

CAYMAN ISLANDS



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**THE PATENTS AND TRADE MARKS LAW, 2011  
(LAW 30 OF 2011)**

**THE PATENTS AND TRADE MARKS REGULATIONS, 2012**

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In exercise of the powers conferred by section 20 of the Patents and Trade Marks Law, 2011 the Governor in Cabinet makes the following Regulations -

1. These Regulations may be cited as the Patents and Trade Marks Regulations, 2012. Citation

2. In these Regulations - Definitions

“firm of attorneys-at-law” means a sole practitioner, partnership or limited liability partnership or corporate body which engages in the practice of law of the Islands; and

“register of agents” means the register of registered agents required to be maintained under section 5(d) of the Law and referred to in regulation 3(1)(g).

3. (1) There shall be maintained in the Registry registers of - Registers

- (a) recorded patent rights;
- (b) recorded trade mark rights;
- (c) inactive patent rights;
- (d) inactive trade mark rights;
- (e) expired patent rights;
- (f) expired trade mark rights; and
- (g) registered agents in accordance with section 5(d) of the Law.

(2) The registers referred to in paragraph (1) need not be kept in documentary form.

4. Items contained in the registers maintained under regulation 3(1)(e) and (f) shall be destroyed seven years after recording or two years after receipt or despatch of any correspondence relating thereto, whichever is the later. Destruction of items

Certificate of good standing 5. A certificate of good standing issued pursuant to section 11 of the Law shall be in the form determined by the Registrar.

Correction of errors 6. Where the Registrar is satisfied that an error has occurred he may correct a typographical, arithmetical or procedural error in a register maintained under regulation 3.

Content of register entries 7. (1) An entry in a register maintained under regulation 3(1)(a) or (b) shall include -

- (a) the name and address of the owner;
- (b) the name and address of the registered agent of the owner;
- (c) the effective date of extension to the Islands;
- (d) a reference to the particulars of the grant or registration sufficient to identify the patent right or trade mark right in a positive manner;
- (e) the expiry date of the protection afforded by the recording (being the same date as the expiry of the relevant grant or registration);
- (f) for patents a short descriptive headline; and
- (g) for trade marks the international classes for which protection is sought in the Islands in conjunction with any applicable limitation,

and shall make provision for noting any future extensions of, and alterations to, the right recorded and its ownership.

(2) An entry in the register of agents shall include the name and address of the registered agent.

Prints to accompany application for extension of trade mark 8. An application for the extension of a trade mark right under section 7 of the Law shall be accompanied by a clear print of the trade mark which may be a clear print of the trade mark down loaded from the websites of any of the Intellectual Property Offices of the United Kingdom or the Office for Harmonisation in the Internal Market or the World Intellectual Property Organisation.

Registered agent 9. (1) Where an applicant, other than a firm of attorneys-at-law, applies to be recognised as a registered agent under section 6 of the Law, the Registrar shall consider whether such applicant -

- (a) is a fit and proper person to act as a registered agent; and
- (b) has the relevant experience or qualifications to so act,

and if so satisfied, the Registrar shall enter the name of such applicant on the register of agents.

(2) Upon application in accordance with section 6 of the Law, the Registrar shall enter the name of a firm of attorneys-at-law on the register of agents.

(3) A registered agent shall pay the annual fee on 31<sup>st</sup> January each year.

(4) The Registrar may notify the registered agent of the annual fee payable by the registered agent in January based upon the number of patents and trade marks recorded as attributable to the registered agent which were registered as at 31<sup>st</sup> December of the prior year.

(5) If the annual fee is not paid by 1<sup>st</sup> April the Registrar may remove the name of the registered agent from the register of agents.

(6) A registered agent removed from the register of agents for non-payment of annual fees or for any other reason is subject to paragraph (1) before being re-instated into the register of agents.

(7) A registered agent shall notify the Registrar and any prior registered agent appointed by the owner of a patent or trade mark upon his appointment by the owner of a patent or trade mark and the Registrar shall duly record the fact of that appointment in the Registry's records.

(8) The Registrar may require evidence of appointment from a registered agent.

(9) For the purposes of paragraph (1), in determining whether a person is a fit and proper person, the Registrar shall have regard to all circumstances, including that person's -

- (a) honesty, integrity and reputation;
- (b) competence and capability; and
- (c) financial soundness.

(10) In this regulation -

“annual fee” means the registered agent annual fee prescribed in the Schedule to the Law.

10. On recording an extension of, or a modification or change to, a right, the Registrar shall publish a notice thereof in the next available issue of the Gazette. Publication

11. Where any litigation is instituted in the Grand Court in relation to any patent or trade mark, an extension of which is recorded or intended to be recorded in the Litigation

Islands, copies of all process shall be served upon the Registrar, whether or not he is a party, and shall continue to be so served until the Registrar gives notice to the parties that service upon him is no longer required.

Forms

12. The Registrar may prescribe forms to be used -

- (a) to apply for the extension of a patent right under section 7 of the Law;
- (b) to apply for the extension of a trade mark right under section 7 of the Law;
- (c) to apply for the recording of a change of particulars of a recorded patent right under section 13 of the Law;
- (d) to apply for the recording of a change of particulars of a recorded trade mark under section 13 of the Law;
- (e) to apply for the recording of a renewal of a recorded patent or trade mark right under section 14 of the Law;
- (f) to pay the annual fee in respect of a recorded entry under section 12 of the Law; and
- (g) to apply to be recognised as a registered agent under section 6 of the Law.

Practice directions

13. (1) The Registrar may issue Practice Directions to registered agents for the purpose of -

- (a) supplementing or clarifying these Regulations, but no Practice Direction shall revoke or vary any of these Regulations; and
- (b) providing for the practice and procedure of the Registry in respect of any matter not governed by the Law or these Regulations.

(2) A Practice Direction issued pursuant to these Regulations shall be published in the Gazette.

Made in Cabinet the 31<sup>st</sup> day of January, 2012.

Kim Bullings

Clerk of the Cabinet.