

**INDUSTRIAL PROPERTY**

**CHAPTER 95:03**

**Act  
12 of 1989**

**Current Authorised Pages**

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**Note  
on  
Subsidiary Legislation**

*This Chapter contains no subsidiary legislation.*

**Note  
on  
Repeal**

This Act repealed the Registration of United Kingdom Patents Act, 1925, the United Kingdom Designs (Protection) Act, 1936 and the Trade Marks Act, 1916, with savings.

## CHAPTER 95:03

## INDUSTRIAL PROPERTY

*Arrangement of Sections**Section*

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SCHEDULE — PROTOCOL ON PATENTS AND INDUSTRIAL DESIGNS  
WITHIN THE FRAMEWORK OF THE AFRICAN  
REGIONAL INDUSTRIAL PROPERTY ORGANIZATION  
(ARIPO).

CHAPTER 95:03

INDUSTRIAL PROPERTY

**An Act to make provision for the protection of inventions, utility models and industrial designs and to make provision for other matters connected therewith.** 12 of 1989.

[BY ORDER]

1. This Act may be cited as the Industrial Property Act, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title  
and  
commence-  
ment.

PART I.—PRELIMINARY

2. In this Act, unless the context otherwise requires—
- “ARIPO” means the African Regional Industrial Property Organisation;
- “ARIPO Protocol” means the Protocol on Patents and Industrial Designs Within the Framework of ARIPO;
- “court” means the court referred to in section 42 of this Act;
- “International Classification” means the classification according to the Nice Agreement Concerning the International Classification of Goods and Services for the purposes of the Registration of Marks, of June 15, 1957, as last revised;
- “Minister” means the Minister responsible for the administration of this Act;
- “priority date” means the date of the earlier application that serves as the basis for the right of priority;

Interpreta-  
tion.

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“register” means a register referred to in subsection (1) of section 39 of this Act;

“regulations” mean the regulations made under section 45 of this Act.

## PART II.—PATENTS

Definition of  
“patent”.

3. (1) For the purposes of this Act, a “patent” means the title granted to protect an invention.

Definition of  
“invention”.

(2) (a) For the purposes of this Act, “invention” means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology.

(b) An invention may be, or may relate to, a product or a process.

Matters  
excluded  
from patent  
protection.

(3) The following, even if they are inventions within the meaning of subsection (2) of this section, shall be excluded from patent protection:

- (i) discoveries, scientific theories and mathematical methods;
- (ii) plant or animal varieties or essentially biological processes for the production of plants or animals, other than microbiological processes and the products of such processes;
- (iii) schemes, rules or methods for doing business, performing purely mental acts or playing games;
- (iv) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practised on the human or animal body, and this provision shall not apply to products for use in any of those methods.

Patentable  
invention.

4. (1) An invention is patentable if it is new, involves an inventive step, and is industrially applicable.

(2) (a) An invention is new if it is not anticipated by prior art.

(b) Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or, in The Gambia, by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

(c) For the purposes of paragraph (b) of this subsection, disclosure to the public of the invention shall not be taken into consideration if it occurred within six months preceding the filing date or, where

applicable, the priority date, of the application, and if it was by reason, or in consequence, of acts committed by the applicant or his predecessor in title or of an abuse committed by a third party with regard to the applicant or his predecessor in title.

(3) An invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the application claiming the invention, it would not have been obvious to a person having ordinary skill in the art.

(4) An invention shall be considered industrially applicable if it can be made or used in any kind of industry. In this subsection, "industry" includes handicraft, agriculture,

(5) Inventions that are contrary to public order or morality shall not be patentable.

5. (1) The right to a patent shall belong to the inventor.

Right to patent and the naming of inventor.

(2) If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly.

(3) If and to the extent to which two or more persons have made the same invention independently of each other, the person whose application has the earliest filing date or, if priority is claimed, the earliest validly claimed priority date and leads to the grant of a patent shall have the right to the patent.

(4) The right to a patent may be assigned, or may be transferred by succession.

(5) Where an invention is made in execution of an employment contract, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer.

(6) The inventor shall be named as such in the patent, unless in a specially written declaration addressed to the Registrar General he indicates that he wishes not to be named. Any promise or undertaking by the inventor made to any person to the effect that he will make such a declaration shall be without legal effect.

6. (1) The application for a patent shall be filed with the Registrar General and shall contain a request, a description, one or more claims, one or more drawings (where required), and an abstract and shall be accompanied by the payment of the prescribed fee.

Application for patent.

(2) (a) The request shall contain a petition to the effect that a

patent be granted, the name of and other prescribed data concerning the applicant, the inventor and the agent, if any, and the title of the invention.

(b) Where the applicant is not the inventor, the request shall be accompanied by a statement justifying the applicant's right to the patent.

(3) The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be evaluated, to be carried out by a person having ordinary skill in the art, and shall, in particular, indicate at least one mode known to the applicant for carrying out the invention.

(4) (a) The claim or claims shall determine the scope of the protection. The description and the drawings may be used to interpret the claims.

(b) Claims shall be clear and concise and shall be fully supported by the description.

(5) Drawings shall be required when they are necessary for the understanding of the invention.

(6) The abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for the purpose of interpreting the scope of the protection.

(7) The applicant may withdraw the application at any time during its pendency.

Unity of invention, amendment and division of application.

7. (1) The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) The applicant may amend the application, provided that the amendment shall not go beyond the disclosure in the initial application.

(3) (a) The applicant may divide the application into two or more applications ("divisional applications"), provided that each divisional application shall not go beyond the disclosure in the initial application.

(b) Each divisional application shall be entitled to the filing date and, where applicable, the priority date and, the initial application.

Right of priority.

8. (1) The application may contain a declaration claiming the priority, of one or more earlier national, regional or international



applications filed by the applicant or his predecessor in title in or for any State party to a Convention to which The Gambia is a party.

(2) Where the application contains a declaration under subsection (1) of this section, the Registrar General may require that the applicant furnish, within the prescribed time limit, a copy of the earlier application certified as correct by the office with which it was filed.

(3) The effect of the said declaration shall be as provided by any such Convention referred to under subsection (1) of this section.

(4) If the Registrar General finds that the requirements under this section and the regulations pertaining thereto have not been fulfilled, the said declaration shall be considered not to have been made.

9. (1) The applicant shall, at the request of the Registrar General, furnish him with the date and number of any application for a patent or other title of protection filed by him abroad (hereinafter referred to as a "foreign application") relating to the same or essentially the same invention as that claimed in the application filed with the office of the Registrar General.

Information concerning corresponding foreign applications for patents or other titles of protection.

(2) (a) The applicant shall, at the request of the Registrar General, furnish him with the following documents relating to one of the foreign applications referred to in subsection (1) of this section:

- (i) a copy of any communication received by the applicant concerning the results of any search or examination carried out in respect of the foreign application;
- (ii) a copy of the patent or other title of protection granted on the basis of the foreign application;
- (iii) a copy of any final decision rejecting the foreign application or refusing the grant requested in the foreign application.

(b) The applicant shall, at the request of the Registrar General, furnish him with a copy of any final decision invalidating the patent or other title of protection granted on the basis of the foreign application referred to in paragraph (a) of this subsection.

10. (1) (a) The Registrar General shall accord as the filing date, the date of receipt of the application, provided that, at the time of receipt, the application fee is paid and the application contains—

Filing date; examination.

- (i) the name of the applicant;

(ii) a part which on the face of it appears to be a description; and

(iii) a part which on the face of it appears to be a claim or claims.

(b) If the Registrar General finds that the application did not, at the time of receipt, fulfil the requirements referred to in paragraph (a) of this subsection, he shall invite the applicant to file the required correction and shall accord as the filing date, the date of receipt of the required correction, but if no correction is made, the application shall be treated as if it had not been filed.

(2) (a) Where the application refers to drawings which in fact are not included in the application, the Registrar General shall invite the applicant to furnish the missing drawings and if the applicant complies with the said invitation, the Registrar General shall accord as the filing date, the date of receipt of the missing drawings.

(b) If the applicant fails to furnish the missing drawings, the Registrar General shall accord as the filing date, the date of receipt of the application and shall treat any reference to the said drawings as non-existent.

(3) After according a filing date, the Registrar General shall examine whether the application complies with the requirements of subsections (1) and (2) of section 6 of this Act and the regulations pertaining thereto and those requirements of this Act and the regulations which are designated as formal requirements for the purposes of this Act.

(4) Where the Registrar General is of the opinion that the application complies with the requirements referred to in subsection (3) of this section, the Registrar General shall cause the application to be examined as to whether the requirements of sections 3(2) and (3), 4, 5, 6(3), (4) and (5), 7 and 9 of this Act, and the regulations pertaining thereto are fulfilled.

(5) The regulations may prescribe that, in respect of some categories of inventions, the examination shall not cover the requirements of novelty and inventive step under subsections (2) and (3) of section 4 of this Act.

Grant of  
patent.

11. (1) Where the Registrar General finds that, subject to subsection (5) of section 10 of this Act, the conditions referred to in subsections (3) and (4) of section 10 of this Act are fulfilled, he shall grant the patent. Otherwise, he shall refuse the application and notify the applicant of that decision.

- (2) When he grants a patent, the Registrar General shall—
- (i) publish a reference to the grant of the patent;
  - (ii) issue to the applicant a certificate of the grant of the patent and a copy of the patent;
  - (iii) record the patent;
  - (iv) make available copies of the patent to the public, on payment of the prescribed fee.

**12.** (1) The exploitation of the patented invention in The Gambia by persons other than the owner of the patent shall require the latter's agreement.

Rights conferred by patent; ARIPO Protocol patents; and exploitation by Government or person thereby authorised.

(2) For the purposes of this Act, "exploitation" of a patented invention means any of the following acts:

- (a) when the patent has been granted in respect of a product—
  - (i) making, importing, offering for sale, selling and using the product;
  - (ii) stocking such product for the purposes of offering for sale, selling or using;
- (b) when the patent has been granted in respect of a process—
  - (i) using the process;
  - (ii) doing any of the acts referred to in paragraph (a) of this subsection in respect of a product obtained directly by means of the process.

(3) The owner of the patent shall, in addition to any other rights, remedies or actions available to him, have the right, subject to subsections (4) and (6) of this section and section 14 of this Act, to institute court proceedings against any person who infringes the patent by performing, without his agreement, any of the acts referred to in subsection (2) of this section, or who performs acts which make it likely that infringement will occur.

- (4) The rights under the patent shall not extend—
- (a) to acts in respect of articles which have been put on the market in The Gambia by the owner of the patent or with his consent; or
  - (b) to the use of articles on aircrafts, land vehicles or vessels

of other countries which temporarily or accidentally enter the airspace, territory or waters of The Gambia.

Schedule.

(5) A patent in respect of which The Gambia is a designated State, granted by ARIPO by virtue of the ARIPO Protocol set out in the Schedule to this Act, shall have the same effect in The Gambia as a patent granted under this Act unless the Registrar General has communicated to ARIPO, in respect of the application therefor, a decision in accordance with the provisions of the Protocol, that if a patent is granted by ARIPO, that patent shall have no effect in The Gambia.

(6) Where the public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy so requires, the Minister may decide that, even without the agreement of the owner of the patent, a Government agency or a third person designated by the Minister may exploit the invention, subject to the payment of an equitable compensation to the said owner therefor.

(7) Any owner who is dissatisfied with the amount of compensation paid may appeal to the Supreme Court.

Duration of  
patent and  
annual fees.

13. (1) Subject to the provisions of subsection (2) of this section, a patent shall expire fifteen years after the date of the application for the patent.

“(2) (a) Upon request, made not more than twelve months and not less than one month before the expiration of the period provided for in subsection (1) of this section, and on payment of the prescribed fee, the Registrar General shall extend the duration of that patent for a period of five years, provided that the person making the request proves, to the satisfaction of the Registrar General, either that the invention is being worked sufficiently in The Gambia at the date of the request or that there are circumstances (other than importation) which justify the failure so to work the invention.”

(b) The Registrar General shall decide on the said request within a period of six months from the date the request is received and he shall, in writing, notify the person making the request of the decision and in the case of a rejection, state the reasons therefor.

(c) The patent shall be deemed to have been extended as long as the Registrar General makes no decision and shall be deemed to have been extended for a period of five years if the Registrar General makes no decision within the prescribed six-month period.

(d) For the purposes of this Act, the invention is worked if the patented product is made or the patented process is used, as the case may be.

(3) (a) In order to maintain the patent or patent application, the annual fee shall be paid in advance to the Registrar General for each year, starting one year after the filing date of the application for grant of the patent.

(b) A grace period of six months shall be allowed for the late payment of the annual fee, on payment of the prescribed surcharge.

(c) If the annual fee is not paid in accordance with the provisions of this subsection, the patent application shall be deemed to have been withdrawn or the patent shall lapse.

14. (1) On the request of any person who proves his ability to work a patented invention in The Gambia, made to the Registrar General after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last, the Registrar General may, with the approval of the Minister, grant a non-voluntary licence if the patented invention is not worked or is insufficiently worked in The Gambia.

Non-voluntary licence.

(2) Notwithstanding the provisions of subsection (1) of this section, a non-voluntary licence shall not be granted if the owner of the patent satisfies the Registrar General that circumstances exist (other than importation) which justify the non-working or insufficient working of the patented invention in The Gambia.

(3) The beneficiary of the non-voluntary licence shall have the right to exploit (other than to import) the patented invention in The Gambia according to the terms set down in the decision granting the licence, shall commence the working of the patented invention in The Gambia within the time limit fixed in the said decision and thereafter, shall work the patented invention sufficiently in The Gambia, subject to the payment of an equitable remuneration therefor as determined in the said decision.

(4) The grant of the non-voluntary licence shall not exclude—

(a) the conclusion of licence contracts by the owner of the patent or the grant of other non-voluntary licences; or

(b) the exploitation of the patented invention under subsection (6) of section 12 of this Act.

Invalidation  
of patent.

**15. (1)** Any interested person may request the court to invalidate a patent.

(2) The court shall invalidate the patent if the person requesting the invalidation proves that any of the requirements of section 3, 4 and 6(3), (4) and (5) of this Act and the regulations pertaining thereto is not fulfilled or if the owner of the patent is not the inventor or his successor in title.

(3) Any invalidated patent or claim or part of a claim, shall be regarded as null and void from the date of the grant of the patent.

(4) The final decision of the court shall be notified to the Registrar General who shall record it and publish a reference thereto as soon as possible.

### PART III.—UTILITY MODEL CERTIFICATES

Applicability  
of provisions  
relating to  
patents.

**16. (1)** Subject to the provisions of section 17 of this Act, the provisions of Part II of this Act shall apply *mutatis mutandis*, to utility model certificates or applications therefor, as the case may be.

(2) Where the right to a patent conflicts with the right to a utility model certificate in the case referred to in subsection (3) of section 5 of this Act, the said provision shall apply as if the word "patent" were replaced by the words "patent or utility model certificate".

Special  
provisions  
relating to  
utility model  
certificates.

**17. (1) (a)** An invention qualifies for a utility model certificate if it is new and industrially applicable.

(b) The provisions of subsections (1) and (3) of section 4 of this Act shall not apply in the case of inventions for which utility model certificates are requested.

(2) The provisions of subsection (4) of section 10 of this Act shall not apply in the case of applications for utility model certificates.

(3) (a) A utility model certificate shall expire, without any possibility of renewal, at the end of the seventh year after the date of the filing of the application.

(b) With the exception of subsection (3) thereof, the provisions of section 13 of this Act shall not apply in the case of utility model certificates.

(4) (a) In proceedings under section 15 of this Act, the court shall invalidate the utility model certificate on the following grounds:

- (i) that the claimed invention did not qualify for a utility model certificate having regard to the provisions of paragraph (a) of subsection (1) of this section and of subsections (2), (4) and (5) of section 4 of this Act;
- (ii) that the description and the claims do not comply with the requirements prescribed by subsections (3) and (4) of section 6 of this Act and the regulations pertaining thereto;
- (iii) that any drawing which is necessary for the understanding of the invention has not been furnished;
- (iv) that the owner of the utility model certificate is not the inventor or his successor in title.

(b) The provisions of subsection (2) of section 15 of this Act shall not apply in the case of utility model certificates.

18. (1) (a) At any time before the grant or refusal of a patent, an applicant for a patent may, upon payment of the prescribed fee, convert his application into an application for a utility model certificate, which shall be accorded the filing date of the initial application.

Conversion of patent applications or applications for utility model certificates.

(b) At any time before the grant or refusal of a utility model certificate, an applicant for a utility model certificate may, upon payment of the prescribed fee, convert his application into a patent application, which shall be accorded the filing date of the initial application.

(2) An application may not be converted under the provisions of subsection (1) of this section more than once.

#### PART IV.—INDUSTRIAL DESIGNS

19. (1) For the purposes of this Act, any composition of lines or colours or any three dimensional form, whether or not associated with lines or colours, is deemed to be an industrial design, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.

Definition of "industrial design".

(2) The protection under this Act does not extend to anything in an industrial design which serves solely to obtain a technical result.

Registrable industrial design.

20. (1) An industrial design is registrable if it is new.

(2) An industrial design shall be new if it has not been disclosed to the public, anywhere in The Gambia, by description, by use or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration. The provisions of subsection (2) (c) of section 4 of this Act shall apply *mutatis mutandis* to the disclosure of an industrial design.

(3) Industrial designs that are contrary to public order or morality shall not be registrable.

Right to registration of industrial design and the naming of creator.

21. The provisions of section 5 of this Act shall apply *mutatis mutandis* to an industrial design.

Application for registration of industrial design.

22. (1) The application for registration of an industrial design shall be filed with the Registrar General and shall contain a request, drawings, photographs or other adequate graphic representations of the article embodying the industrial design and an indication of the kind of products for which the industrial design is to be used, and may be accompanied by a specimen of the article embodying the industrial design and shall be accompanied by the payment of the prescribed application fee.

(2) Where the applicant is not the creator, the request shall be accompanied by a statement justifying the applicant's right to the registration of the industrial design.

(3) The provisions of section 8 of this Act shall apply *mutatis mutandis* to an application for registration of an industrial design.

(4) The applicant may withdraw the application at any time during its pendency.

Examination and registration of industrial design.

23. (1) The Registrar General shall accord as the filing date, the date of receipt of the application, provided that, at the time of receipt, the application fee is paid and the application contains the name of the applicant and a pictorial representation of the article embodying the industrial design or a specimen the

(2) The provisions of paragraph (b) of subsection (1) of section 10 of this Act shall apply *mutatis mutandis* to the application for registration of an industrial design.

(3) (a) After according a filing date, the Registrar General shall



examine whether the application complies with the requirements of subsections (1) and (2) of section 22 of this Act and the regulations pertaining thereto.

(b) The Registrar General shall examine whether the industrial design complies with the requirements of section 19 and subsection (3) of section 20, of this Act, and the regulations pertaining thereto.

(4) Where the Registrar General finds that the conditions referred to in subsection (3) of this section are fulfilled, he shall register the industrial design, publish a reference to the registration and issue to the applicant a certificate of registration of the industrial design. Otherwise he shall refuse the application.

24. (1) The exploitation of a registered industrial design in The Gambia by persons other than the registered owner shall require the agreement of the latter.

Rights conferred by registration; duration; renewal  
ARIPO Protocol industrial designs.

(2) For the purposes of this Act, "exploitation" of a registered industrial design means the making, selling or importation of articles incorporating the industrial design.

(3) The provisions of paragraph (a) of subsection (4) of section 12 of this Act shall apply *mutatis mutandis* to a registered industrial design.

(4) The registered owner of an industrial design shall, in addition to any other rights, remedies or actions available to him, have the right to institute court proceedings against any person who infringes the industrial design by performing, without his agreement, any of the acts referred to in subsection (2) of this section, or who performs acts which make it likely that infringement will occur.

(5) (a) The registration of an industrial design shall be valid for a period of five years from the filing date of the application for registration; the registration may be renewed for two further consecutive periods of five years upon the payment of the prescribed fee.

(b) A grace period of six months shall be allowed for the late payment of the renewal fee, on payment of the prescribed surcharge.

(6) An industrial design in respect of which The Gambia is a designated State registered by ARIPO by virtue of the ARIPO Protocol set out in the Schedule to this Act, shall have the same

Schedule.

effect in The Gambia as an industrial design registered under this Act unless the Registrar General has communicated to ARIPO, in respect of the application therefor, a decision, in accordance with the provisions of the Protocol, that if a registration is made by ARIPO, that registration shall have no effect in The Gambia.

Invalidation  
of industrial  
design.

**25.** (1) Any interested person may request the court to invalidate the registration of an industrial design.

(2) The court shall invalidate such registration if the person requesting the invalidation proves that any of the requirements of sections 19 and 20 of this Act and the regulations pertaining thereto is not fulfilled or if the registered owner of the industrial design is not the creator or his successor in title.

(3) The provisions of (3) and (4) of section 15 of this Act shall apply *mutatis mutandis* to an invalidated registration of an industrial design.

#### PART V.—MARKS, COLLECTIVE MARKS, TRADE NAMES AND ACTS OF UNFAIR COMPETITION

Definitions  
of "mark",  
"collective  
mark" and  
"trade  
name".

**26.** For the purposes of this Act—

"mark" means any visible sign capable of distinguishing the goods ("trade mark") or services ("service mark") of an enterprise;

"collective mark" means any visible sign designated as such in the application for registration and capable of distinguishing the origin or any other common characteristic, including the quality, of goods or services of different enterprises which use the sign under the control of the registered owner of the collective mark;

"trade name" means the name or designation identifying and distinguishing an enterprise.

Acquisition  
of the  
exclusive  
right to a  
mark.

**27.** (1) The exclusive right to a mark, as conferred by this Act, shall be acquired by registration in accordance with the provisions thereof.

(2) A mark cannot be validly registered—

(a) if it is incapable of distinguishing the goods or services of one enterprise from those of other enterprises;

(b) if it is contrary to public order or morality;

- (c) if it is likely to mislead the public or trade circles, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics;
- (d) if it is identical with, or is an imitation of, or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initials of the name of, or official sign or hallmark adopted by, any State, inter-governmental organisation or organisation created by an international Convention, unless authorised by the competent authority of that State or organisation;
- (e) if it is identical with or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in The Gambia for identical or similar goods or services of another enterprise;
- (f) if it is identical with a mark belonging to a different proprietor and already on the register, or with an earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.

28. (1) The application for registration of a mark shall be filed with the Registrar General and shall contain a request, a reproduction of the mark and a list of the goods or services for which registration of the mark is requested, listed under the applicable class or classes of the International Classification, and shall be accompanied by the payment of the prescribed application fee.

Application  
for registra-  
tion of  
mark.

(2) (a) The application may contain a declaration claiming the priority of an earlier national or regional application filed by the applicant or his predecessor in title, in which case, the Registrar General may require that the applicant furnish within the prescribed time limit, a copy of the earlier application, certified as correct by the office with which it was filed.

(b) The effect of the said declaration shall be as provided in any Convention to which The Gambia is a party; if the Registrar General finds that the requirements under this subsection and the regulations pertaining thereto have not been fulfilled, the said declaration shall be considered not to have been made.

(3) The applicant may withdraw the application at any time during its pendency.

L.R.O.1/1990

Ex mination;  
opposition;  
and registra-  
tion of  
mark.

29. (1) (a) The Registrar General shall examine whether the application complies with the requirements of subsection (1) of section 28 of this Act and the regulations pertaining thereto.

(b) The Registrar General shall examine and determine whether the mark is a mark as defined in paragraph (a) of section 26, and is registrable under subsection (2) of section 27, of this Act, and the regulations pertaining thereto.

(2) (a) Where the Registrar General finds that the conditions referred to in subsection (1) of this section are fulfilled, he shall forthwith cause the application, as accepted, to be published in the prescribed manner.

(b) Any person may, within three months or such further time, not exceeding nine months in all, as the Registrar General may allow, of the advertisement of the application, give notice to the Registrar General or opposition to the registration of the mark on grounds that one or more of the requirements of paragraph (a) of section 26, and subsection (2) of section 27, of this Act, and the regulations pertaining thereto are not fulfilled.

(c) Such notice shall be given in writing and in duplicate, and shall include a statement of the grounds of opposition.

(d) The Registrar General shall send a copy of such notice to the applicant, and within one month after the receipt of such notice, or such further time, not exceeding three months in all, as the Registrar General may allow, the applicant shall send to the Registrar General a counter-statement in duplicate of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

(e) If the applicant sends such counter-statement, the Registrar General shall furnish a copy thereof to the person giving notice of opposition, and shall require him to give security in such manner and to such amount as the Registrar General may require, for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the Registrar may allow, the opposition shall be deemed to be withdrawn.

(f) If the person giving notice of opposition duly gives such security, the Registrar General shall inform the applicant thereof in writing, and thereafter the case shall be deemed to stand for the determination of the court.

(g) If the applicant abandons his application, after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of the opposition as the Registrar General may determine.

(h) Where the opponent is out of The Gambia he shall, with the notice of opposition to registration, give the Registrar General an address for service in The Gambia.

30. (1) When a case stands for the determination of the court under the provisions of section 29 of this Act, the Registrar General shall require the applicant to make a written application to the court for an order that, notwithstanding the opposition of which notice has been given, the registration of the mark be proceeded with by the Registrar General, or to take such other proceedings as may be proper and necessary for the determination of the case by the court.

Cases; how brought before the court.

(2) The applicant shall thereupon make his application or take such other proceedings, within the period of one month or such further time as the Registrar may allow, and shall also within the like period, give notice thereof to the Registrar General.

(3) If the applicant shall fail to make such application or to take such other proceedings, of which failure the non-receipt by the Registrar General of such notice shall be sufficient proof, the applicant shall be deemed to have abandoned his application.

(4) The court shall have power in proceedings under section 29 of this Act to award to any party such costs as it may consider reasonable, and to direct how, and by what parties, they are to be paid.

31. (1) The use of a registered mark, in relation to any goods or services for which it has been registered, by any person other than the registered owner, shall require the agreement of the latter.

Rights conferred by registration; duration; renewal.

(2) (a) The registered owner of a mark shall, in addition to any other rights, remedies or actions available to him, have the right to institute court proceedings against any person who infringes the mark by using, without his agreement, the mark as aforesaid or who performs acts which make it likely that infringement will occur.

(b) The right shall extend to the use of a sign similar to the registered mark and use in relation to goods and services similar to those for which the mark has been registered, where confusion may arise in the public.

(3) The rights conferred by registration of a mark shall not extend to acts in respect of articles which have been put on the market in The Gambia by the registered owner or with his consent.

(4) (a) The registration of a mark shall be valid for a period of ten years from the filing date of the application for registration.

(b) The registration of a mark may, upon request, be renewed for consecutive periods of ten years, provided that the registered owner pays the prescribed renewal fee.

(c) A grace period of six months shall be allowed for the late payment of the renewal fee, on payment of the prescribed surcharge.

Non-user of trade mark.

32. A registered mark may, on application to the court of any person aggrieved, be taken off the register in respect of any of the goods or services for which it is registered, on the ground that-

(a) it was registered by the proprietor or a predecessor in title without any *bona fide* intention to use the same in connection with such goods or services and that there has in fact been no *bona fide* user thereof in connection therewith; or

(b) there has been no *bona fide* user of such trade mark in connection with such goods or services during the five years immediately preceding the application,

unless in either case such non-user is shown to be due to special circumstances in the trade and not to any intention not to use or to abandon such trade mark in respect of such goods or services.

Collective marks.

33. (1) Subject to the provisions of subsections (2) and (3) of this section, the provisions of sections 27 to 32 of this Act shall apply to collective marks, except that references therein to paragraph (a) of section 26, shall be read as paragraph (b) thereof

(2) (a) An application for registration of a collective mark shall designate the mark as a collective mark and shall be accompanied by a copy of the regulations governing the use of the collective mark.

(b) The registered owner of a collective mark shall notify the Registrar General of any changes made in respect of the regulations referred to in paragraph (a) of this subsection.

(3) In addition to the grounds provided in section 32 of this Act, the court shall invalidate the registration of a collective mark if the person requesting the invalidation proves that only the registered owner uses the mark, or that he uses or permits its use in con-

travention of the regulations referred to in paragraph (a) of subsection (2) of this section, or that he uses or permits its use in a manner liable to deceive trade circles or the public as to the origin or any other common characteristics of the goods or services concerned.

**34. (1) (a)** Any licence contract concerning the registration of a mark, or an application therefor, shall provide for effective control by the licensor, of the quality of the goods or services of the licensee in connection with which the mark is used. Licensing of marks and collective marks.

*(b)* If the licence contract does not provide for such quality control or if such quality control is not effectively carried out, the licence contract shall not be valid and the exclusive right referred to in subsections (1) and (2) of section 31 of this Act may not be exercised.

**(2)** The registration of a collective mark, or an application therefor, may not be the subject of a licence contract.

**35. (1)** A name or designation may not be used as a trade name if, by its nature or the use to which it may be put, it is contrary to public order or morality and if, in particular, it is liable to deceive trade circles or the public as to the nature of the enterprise identified by that name. Trade names.

**(2) (a)** Notwithstanding any laws or regulations providing for any obligation to register trade names, such names shall be protected, even prior to or without registration, against any unlawful act committed by third parties.

*(b)* In particular, any subsequent use of the trade name by a third party, whether as a trade name or a mark or collective mark, or any such use of a similar trade name or mark, likely to mislead the public, shall be deemed unlawful.

**36. (1)** Any act of competition contrary to honest practices in industrial or commercial matters shall be unlawful. Acts of unfair competition.

**(2)** The following acts, in particular, shall be deemed to constitute acts of unfair competition:

*(a)* all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities of a competitor;

- (b) false allegations in the course of trade, of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities of a competitor;
- (c) indications or allegations, the use of which, in the course of trade, is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for their purpose, or the quantity of the goods.

#### PART VI.—GENERAL PROVISIONS

Changes in  
ownership;  
licence  
contracts.

37. (1) (a) Any change in the ownership of a patent, a utility model certificate, the registration of an industrial design or the registration of a mark or collective mark, or in the ownership of an application therefor, shall be in writing and shall, at the request to the Registrar General or any interested party, be recorded and, except in the case of an application, be published by the Registrar General.

(b) Such change shall have no effect against third parties until such recording is effected.

(2) Any change in the ownership of the registration of a collective mark, or in the ownership of an application therefor, shall require previous approval by the Minister.

(3) Any change in the ownership of a trade name must be made with the transfer of the enterprise or part thereof identified by that name, and shall be in writing.

(4) A change in ownership of the registration of a mark or a collective mark shall however, be invalid if it is likely to deceive or cause confusion, particularly in regard to the nature, origin, manufacturing process, characteristics, or suitability for their purpose, of the goods or services in relation to which the mark or collective mark is intended to be used or is being used.

(5) Any licence contract concerning a patent, utility model certificate, registered industrial design or a registered mark, or an application therefor, shall, on pain of invalidity, be submitted to the Registrar General who shall keep its contents confidential but shall record it and publish a reference thereto.

(6) Where the Minister is of the opinion that any clause in a licence contract or relating to such a contract imposes unjustified restrictions on the licensee, with the consequence that the contract, taken as a whole, is harmful to the economic interests of The



Gambia, he shall cause the Registrar General to notify the parties to the contract accordingly and invite them, to modify the contract so that it does not contain any such clause and, if they fail to do so, he shall declare that clause to be null and void. For the purposes of this Act, "unjustified restrictions" are those which entail for the licensee, in the industrial or commercial field, restrictions not deriving from the rights conferred by the grant of a patent or a utility model certificate or the registration of an industrial design, or a mark, or restrictions unnecessary for the safeguarding of those rights.

(7) In the examination of contracts under subsection (6) of this section, the Minister, with regard to licence contracts relating to patents, shall take into consideration in particular, any clause contained in a contract, the effect of which would be—

- (a) to import technology from abroad when substantially similar or equivalent technology may be obtained on the same or more favourable conditions without any importation of the technology from abroad;
- (b) to oblige the licensee to give consideration which is disproportionate to the value of the technology to which the contract relates;
- (c) to oblige the licensee to acquire any materials from the licensor or from sources designated or approved by the licensor, unless it is otherwise impossible, for all practical purposes, to ensure the quality of the products to be produced and provided that the said materials are supplied at a reasonable price;
- (d) to restrict the licensee's freedom to acquire any materials from any source, unless it is otherwise impossible, for all practical purposes, to ensure the quality of the products to be produced;
- (e) to restrict the licensee's freedom to use any materials which are not supplied by the licensor or by sources designated or approved by the licensor, unless it is otherwise impossible, for all practical purposes, to ensure the quality of the products to be produced;
- (f) to oblige the licensee to sell the products produced by him exclusively or principally to persons designated by the licensor;
- (g) to oblige the licensee to make available to the licensor,

without appropriate consideration, any improvements made by the licensee with respect to the technology to which the contract relates;

- (h) to limit the quantity of the products produced by the licensee;
- (i) to restrict the licensee's freedom to export, or to allow others to export, the products produced by him:

Provided that, if the licensor owns, in a country to which such a restriction applies, a patent which would be infringed in case of importation of the said products into the said country, if the licensor has a contractual obligation not to allow others to export the said products to such a country or if the licensor already supplies the market in such a country with the same products, such facts shall be taken into account;

- (j) to oblige the licensee to employ persons designated by the licensor not needed for the efficient transfer of the technology to which the contract relates;
- (k) to impose restrictions on research or technological development carried out by the licensee;
- (l) to restrict the licensee's freedom to use any technology other than the technology to which the contract relates;
- (m) to extend the coverage of the contract to technology not required to achieve the objective of the contract and to oblige the licensee to give consideration for such technology;
- (n) to fix prices for the sale or re-sale of the products produced by the licensee;
- (o) to exempt the licensor from any liability resulting from any defect inherent in the technology to which the contract relates or unreasonably to restrict such liability;
- (p) to restrict the licensee's freedom to use, after the expiration of his contractual obligations, the technology acquired as a result of the contract, subject, however, to any right of the licensor under a patent; or
- (q) to establish the duration of the contract for a period which is unreasonably long in relation to the economic function of the contract:

Provided that any period which does not exceed the duration of the patent to which the contract relates shall not be regarded as unreasonably long.

**38.** Where an applicant's ordinary residence or principal place of business is outside The Gambia, he shall be represented by a legal practitioner resident and practising in The Gambia. Agents.

**39.** (1) (a) The office of the Registrar General shall maintain separate registers for patents, utility model certificates, industrial designs and marks. Registers; official bulletin.

(b) Collective marks shall be registered in a special section of the Register of Marks.

(c) All the recordings provided for in this Act shall be effected in the said registers.

(2) The registers may be consulted by any person, and any person may obtain extracts therefrom, under the conditions prescribed in the regulations.

(3) The office of the Registrar General shall publish in the official bulletin all the publications provided for in this Act.

**40.** (1) The Registrar General may, subject to any provision in the regulations, correct any error of translation or transcription, clerical error or mistake in any application or document filed with the office of the Registrar General or in any recording effected pursuant to this Act or the regulations. Corrections of errors and extension of time.

(2) If the Registrar General is satisfied that the circumstances justify it, he may, upon receiving a written request, extend the time for doing any act or taking any proceeding under this Act and the regulations, upon notice to the parties concerned and upon such terms as he may direct. The extension may be granted though the time for doing the act or taking the proceeding has expired.

**41.** The Registrar General shall give any party to a proceeding before him an opportunity of being heard before exercising adversely to that party any discretion vested in the Registrar General by this Act or the regulations. Exercise of discretionary powers.

**42.** (1) The Supreme Court shall have jurisdiction in cases of dispute relating to the application of this Act and the regulations and in matters which under this Act are to be referred to the court. Competence of Supreme Court; appeals.

(2) Any decision taken by the Minister or Registrar General, as the case may be, under this Act, in particular, the grant of a patent or of a utility model certificate or the registration of an industrial

design, mark or collective mark, or the refusal of an application for such a grant or registration, may be the subject of an appeal by any interested party before the Supreme Court and such appeal shall be filed within two months of the date of the decision.

Infringement;  
unlawful  
acts;  
offences.

**43.** (1) Subject to the provisions of sections 12 (4) and (6), 14, 24 (3) and 31 (3) of this Act, an infringement shall consist of the performance of any act referred to in sections 12, 24 and 31 of this Act in The Gambia by a person other than the owner of the title of protection and without the agreement of the latter.

(2) (a) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so, the court may grant an injunction to prevent infringement, an imminent infringement, or an unlawful act referred to in subsection (2) of section 35, and section 36, of this Act, award damages and grant any other remedy provided for by any other law in force.

(b) On the request of any competent authority or any interested person, association or syndicate, in particular, of producers, manufacturers or traders, the court may grant the same relief in case of an act of unfair competition referred to in section 36 of this Act.

(3) Any person who performs an act which constitutes an infringement as defined in subsection (1) of this section or an unlawful act as defined in subsection (2) of section 35, or section 36, of this Act, commits an offence and shall be liable on conviction to a fine not exceeding five thousand dalasis or to imprisonment for a term of six months, or to both such fine and imprisonment.

Application  
of inter-  
national  
treaties.

**44.** The provisions of any international treaties in respect of industrial property to which The Gambia is a party shall apply to matters dealt with by this Act and, in case of conflict with any provisions of this Act, shall prevail over the latter.

Regulations.

**45.** (1) The Minister shall make regulations prescribing details for the implementation of this Act.

(2) The regulations may, in particular, provide for the payment of fees in connection with applications for the grant of patents and utility model certificates and for the registration of industrial designs, marks and collective marks and matters related thereto.

46. (1) The following Acts are hereby repealed:

- (a) the Registration of United Kingdom Patents Act, 1925;
- (b) the United Kingdom Designs (Protection) Act, 1936; and
- (c) the Trade Marks Act, 1916.

Repeals;  
savings; and  
transitional  
provisions.

(2) Notwithstanding the repeal of the Registration of United Kingdom Patents Act, 1925 and the Trade Marks Act, 1916, patents and trade marks registered thereunder shall remain in force but shall, subject to the provisions of subsections (3) and (4) of this section, be deemed to have been granted or registered under this Act.

(3) Patents registered under the Registration of United Kingdom Patents Act, 1925, shall remain in force for the unexpired portion of the period of protection provided thereunder, subject, respectively, to the payment of the fees provided for in this Act.

(4) Trade marks registered under the Trade Marks Act, 1916, shall be due for renewal within the same period as under the said Act or ten years from the coming into operation of this Act, whichever period first expires, and upon renewal, shall be reclassified in accordance with the International Classification.

(5) A person who, on the date of coming into operation of this Act-

- (a) is the owner of a patent granted in the United Kingdom or has filed an application for the grant of a patent in the United Kingdom; or
- (b) is the proprietor of an industrial design registered in the United Kingdom or has filed an application for registration of an industrial design in the United Kingdom,

may within twelve months of the coming into operation of this Act, file an application for the grant of a patent for the same invention or for the registration of the same industrial design under this Act, and such application shall be accorded the filing date or priority date accorded to the application, grant or registration in the United Kingdom.

(6) Within eighteen months from the coming into operation of this Act, the Minister may, by regulations, make any further transitional or saving provisions which appear to him to be necessary or desirable.

Sections  
12 (5)  
and 24 (6).

## SCHEDULE

AFRICAN REGIONAL INDUSTRIAL PROPERTY ORGANIZATION (ARIPO)

**Protocol on Patents and Industrial Designs  
Within the Framework of the  
African Regional Industrial Property Organization (ARIPO)**

(adopted on December 10, 1982 at Harare (Zimbabwe), and amended  
by the Administrative Council of ARIPO on December 12, 1986)

### Preamble

The Contracting States of this Protocol.

*Having regard to* the Agreement on the Creation of an African Regional Industrial Property Organization (ARIPO) then known as the Industrial Property Organization for English-speaking Africa, concluded in Lusaka (Zambia) on December 9, 1976, and in particular to its Article III (c), in accordance with which the objectives of the Organization include the establishment of such common services or organs as may be necessary or desirable for the co-ordination, harmonization and development of the industrial property activities affecting its members,

*Considering* the advantages to be gained by the pooling of resources in respect of industrial property administration,

Hereby agree as follows:

### Section 1

#### *General*

The African Regional Industrial Property Organization (ARIPO) is empowered to grant patents and to register industrial designs and to administer such patents and industrial designs on behalf of the Contracting States in accordance with the provisions of this Protocol, through its Secretariat (hereinafter referred to as "the Office").

## Section 2

*Filing and Transmittal of Applications*

(1) Applications for the grant of patents or the registration of industrial designs by the Office shall be filed by the authorized representative of the applicant or by the applicant with the industrial property office of a Contracting State. An applicant may be represented by an attorney, agent or legal practitioner who has the right to represent applicants before the industrial property office of the Contracting State with which the application is filed and, where the applicant's ordinary residence or principal place of business is outside the country, he shall be so represented.

(2) The industrial property office with which the application is filed shall without delay, transmit that application to the Office.

## Section 3

*Patents*

(1) A patent application shall:

- (i) identify the applicant;
- (ii) contain, as prescribed, a description of the invention, a claim or claims, a drawing or drawings where necessary, and an abstract;
- (iii) designate the Contracting States for which the patent is requested to be granted;
- (iv) be subject to the payment of the prescribed fees.

(2) (a) The Office shall examine whether the formal requirements for applications have been complied with and shall accord appropriate filing date to the application.

(b) If the Office finds that the application does not comply with the formal requirements, it shall notify the applicant accordingly, inviting him to comply with the requirements within the prescribed period. If the applicant does not comply with the requirements within the said period, the Office shall refuse the application.

(c) The Office shall notify each designated State of the fact that a patent application has been filed which complies with the prescribed formal requirements.

(3) The Office shall undertake, or arrange for, the substantive

examination of the patent application. If it finds that the invention claimed in the application does not comply with the requirements of patentability referred to in subsection (9), it shall refuse the application.

(4) Where under subsection 2 (b) or (3) the Office refuses the application, the applicant may, within the prescribed period, request the Office to reconsider the matter.

- (i) that the invention is not patentable in accordance with the provisions of this Protocol; or
- (ii) that, because of the nature of the invention, the patent cannot be registered or granted or has no effect under the national law of that State.

(7) After the expiration of the said six months, the Office shall grant the patent, which shall have effect in those designated States which have not made the communication referred to in subsection (6). The Office shall publish the patent granted.

(8) If the Office refuses the application notwithstanding a request for reconsideration under subsection (4), the applicant may, within three months from being notified of such refusal, request that his application be treated, in any designated State, as an application according to the national law of that State.

(9) Inventions for which patents are granted by the Office shall be new, shall involve an inventive step and shall be industrially applicable. An invention is new if it is not anticipated by prior art. Everything made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) or by use or exhibition shall be considered prior art provided that such making available occurred before the date of filing of the application or, if priority is claimed, before the priority date validly claimed in respect thereof, and further provided that a disclosure of the invention at an official or officially recognized



exhibition shall not be taken into consideration if it occurred not more than six months before the date of filing of the application or, if priority is claimed, before the priority date validly claimed in respect thereof.

(10) On each anniversary of the filing of the application, the Office shall collect the prescribed annual maintenance fee, part of which shall be distributed among the designated States concerned. The amount of the fee shall depend on the number of States in respect of which the application or patent is maintained. Provided it is maintained, a patent granted by the Office shall, in each designated State, have the same effect as a patent registered, granted or otherwise having effect under the applicable national law, but not beyond the maximum duration provided for under the said law.

(11) A patent granted by the Office shall, in each designated State, be subject to provisions of the applicable national law on compulsory licenses, forfeiture or the use of patented inventions in the public interest.

#### Section 4

##### *Industrial Designs*

(1) An application for the registration of an industrial design filed shall:

- (i) identify the applicant;
- (ii) contain a reproduction of the industrial design;
- (iii) designate the Contracting States for which the registration is requested to have effect;
- (iv) be subject to the payment of the prescribed fees.

(2) (a) The Office shall examine whether the formal requirements for applications have been complied with, and shall accord the appropriate filing date to the application.

(b) If the Office finds that the application does not comply with the formal requirements, it shall notify the applicant accordingly, inviting him to comply with the requirements within the prescribed period. If the applicant does not comply with the requirements within the said period, the Office shall refuse the application.

(c) The Office shall notify each designated State of the fact that

an application for the registration of an industrial design has been filed which complies with the prescribed formal requirements.

(3) Before the expiration of six months from the date of the notification referred to in subsection (2) (c), each designated State may make a written communication to the Office that if the industrial design is registered by the Office, that registration shall have no effect in its territory for the reason-

- (i) that the industrial design is not new.
- (ii) that, because of the nature of the industrial design, it cannot be registered or a registration has no effect under the national law of that State; or
- (iii) that, in the case of a textile design, it is the subject of a special register.

(4) After the expiration of the said six months, the Office shall effect the registration of the industrial design, which shall have effect in those designated States which have not made the communication referred to in subsection (3). The office shall publish the registration.

(5) If the Office refuses the application, the applicant may, within three months from being notified of such refusal, request that his application be treated, in any designated State, as an application according to the national law of that State.

(6) On each anniversary of the filing of the application the Office shall collect the prescribed annual maintenance fee, part of which shall be distributed among the designated States concerned. The amount of the fee shall depend on the number of States in respect of which the application or registration is maintained. Provided it is maintained, the registration of an industrial design effected by the Office shall, in each designated State, have the same effect as a registration effected or otherwise in force under the applicable national law, but not beyond the maximum duration provided for under the said law.

(7) An industrial design registered by the Office shall, in each designated State, be subject to the provisions of the applicable national law on compulsory licences or the use of registered industrial designs in the public interest.

## Section 5

*Regulations*

- (1) The Administrative Council of ARIPO shall make regulations for the implementation of this Protocol and may amend them, where necessary.
- (2) The regulations shall in particular relate to-
  - (i) any administrative requirements, matters of procedure, or any details necessary for the implementation of the provisions of this Protocol and any relevant international treaties; or
  - (ii) the fees to be charged by the Office and the details of the distribution of part of those fees among the Contracting States.

## Section 6

*Entry Into Force and Final Provisions*

- (1) (a) Any State which is a member of the Organization or any State to which membership of the Organization is open in accordance with Article IV (1)\* of the Agreement on the Creation of the African Regional Industrial Property Organization may become party to this Protocol by:
    - (i) signature followed by the deposit of an instrument of ratification, or
    - (ii) deposit of an instrument of accession.
  - (b) Instruments of ratification or accession shall be deposited with the Government of the Republic of Zimbabwe.
  - (c) This Protocol shall enter into force three months after three States have deposited their instruments of ratification or accession.
  - (d) Any State which is not party to this Protocol upon its entry into force under subsection (1) (c) of this section shall become bound by this Protocol three months after the date on which such State deposits its instruments of ratification or accession.
- (2) (a) Ratification of, or accession to, this Protocol shall entail acceptance of the Agreement on the Creation of an African Regional Industrial Property Organization.

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\*Now Article IV.

(b) The deposit of an instrument of ratification of, or accession to, this Protocol by a State which is not a party to the Agreement referred to in paragraph (a) of this subsection shall have the effect that the said State shall become party to the said Agreement on the date on which it deposits its instrument of ratification of, or accession to, this Protocol.

(3) (a) Any Contracting State may denounce this Protocol by notification addressed to the Government of the Republic of Zimbabwe.

(b) Denunciation shall take effect six months after receipt of the said notification by the Government of the Republic of Zimbabwe. It shall not affect any patent application or application for the registration of an industrial design filed with the Office prior to the expiration of the said six month period, or any patent granted or registration of an industrial design effected upon such an application.

(4) (a) This Protocol shall be signed in a single copy and shall be deposited with the Government of the Republic of Zimbabwe.

(b) The Government of the Republic of Zimbabwe shall transmit certified copies of this Protocol to the Contracting States, other States members of the African Regional Industrial Property Organization and the States to which membership of the organization is open in accordance with Article IV (1)\* of the Agreement on the Creation of an African Regional Industrial Property Organization, the World Intellectual Property Organization and the United Nations Economic Commission for Africa.

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\*Now Article IV.