

[IPO, June 08, 2000]

RULES AND REGULATIONS ESTABLISHING THE FEE STRUCTURE OF THE INTELLECTUAL PROPERTY OFFICE

Whereas, the State recognizes that an effective industrial property system is vital to the development of domestic creativity, facilitates transfer of technology, attracts foreign investments and ensures market access for our products;

Whereas, it is the policy of the State to streamline administrative procedures and enhance enforcement of intellectual property rights in the Philippines;

Whereas, in declaring the foregoing State policies, Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines re-engineered the intellectual property regime in the country and adopted innovative changes such as the first-to-file system in patent administration, removal of prior use as a requirement for trademark application, possibility of provisional remedies in administrative complaints for violation of intellectual property rights, liberalization of technology transfer registration;

Whereas, the Intellectual Property Code abolished the Bureau of Patents, Trademarks and Technology Transfer under the Department of Trade and Industry and, in lieu thereof, created the Intellectual Property Office to administer and implement the above-mentioned State policies;

Whereas, the Intellectual Property Office has promulgated seven sets of implementing rules and regulations pursuant to the Intellectual Property Code;

Whereas, to implement the Intellectual Property Code and the rules and regulations promulgated pursuant thereto, there is a need to restructure the fees and charges prescribed by the former Bureau of Patents, Trademarks and Technology Transfer;

Now, therefore, pursuant to the provisions of the Intellectual Property Code, the following rules and regulations establishing the fees and charges of the Intellectual Property Office are hereby promulgated:

PART I

Definitions

Section 1. Title. — These Rules shall be known as the "IPO Fee Structure".

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

- (a) "Bureau" refers to any or all of the bureaus of the IPO, namely:
 - Bureau of Legal Affairs (BLA)
 - Bureau of Patents (BOP)

- Bureau of Trademarks (BOT) .,
 - Documentation, Information and Technology Transfer Bureau (DITTB)
 - Management Information Systems and EDP Bureau (MIS-EDPB)
 - Administrative, Financial and Human Resource Development Service Bureau (AFHRDSB)
- (b) *"Director"* refers to any or all of the Directors or Officer-in-Charge of the bureaus of the IPO
- (c) *"Director General"* refers to the Director General of the IPO
- (d) *"Examiner"* refers to an Intellectual Property Rights Specialist in the Bureau of Patents and Bureau of Trademarks
- (e) *"Fees"* refer also to charges and costs; refer to costs imposed on direct recipients of public goods and services by the IPO in the exercise of its functions
- (f) *"IP Code"* means Republic Act No. 8293 or the Intellectual Property Code of the Philippines
- (g) *"IPO"* or *"Office"* refers to the Intellectual Property Office
- (h) *"Publication Fee"* refers to publication in the IPO Gazette
- (i) *"IRR"* refers to the implementing rules and regulations (including any and all amendments) promulgated by the IPO

SECTION 3. *Small and big entity; Presumption; Reduction.* — For purposes of assessment and payment of fees:

- (a) A small entity is:
1. Any natural or juridical person whose assets are worth Twenty Million Pesos (P20M) or less; or,
 2. 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.
- (b) A big entity is any natural or juridical person other than a small entity as defined above.
- (c) 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 the duly authorized representative of such juridical person.
- (d) A small entity is entitled to a fifty percent (50%) reduction of the rates unless otherwise provided in these Rules.
- (e) Entitlement to the reduction of rate may be claimed at the time of payment by submitting the written statement referred to in paragraph (c)

of this Section. Said written statement shall be submitted only once for each application, case or registration.

(f) 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 referred to in paragraph (c) of this Section. 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.

PART II

General Provisions

SECTION 1. 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 2. 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 3. Payment of fees . — Fees shall be paid in cash, money order, bank drafts and or cheques in Philippine currency.

SECTION 4. 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.

SECTION 5. 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 12:00 p.m. and 1:00 to 5:00 p.m. to the IPO cashier only.

SECTION 6. 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 deficiency within a maximum period of two (2) months from mailing date of the notice. Failure to pay the full amount shall not result in any refund whatsoever of any amount already paid.

SECTION 7. 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 12:00 p.m. and 1:00 to 5:00 p.m.

SECTION 8. Legal Research Fund . — All fees and charges shall be subject to the payment of the legal research fund required by Presidential Decree No. 200 at the rate of one percent (1 %) of the fee paid but not less than Two Pesos (P 2.00).

SECTION 9. Donation to the IPO. — Any lawful Philippine or foreign, natural or juridical, public or private, entity may donate to the IPO subject to the approval of the Director General and/or a duly designated officer.

All fees or excess amounts paid to the IPO without mistake on the part of the Office shall inure to the benefit of, and shall be deemed as donation to, the Office. All donations may be certified by the duly authorized personnel of the IPO for any and all lawful purposes.

SECTION 10. Amounts paid due to the fault of the Office. — All fees or excess amounts paid to the IPO due to the fault of the Office shall be refunded unless the payor waives the same in writing in favor of the IPO. In case of waiver be the payor, the payment shall be governed by the immediately preceding section on "Donation to the IPO".

PART III

Schedule of Fees

SECTION 1.0. Schedule of General Fees . — The general fees prescribed in this Section are applicable to the services and materials furnished by all the Bureaus and offices of the IPO.

SECTION 1.1. Recordal of assignment in Patents . — Whenever a request for recordal/annotation of assignments from small to big entity (Ref. Code No. 109) and any other assignment affecting title (Ref. Code No. 111) is made prior to publication of an invention application under Section 44 of the IP Code, such recordal/annotation shall be published not earlier than the said publication.

SECTION 1.2. Recordal of assignment in Trademark . — Whenever a request for recordal/annotation of assignment from small to big entity (Ref. Code No. 115) is made prior to the publication for opposition under Sec. 133 of the IP Code, such recordal/annotation shall be published not earlier than said publication for opposition.

| GENERAL FEES | | Php | |
|--------------|---------------------|--------|--|
| Ref. Code | TYPE OF FEE | Big | Small |
| 101 1. | CERTIFICATION FEE | | 280.00 |
| | | | plus cost of reproduction/computer print-out |
| 102 2. | CERTIFIED TRUE COPY | 350.00 | 175.00 |
| | | | plus cost of |

| | | | | |
|------|-------|--|---|--------|
| | | | reproduction/computer print-out | |
| 103. | 3. | COMPUTER PRINT- OUT/MICRO-FICHE PRINT OUT | 15.00 per page | |
| 104 | 4. | CONFERENCE with the Examiner | 280.00 | FREE |
| 105 | 5. | IPO ACTION Box | 1,500.00 Annual Rental | |
| 106 | 6. | IPO Gazette | 500.00 Per copy | |
| | | | Price subject to change as may be determined and announced from time to time | |
| 107 | 7. | PUBLICATION FEE | 280.00 minimum; approximately 1/8 page | |
| 108 | 8. | RECONSTITUTION of Records | 555.00 | |
| | | | plus other applicable fees such as certification fee, reproduction fee and publication fee | |
| | 9. | RECORDAL/ANNOTATION of: | | |
| | 9.1 | Invention | | |
| 109 | 9.1.1 | 1st Assignment of application from small to big entity | 4,140.00 plus publication fee | N/A |
| 110 | 9.1.2 | 1st Assignment of issued patent from small to big entity | 5,520.00 plus publication fee | N/A |
| 111 | 9.1.3 | Any other Assignment or document affecting title | 485.00 | 242.50 |