

**THE
INDUSTRIAL
PROPERTY ACT
2019**

AIM OF THE INDUSTRIAL PROPERTY ACT

- modernizing the industrial property framework in Mauritius.
- broadening the scope of protection of industrial property rights to include utility models, layout-designs of integrated circuits, plant breeder's rights and geographical indications.
- restructuring of the Industrial Property Office and the setting up of an Intellectual Property Council.
- also provides for Mauritius to accede to the WIPO administered treaties, namely, The Patent Cooperation Treaty, the Madrid Protocol and the Hague agreement.

INDUSTRIAL PROPERTY OFFICE

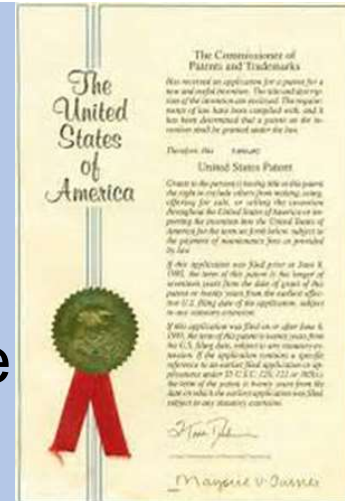
- administer and implement this act
- assist in the protection, promotion and development of industrial property in Mauritius

INTELLECTUAL PROPERTY COUNCIL

- advise the Minister on any matter relating to intellectual property
- ensure coordination among the public and private sectors in the formulation of intellectual property policies and enforcement of intellectual property rights.

PATENT

- is a title granted to an invention in the field of science and technology.
- prevents other persons from making, importing, selling and using the product without the authorisation of the right's holder.
- is granted for a period of 20 years subject to the payment of maintenance fees.



SECTION 12: RIGHT TO PATENT

- where an invention is made in the execution of, or under an employment contract, the right to the patent shall, in the absence of any contractual provision, belong to the employer.
- where the economic gains by the employer are high as compared to the employee salary, the employee shall be entitled to appropriate compensation.
- the compensation shall not be less than $\frac{1}{3}$ of the net gains obtained by the employer from the exploitation of the invention.
- any application for a patent filed by an employee within 1 year from the date of termination of his contract shall be presumed to have been made under the terminated contract.

SECTION 13 (d)- ACCESS TO GENETIC RESOURCES

A description shall contain clear identification of:

- a. the origin of genetic material or biological resources collected in Mauritius used in the making of the invention.
- b. any element of traditional knowledge associated with those resources ,which was, with the prior informed consent of Mauritius, directly or indirectly used in the making of the claimed invention.

SECTION 13 (f)- DEPOSIT OF MICROORGANISMS

- where an invention claiming patent protection involves the use of or concern microorganism, the application shall be accompanied by a declaration that the microorganism has been deposited with an international depository authority, in accordance with the Budapest Treaty.
- the Director shall accept the deposit and its date as indicated by the international depository authority ,where the applicant provides him with a copy of the receipt of the deposit issued by the international depository authority.

SECTION 18: FILING OF OPPOSITION

- an interested person may file a notice of opposition within a period of 3 months from the date an application for a patent is open for public inspection.
- a notice of opposition shall identify the opponent and specify the grounds ,including all relevant evidence ,which the opponent considers relevant to object to the grant of the patent

SECTION 22: RESTORATION OF PATENT

- a patent owner may make an application to the Director for the restoration of lapsed patent.
- where the director is satisfied that a lapsed patent may be restored, he shall inform the applicant accordingly.
- the Director shall, on payment of the appropriate fee, restore the lapsed patent.



TRADEMARKS



- any visible sign capable of distinguishing the goods or services of an enterprise from another.
- registered to prevent others from using a confusingly similar trademark.
- registered for an initial period of 10 years.
- can be renewed for an indefinite period against payment of renewal fees.

SECTION 91 3 (b): HONEST CONCURRENT USE

- when users have identical or similar marks on similar and non-similar goods.
- when two similar marks can co-exist without any likelihood of confusion in the minds of the consuming public, the Director may allow the said marks to be concurrently registered.

SECTION 95 (1): DIVISION OF APPLICATION

- an applicant may divide his application into 2 or more applications in order to separate the goods or services specified in the initial application.
- every divisional application shall retain the filing date and ,where applicable, the right of priority of the initial application.
- every application shall be independent and any publication of the application effected prior to the division shall be effective for each divisional application

SECTION 102: CERTIFICATION MARK

- an application for the registration of a certification mark shall be accompanied by a copy of the agreement governing the use of the mark.
- the holder of a certification mark shall not use the mark to certify his own goods or services.
- the agreement shall be published in the gazette and be available for public consultation on payment of appropriate fee.



INDUSTRIAL DESIGNS



Any composition of lines or colours or any three dimensional form, or any material, whether or not associated with lines or colours, provided it,

- gives a special appearance to a product of industry or handicraft;
- can serve as a pattern for a product of industry or handicraft; and
- appeal to and is judged by the eyes.

SECTION 83(a): INTERNATIONAL EXHAUSTION

➤ No right conferred by the registration of an industrial design shall prohibit:

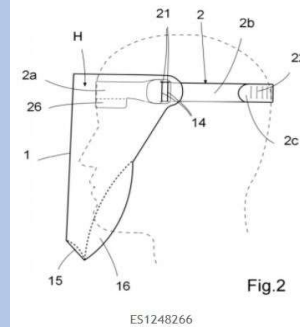
(a) an act in respect of a product that embodies the industrial design, after the product has been put on the market in Mauritius or abroad by the registered holder or by a person acting with the holder's consent or having an economic tie to the holder.

DURATION OF AN INDUSTRIAL DESIGN

- an industrial design shall be valid for a period of 5 years from the filing date of the application for registration.
- the registration of an industrial design may be renewed for 3 consecutive periods of 5 years.
- where the renewal is not effected , the registration of the industrial design shall lapse.



UTILITY MODEL



- may also be known as “Petty Patent”, “Innovation Patent”
- provides protection for minor innovation

ADVANTAGES OF UTILITY MODEL:

- less stringent criteria compared to patent
- no substantive examination
- cheaper than a patent
- quicker to get protection

DURATION OF A UTILITY MODEL

- the registration of a utility model shall be for a period of 6 years from the filing date.
- the registration of a utility model may be renewed for 2 further consecutive periods of 2 years.
- where the renewal fee is not paid ,the registration of the utility model shall lapse.

LAYOUT - DESIGNS OF INTEGRATED CIRCUITS

- also known as topographies of integrated circuits.
- are the three dimensional placement of some or all the elements and interconnections that make up an integrated circuit.
- are electronic circuit in which all components have been assembled in a certain order on the surface of a thin semiconductor material.



PROTECTION OF NEW PLANT VARIETIES



- an industrial property right granted to a breeder of plants to protect new plant varieties.
- also known as plant breeder's right.

ADVANTAGES OF PLANT BREEDERS RIGHT

- protect the plant breeder's work.
- stimulate development of new varieties.
- allow breeders to have a return on investment.



GEOGRAPHICAL INDICATIONS



- means an indication which identifies a good as originating in the territory of a country, or a region or locality in that country, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- a group of producers, or a legal entity that group the producers or a Government department, on behalf of the group of producers may apply for the registration of a geographical indication.

BENEFITS OF GEOGRAPHICAL INDICATIONS REGISTRATION

- promotes economic prosperity of producers of goods originating from a given geographical territory.
- help consumers to get quality products of desired traits.
- confers legal protection to geographical indications.
- protecting domestic market from competition

PATENT COOPERATION TREATY

- is an international patent filing system administered by World Intellectual Property Organisation.
- it makes it possible to seek patent protection in over 150 member countries.
- a PCT application can be filed by anyone who is a national or resident of a contracting state.

HAGUE AGREEMENT

- is an international treaty administered by the World Intellectual Property Organisation.
- designed to simplify the registration process of Industrial Designs in over 70 member states.
- application may be filed directly with the International Bureau or with the Industrial Property Office of the contracting party.

MADRID PROTOCOL

- international treaty which simplifies the international trademark registration process.
- in a single application applicant can seek protection for the registration of trademarks in over 125 member countries.
- the Madrid protocol does not grant worldwide trademark protection per se.

THANK YOU

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