any application, and all communications intended for the Office shall be mailed to or deposited at the Office.

(2) When communicating with the Office about an application, patent or licence, the correspondence shall identify the application, patent or licence clearly and give information such as the date of filing, kind of invention, name of applicant, patentee or licensee and registration number.

Mode of communication.

**32.** Applications and other communication with the Office shall be effected, by written correspondence and, unless the Registrar for good reason decides otherwise, regard need not be given to any other mode of communication with the Office.

Communication from  
Office.

**33.** All correspondence from the Office to an applicant shall be sent -

- (a) to the patent agent of the applicant if one has been appointed in Dominica;
- (b) if no patent agent has been appointed in Dominica to the address for service of the applicant in Dominica; or
- (c) to the applicant, if no patent agent has been appointed in Dominica to represent the applicant and the applicant has no address for service filed in the Office.

Multiple applicants.

**34.** When, in respect of an application, there is more than one applicant, correspondence shall be conducted -

- (a) with the patent agent who has been named to represent all the applicants;

- 
- (b) with the applicant resident in Dominica who has been nominated to represent all the applicants, if no patent agent has been appointed; or
- (c) with the first applicant named in the application, if there has been neither an agent appointed nor an applicant resident in Dominica nominated to represent the applicants.

**35.** The Office shall, in accordance with Regulations 33 and 34, conduct correspondence on an application with only one person.

Limited Correspondents.

**36.** A person who corresponds with the Office shall provide his full postal address, and any correspondence sent by the Office to that person at the address so provided shall be deemed to be sent on the date that the records of the Office show it to have been sent.

Address and presumption.

**37.** A patentee, licensee and applicant for a licence shall maintain an address for service in Dominica and send, with the prescribed fee, notice of that address to the Registrar for recording in the register.

Address for service.

**38.** When an application is filed for an applicant by an agent who is admitted to practise as a patent agent in Dominica, the agent is the representative of the applicant until such time as another agent is appointed.

Patent agent.

**39.** When a patent agent has been appointed to represent an applicant in respect of an application, the address of the agent is the address for service of the patentee after the patent is granted until such time as another address for service is recorded in respect of the patentee.

Service on agent.

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**PART IX  
TIME LIMITS**

Filing time.

**40.** Any correspondence with the Office that is due on any day on which the Office is closed for business shall be accepted as properly filed if it is received on the next day that the Office is open for business.

Replacement of  
correspondence.

**41.** If the Registrar is satisfied that mail to or from the Office was sent but never received, the Registrar may accept or send out replacing correspondence; and the effective date of the replacing correspondence is the date that the Registrar determines should apply.

Interruptions of mail.

**42.** Where, by evidence satisfactory to the Registrar, a person proves that he was unable to do something within the time prescribed therefore by the Act or these Regulations because of an interruption in mail service in Dominica or elsewhere, the Registrar may, before or after the expiration of the time for doing that thing, extend the time to make allowances for the period of the interruption in mail service.

Fixing time limits.

**43.** The Registrar may, in respect of an application, fix a period of time for the doing of any thing for which no time limit is otherwise fixed by the Act or these Regulations; and an application shall be deemed abandoned if, in respect of that application, the thing is not done within the time so fixed.

Changing time limits.

**44.** When, by an affidavit setting forth the relevant facts, the Registrar is satisfied that any time fixed by these Regulations for the doing of any thing should be extended in a particular case, the Registrar may, either before or after the expiration of the time, extend it for such period as he thinks suitable in the circumstances of the case.

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**PART X  
JOINT APPLICANTS**

**45.** When an application that is filed by joint applicants is being proceeded with by one of the joint applicants, it shall not be withdrawn under section 17 (9) of the Act without the written permission of all the other joint applicants; and, if the application is in any danger, under section 28 (5) of the Act, of being deemed to have been withdrawn, the Registrar shall notify all joint applicants at the latest addresses provide him for the joint applicants.

Procedure with regard to withdrawal.

**PART XI  
JOINT INVENTORS**

**46.** When, after an application has been filed, it appears that the names of one or more inventors were improperly included in or omitted from the application, then, if the Registrar is satisfied, by an affidavit setting out all the relevant facts, that a correction should be made, the Registrar may delete or add, as the case requires, the names of those other inventors.

Changes of inventors names.

**47.** When an invention is made by several inventors, and one or more of them refused to make an application in respect of the invention, or the whereabouts of one or more of the inventors cannot be ascertained after a diligent inquiry, the other inventors may make application in respect of that invention; and, if the Registrar is satisfied, by an affidavit setting out the relevant facts, that the inventors missing from the application either refuse to apply or cannot be located, the inventors making the application are entitled to be granted a patent if there is compliance with all other requirements of the Act and these Regulations.

Inventors not applying.

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**PART XII  
CONVENTION PRIORITY**

- When priority claimed. **48.** If a convention priority is requested in respect of an application, that is to say, a claim to priority under section 21(1) of the Act, it may be claimed either at the time of filing the application or at some later time before the grant of patent, but not thereafter.
- Required information. **49.** When a convention priority is requested for an application, the applicant must state when and where an application for the invention was first filed, and what its application number was.
- Divisional application. **50.** If a convention priority is sought for a divisional application, it shall be requested separately from any request made with respect to the original application.

**PART XIII  
DIVISIONAL APPLICATIONS**

- Requirements of application. **51.** When a divisional application is filed, the petition shall identify the original application by its application number and date of filing and shall identify any intermediate applications upon which divisional status is based.
- Single inventive concept. **52.** Claims for a process, the product of that process, apparatus and means for carrying out the process, and the process of using the product shall be construed as relating to a single inventive concept.
- Improper application. **53.** No divisional application may be filed after a patent has been granted in respect of the immediately preceding application upon which the divisional application is based.
- Proper division. **54.** A properly filed divisional application may itself be divided after the original application to which it relates has been issued for patent, if the division is made while the divisional application is still pending.



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**55.** In filing a divisional application, the applicant may request that the application be accorded, as its filing date, the date of any of the preceding applications from which the divisional application is derived, if the divisional application does not go beyond the disclosure contained in the preceding applications, otherwise its filing date shall be the date on which it was actually filed.

Accorded filing date.

**56.** When a divisional application is to be accorded the filing date of an earlier application, the applicant may request that there be accorded to it any convention priorities, within the meaning of regulation 48, applicable to the earlier application and relating to the invention claimed in the divisional application.

Convention priority date.

#### **PART XIV PATENT AGENTS**

**57.** (1) The Registrar may licence qualified persons who are admitted as attorneys-at-law in Dominica as patent agents for transacting business under the Act, and he shall record the names of licensed patent agents in the register.

Licensing of patents agents.

(2) A person whose application for a licence as a patent agent is approved shall pay an annual fee.

**58.** (1) Upon proof to the Registrar's satisfaction of the malfeasance or incapacity of a licensed patent agent, or on the non-payment of the annual fee for licencing a patent agent, the Registrar shall revoke the licence of the agent.

Revocation and Restoration.

(2) After the licence of a patent agent has been revoked, the Registrar may restore the licence if he is satisfied that the reasons for revoking the licence in the first instance have been removed.

**59.** The Registrar shall have no dealings in respect of matters under the Act with an agent who is not licenced to act as a patent agent.

Unlicensed Agent.

Change of agents.

**60.** When an applicant revokes the appointment of an agent and, when necessary, replaces him with another agent, the applicant shall notify the Registrar of the change of agents and send the latest address of his agent to the Registrar.

#### **PART XV CLERICAL ERRORS**

Correcting errors.

**61.** A document relating to an application or patent may be corrected if the Registrar is satisfied that the document contains an error of a clerical nature and that its correction would involve no change of substance in the application or patent.

#### **PART XVI GENERAL**

Providing for deficiencies.

**62.** Where no provision is made in the Act or the regulation in respect of any matter arising in the administration of the Act, the Registrar may give directions in respect of the matter as he considers necessary.

Unpaid annual fees.

**63.** When any annual fee due on a patent has not been paid, the Registrar may inform a licensee of the patent of that fact, if the licensee has been recorded as such in the office, but the Registrar is not obligated to do so.

Inquiries made to the Office.

**64.** The Registrar may acknowledge inquiries made to the Office, but the Registrar need not furnish any applicant or other person with information that would require a search of the public records of the Office, or to provide advice on matters concerning the interpretation of the Act or regulation, or concerning other questions of law.

Registrar's certificate.

**65.** (1) Subject to regulation 64, the Registrar may give a certificate regarding any entry, matter or thing that he is authorized or required by the Act or these regulations to make or do.

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(2) A person who can show an interest in an entry, matter or thing for which he requires a certificate may, by an application in Form 8, request a certificate from the Registrar, and the applicant need not disclose his interest unless required by the Registrar to do so.

Form 8.

**66.** All Orders, Rules or Regulations made under the former Acts referred to under section 71(1), of the Act are hereby repealed.

Repeal.

**67.** These Regulations shall come into force on the 23<sup>rd</sup> day of October, 2008.

Commencement.

Regulation 3.

**SCHEDULE I****FEES**

	EC\$
	Fees
For filing an application for a patent	500.00
For the grant of a patent	375.00
For publication of a grant of patent (according to advertisement rates)	-
An application for a change to application for registration of a patent	100.00
For renewal of a patent	
before the 2 <sup>nd</sup> anniversary of filing ....	200.00
before the 3 <sup>rd</sup> anniversary of filing ....	300.00
before the 4 <sup>th</sup> anniversary of filing	400.00
before the 5 <sup>th</sup> anniversary of filing	500.00
before the 6 <sup>th</sup> anniversary of filing	600.00
before the 7 <sup>th</sup> anniversary of filing	700.00
before the 8 <sup>th</sup> anniversary of filing	800.00
before the 9 <sup>th</sup> anniversary of filing	900.00
before the 10 <sup>th</sup> anniversary of filing	1000.00
before the 11 <sup>th</sup> anniversary of filing	1100.00
before the 12 <sup>th</sup> anniversary of filing	1200.00
before the 13 <sup>th</sup> anniversary of filing	1300.00
before the 14 <sup>th</sup> anniversary of filing	1400.00
before the 15 <sup>th</sup> anniversary of filing	1500.00
before the 16 <sup>th</sup> anniversary of filing	1600.00
before the 17 <sup>th</sup> anniversary of filing	1700.00
before the 18 <sup>th</sup> anniversary of filing	1800.00
before the 19 <sup>th</sup> anniversary of filing	1900.00

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	EC Fees
For making late payment of the annual fee	100.00
For preparation of an abstract	100.00
For recognizing the transfer of an application for a patent	25.00
For a registration of a contract and publication of reference to contract in Journal	200.00
For transfer of a voluntary licence	200.00
For requesting a non-voluntary licence	1000.00
For examining or making extracts or copies of records in the register	5.00 (per page or any part thereof)
For a copy of a patent	10.00
For a certified copy of a patent or any other document	25.00
For a statutory licence	200.00
For the transfer of a statutory licence	200.00
For requesting that the Registrar extend the time limit for doing any thing	50.00
For recording an address for service for a patent, or a change of address for service of a patent or a licence	50.00
For surrender of a patent	50.00
For transferring registration of a patent	50.00
On application for approval of the transfer of a patent	50.00
For filing an application for utility model certificates	300.00
For conversion of applications	200.00
For amendment of the text or drawing of the patent	100.00
For filing international application with receiving office	I. B.
For patent agent licence	..... a year

N. B: I. B. - refers to the International Bureau of WIPO.

Regulation 10.

**SCHEDULE II**

**FORM 1**

**PETITION FOR PATENT**

The grant of a patent is requested for the following invention:

TITLE OF INVENTION  
APPLICANT (S)  
(name(s) & address(es) )

STATEMENT OF OWNERSHIP  
(may be filed separately)

INVENTOR(S)  
(name(s) & address(es) )

AGENT  
(if any - name & adress)

PRIORITY - (Identify foreign application if any of which priority is claimed)

DIVISION - This application is a division of Application Number .. .....  
(identify originating application) filed .. .....

*SIGNATURE:* .....

Dated: .....

At: .....

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**FORM 2**

**APPLICATION FOR PATENT**

(Documentation Required)

PETITION (Use a separate sheet, see Form 1)

ABSTRACT

(section 17 (1) (e) )

DESCRIPTION

(section 17 (1) (b) )

DRAWINGS

(section 17 (1) (d) )

CLAIMS

(section 17 (1) (c) )

FEES

(Regulation 3)  
see Schedule I

Patent No.

Date:

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**FORM 3****CERTIFICATE OF GRANT OF A PATENT****NO:.....**

**WHEREAS,** <sup>1</sup> (hereinafter called "the Applicant"), has filed and presented to the Registrar of Companies and Intellectual Property of Dominica, through its Agent <sup>2</sup>, a petition praying for the grant in in Dominica of a patent for an invention for <sup>3</sup> which invention is new, involves an inventive step and is capable of industrial application, as more fully set out in the abstract, claims and drawings which have been filed with the **Registrar of Companies and Intellectual Property**;

**AND WHEREAS,** after carrying out an examination as provided in section 26 of the Patents Act, it has been determined that the applicant has complied with the provisions of the Patents Act and Regulations made thereunder;

**NOW THEREFORE,** these present letters patent grant unto the Applicant whose ownership thereof is shown in the documents attached hereto, and to any subsequent legal representatives of the Applicant, all the benefits of the Patents Act for a period of twenty years from the <sup>4</sup>, subject to the conditions contained in the Patents Act and Regulations made thereunder .

**IN TESTIMONY WHEREOF** this document bears the seal of the Companies and Intellectual Property Office affixed to it at Roseau, Dominica.

**GRANTED** this <sup>5</sup>

*Registrar of Companies and Intellectual Property*

- 
1. Name and address of applicant
  2. Name and address of agent
  3. Title of Patent
  4. Date of Grant
  5. Date of Grant



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**FORM 4**
**APPLICATION FOR REGISTRATION OF A  
LICENCE-CONTRACT**

I/WE<sup>1</sup> .....

.....

being the registered owner (s) of Patent No. <sup>2</sup> ..... hereby apply  
to register a licence-contract, (a copy of which is attached) pursuant to section  
37 (2) of the Act.

Jointly submitted by the parties to the said licence-contract, being

..... of ..... and

..... of ..... and

Dated this ..... day of ..... 20 .....

*The Registrar  
Companies and Intellectual Property Office*

1. Names of the parties to the licence-contract.

2. Identify Patent

FORM 5

RECEIPT OF APPLICATION FOR REGISTRATION

Licence-Contract

BY THIS DOCUMENT it is hereby acknowledged that an application for registration of a licence-contract identified below was made under section 37(2) of the Patents Act No. 8 of 1999 of the Laws of Dominica, and that the prescribed fee has been paid.

Date of application for registration:

Filed by:

Respecting Patent Application No:

For an invention entitled:

Filed by:

Recorded in the register on:

or

Patent No:

For an invention entitled:

Granted on:

Signed and sealed at .....  
this ..... day of .....  
in the year .....

*Registrar*  
*Companies and Intellectual Property Office*

FORM 6

CERTIFICATE OF REGISTRATION

Licence - Contract

BY THIS DOCUMENT it is hereby certified that the licence-contract identified below has been registered under section 37 (2) of the Patents Act No. 8 of 1999 of the Laws of Dominica.

The licence-contract relates to:

Patent Application No.

For an invention entitled:

Filed by:

Recorded in the register on:

or Patent No:

For an invention entitled:

Granted on:

To:

Date of Registration of Licence

Signed and sealed at .....

this ..... day of .....

in the year .....

*Registrar*

*Companies and Intellectual Property Office*

FORM 7

SURRENDER OF A PATENT

IN ACCORDANCE with section 29 of the Patents Act No. 8 of 1999 of the Laws of Dominica, I/We\*, the undersigned owner (s) of the patent identified below do hereby and to extent stated surrender our rights in the said patent.

Patent No. ....  
Granted .....  
Title of invention .....

\*(a) I/WE surrender the whole patent

\*(b) I/WE surrender claim (s)

\*(a) I/WE further declare that there have been no non-voluntary licences granted for said patent

\*(b) A non-voluntary licence has been granted in respect of the patent, but all the licencess agree to this surrender, as is evident from the written consents attached hereto.

Signed at .....  
this ..... day of .....  
In the year .....

.....  
*Signature of patentee or agent*

\* Delete where applicable

FORM 8

REQUEST FOR CERTIFICATE OF THE REGISTRAR IN  
RELATION TO AN ENTRY, MATTER OR THING

IN THE MATTER OF THE PATENTS ACT, NO. 8 OF 1999  
OF THE LAWS OF DOMINICA

I/WE <sup>1</sup> .....

.....

hereby request the Registrar to furnish me (us) with <sup>2</sup>

.....

.....

Dated this ..... day of ....., 20.....

<sup>3</sup> .....

<sup>4</sup> .....

TO: Registrar  
Companies and Intellectual Property Office  
Roseau

Note:

- 1. These words may be altered to suit other circumstances.
- 2. Here set out the particulars that the Registrar is requested to certify.
- 3. Signature.
- 4. Address.

Made this 17<sup>th</sup> day of October, 2008.

**IAN DOUGLAS**  
*Minister for Legal Affairs*

**DOMINICA**

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