

[IPOPHL MEMORANDUM CIRCULAR NO. 16-012 Series of 2016, November 29, 2016]

IPOPHL REVISED FEE STRUCTURE OF 2017

WHEREAS, Sec. 7 of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code") conferred upon the Director General the power of managing and directing all functions and activities of the Office, including the *"establishment of fees for the filing and processing of an application for a patent, utility model or industrial design or a mark or a collective mark, geographic indication and other marks of ownership, and for all other services performed and materials furnished by the Office".;*

WHEREAS, the existing schedule of fees was implemented way back in January 2004;

WHEREAS, the IPOPHL is rationalizing and streamlining its fee structure there being urgency for IPOPHL to make adjustments in order to: *first*, address inflation and rising operational costs and expenses, *second*, support additional mandates and services, and other developmental programs/projects and advocacies; and *third*, reduce or abolish redundant fees;

WHEREAS, in rationalizing its fees, the IPOPHL complied with all the requirements, including public consultations, set forth in DOF-DBM-NEDA Joint Circular No. 1-2013, also known as the "Implementing Rules and Regulations of Administrative Order No. 31 s. 2012, on the Rationalization of Rates of Fees and Charges, Increase in Existing Rates and Imposition of New Fees and Charges";

WHEREAS, the Secretary of the Department of Trade and Industry has approved the IPOPHL Revised Fee Structure;

NOW, THEREFORE, the IPOPHL Revised Fee Structure of 2017 is hereby promulgated:

PART I GENERAL PROVISIONS

Section 1. Title. These Rules shall be known and referred to as the "IPOPHL Revised Fee Structure".

Section 2. Definition of terms and acronyms. Unless otherwise specified, the following terms and acronyms shall mean or refer to:

(a) *"Big entity"* is any natural or juridical person whose assets are

worth more than One Hundred Million Pesos (P100M); or any natural or juridical person which do not fall under the category of a "small entity" as defined below.

- (b) "Bureau" refers to the pertinent or concerned bureau of IPOPHL namely: the Bureau of Legal Affairs ("BLA"), Bureau of Patents ("BOP"), Bureau of Trademarks ("BOT"), Documentation, Information and Technology Transfer Bureau ("DITTB"), Bureau of Copyright and Other Related Rights ("BCORR"), Management Information Systems Bureau ("MISB"), and the Financial Management and Administrative Services Bureau ("FMAS Bureau");
- (c) "Director" refers to any or all of the Directors or Officer-in-Charge of the bureaus of the IPOPHL
- (d) "Director General" refers to the Director General of the IPOPHL
- (e) "Examiner" refers to an Intellectual Property Rights Specialist in the Bureau of Patents or Bureau of Trademarks;
- (f) "Fees" refer to costs imposed on direct recipients of public goods and services provided and performed by the IPOPHL in the exercise of its functions; they also include charges and other costs;
- (g) "IP Code" means Republic Act No. 8293 or the Intellectual Property Code of the Philippines, as amended;
- (h) "IPOPHL" or "Office" refers to the Intellectual Property Office of the Philippines created by the IP Code;
- (i) "IPOPHL Gazette" refers to the IPOPHL's own publication where all the matters required to be published under the IP Code shall be published and, unless otherwise specified, shall include any form thereof including electronic form or "e-Gazette";
- (j) "IRR" refers to rules and regulations (including any and all amendments) promulgated by the IPOPHL;
- (k) "Publication fee" refers to publication in the IPOPHL Gazette;
- (l) "*Small entity*" refers to any natural or juridical person whose assets are worth not more than One Hundred Million Pesos (P100M); or any entity, agency, office, bureau or unit of the Philippine government including government-owned or controlled corporations, state universities and colleges and government-owned or government-run schools;
- (m) "*Youth filer*" is any natural person who has not reached his or her twenty second (22nd) birthday at the time of filing his or her application; or, a group of natural persons all of whom have not reached their twenty second (22nd) birthday at the time of filing their application.

Section 3. Fees payable in advance. - All fees shall be collected in advance of any service to be rendered or materials to be furnished. The Office may not act on any pending transaction or request unless the prescribed fee is paid in full and on or before the due date.

Section 4. Due date for fees. - Fees shall be paid on or before the due date prescribed in the IP Code or IRRs. Where no due date is specified, the fees shall be

due upon submission or filing of the request for the service or material incurring the fee.

Section 5. Payment of fees. - 5.1 Fees shall be paid in cash, money order, bank drafts, cheques in Philippine currency, and other modes of payment as may be provided or prescribed by the IPOPHL. Payment of fees for on-line transactions shall be in the form prescribed by the applicable IRRs.

5.2 Where the schedule of fees provides for rates under the "BIG" and "SMALL" columns, a big entity shall pay the fee at the rate under the "BIG" column while a small entity shall pay the fee at the rate listed under the "SMALL" column. Where the schedule provides for a single rate, that rate shall apply to both big and small entities.

5.3 Any natural or juridical person is presumed to be a big entity unless a written statement to the contrary is submitted by such natural person or duly authorized representative of such juridical person. A *small entity* may claim to pay the rate listed under the "SMALL" column at the time of filing the application or case by submitting the aforementioned written statement. Said written statement shall be submitted only once for each application or case.

The change in status or any assignment or other transfer from big entity to small entity shall not result in any refund whatsoever of any payment made prior to the submission of the written statement. A change in status, assignment or other transfer from small entity to big entity shall not result in any increase of fees paid prior to the recordal of the change, assignment or other transfer.

5.4 An applicant or party paying as *small entity* may be required to submit proof or evidence confirming such status at any time prior to the grant, registration, finality of decision, or release of documents if the request is not subject of a patent, utility model, industrial design, trademark or case filed before the Office. Failing so, the IPOPHL shall assess the party and no document shall be released without the party paying the assessed amount.

5.5 A *youth filer* shall pay fees at the rate listed under the column "SMALL". When the schedule provides for a single rate, the youth filer shall pay only fifty percent (50%) of the prescribed fee. This applies to all the fees in connection with the application and, if registered, the maintenance, extension or renewal of registration and all the fees in connection with any case before the Office or any Bureau where the application, or if already registered, the registered intellectual property is directly involved; Provided that ownership of the application or registration remains with the youth filer; Provided, Further, that in case of any assignment, transfer or any other change in the owner of the application or registration, the age requirement specified above is met by all the subsequent assignees, transferees, or additional applicants or registrants.

Subject to the conditions under Section 5.4, a *youth filer* may claim to pay the rates as provided above at the time of filing the application by submitting a statement that he or she has not reached his or her twenty-second (22nd) birthday. If the *youth filer* is a group, all of them shall, individually or together, submit the statement.

Section 6. *Date of Payment.* - Fees shall be considered to have been paid as follows:

- (a) In case of cash payment: The date of receipt in cash of the amount due in full.
- (b) In case of money order, cheque or bank draft payment: the date of receipt of the money order, cheque or bank draft provided that the same is honored upon first presentment and provided that the payment covers the amount due in full.
- (c) Payment in the form prescribed for on-line transaction and other modes of payment: the date specified in the applicable IRRs.

Section 7. *Time and place of payment.* - Payment transactions shall be made during regular working days and business hours from Monday to Friday 8:00 a.m. to 5:00 p.m. to the IPOPHL cashier. Where any official response, pleading or other document or paper is to be submitted for which a fee is required, the payment shall be made not later than 4:30 pm and submission shall nevertheless be made not later than 5:00 p.m. The filing of documents and payments for on-line transactions and other modes as may be allowed or prescribed by the IPOPHL shall be made in accordance with the applicable IRRs.

Section 8. *Non-payment or Insufficiency of the amount paid.* - Subject to the IP Code or the applicable IRR, the Office may give the person making the payment the opportunity to fully pay the fee or any notice. Failure to pay the full amount shall not result in any refund whatsoever of any amount already paid. On-line transactions shall be paid in full in accordance with the pertinent IRRs.

Section 9. *Time and place for submission of documents.* - Any official response, pleading or other document or paper, whether or not a fee is due, shall be submitted to the Office during regular working days and business hours from Monday to Friday, at 8:00 a.m. to 5:00 P.M. Where a fee is due, the same must be paid not later than 4:00 pm and submission shall nevertheless be made not later than 5:00 p.m.

Section 10. *Legal Research Fund (LRF).* - All fees and charges shall be subject to the payment of the LRF required by Presidential Decree No. 200 at the rate of one percent (1%) of the fee paid but not less than Two Pesos (Php2.00). In this regard, the IPOPHL shall furnish the University of the Philippines Law Center reports on its collection and remittance of the LRF.

Section 11. *Error or Mistake in Payment.* - All fees or excess amounts paid without fault on the part of the IPOPHL shall be deemed as donation to the Office. If fees or excess amounts are paid due to error on the part of the IPOPHL, the applicant or party may file with the Financial Management and Administrative Services Bureau the request for refund within 30 days from the date of payment of the fees or excess amounts. If no request is filed within the aforementioned period or if the request is found to be not meritorious, the fees and excess amounts shall inure to the benefit of, and shall be deemed as donation to, the Office.

PART II
SCHEDULE OF FEES

Section 12. *Schedule of General Fees.* The general fees prescribed in this section are applicable to the service and materials furnished by all the Bureaus and offices of the IPOPHL.

GENERAL AND OTHER FEES		
<i>Type of Fee</i>	<i>Small Entity</i>	<i>Big Entity</i>
IPOPHL Publications	At cost	At cost
Document Retrieval Fee (2-3 days)	207.00/box	207.00/box
Document Retrieval Fee (express - 1 day)	560.00 /box	560.00/box
Request for Reconstitution of Records	900.00	900.00
Certification	370.00	370.00
Certified True copy	500.00	500.00
Computer print-out (per printed sheet)	20.00	20.00
IPOPHL Box (annual)	3,000.00	3,000.00
Photocopy (domestic) (per printed sheet) Note: Prevailing rate will be determined and announced from time to time	3.50	3.50
12-month subscription to E-Gazette	12,600.00	12,600.00
Appeal to the Bureau Director from refusal, rejection, examiner's action, final orders or decisions	3,300.00	3,300.00
Appeal to the Director General from the decision of the Bureau Director	5,500.00	5,500.00
Other motions	300.00	700.00
Request for Deferment of Publication	1,000.00	2,000.00
Enforcement Action		
Filing of Verified Enforcement Complaint by the IPR Holder	2,000.00	2,000.00

Section 13. *Schedule of Invention Patent-related fees.* -The fees provided in this Section shall apply to invention patents.

SCHEDULE OF FEES ON PATENTS		
<i>Type of Fee</i>	<i>Small Entity</i>	<i>Big Entity</i>
Pre-Examination		
Filing fee ^[1] - Invention	2,000.00	4,320.00
For each sheet in excess of thirty (30)	18.00	36.00