



AN ACT TO REPEAL “AN ACT ADOPTING A NEW COPYRIGHT LAW OF THE REPUBLIC OF LIBERIA APPROVED JULY 23, 1997; AND THE INDUSTRIAL PROPERTY ACT OF LIBERIA APPROVED MARCH 20, 2003 CONSTITUTING TITLE 24 OF THE LIBERIAN CODE OF LAWS REVISED, AND TO ENACT IN THEIR STEAD A NEW TITLE 24 TO BE KNOWN AS THE LIBERIA INTELLECTUAL PROPERTY ACT, 2016.

TABLE OF CONTENTS

	<u>Pages</u>
Preamble-----	i
PART I: PRELIMINARY PROVISIONS	
Section 1: Title/Short Title -----	1
Section 2: Repealer-----	1
Section 3: Definitions-----	1
 PART II: THE LIBERIA INTELLECTUAL PROPERTY OFFICE (LIPO)	
 SUB-PART A: FORMATION AND NATURE	
Section 4: Establishment, Powers, Duties, and Immunities -----	8
Section 4.1: Establishment of LIPO -----	8
Section 4.2: Powers and Duties of LIPO-----	8
Section 4.3: Immunities of the LIPO -----	10
 SUB-PART B: ORGANIZATION AND STRUCTURE	
Section 5: Board of Directors, Appointment of Director General, Deputy Directors -----	10
Section 5.1: Establishment of the Board-----	10
Section 5.2: Composition of the Board-----	10
Section 5.3: Tenure of Board Members-----	10
Section 5.4: Powers and Functions of the Board-----	11
Section 5.5: Conduct of the Business and Affairs of the Board-----	11
Section 5.6: Appointment of Director General, Deputy Directors, and Qualification Requirements -----	12
Section 5.7: Duties of the Director General -----	13
Section 5.8: Duties of the Deputy Director for Industrial Property-----	14
Section 5.9: Duties of the Deputy Director for Copyright-----	14
Section 5.10: Registrar General: Establishment of Office/Appointment-----	15
Section 5.11: Duties of the Registrar General-----	15
Section 5.12: Organization of the Office of Registrar General-----	15
 PART III: FINANCIAL MATTERS	
Section 6: Financial Year, Accounts/Audits and Annual Report-----	16
Section 6.1: Financial Year-----	16
Section 6.2: Accounts and Audits-----	16
Section 6.3: Annual Report-----	16
 PART IV: TRANSITIONAL PROVISIONS	
Section 7: Transitional Provisions -----	16
Section 7.1: Transitional Provisions-----	16

PART V: GENERAL CONDITION AND BASIC PRINCIPLES	
Section 8: National Treatment and Most Favored Nation Treatment -----	17
Section 8.1: National Treatment-----	17
Section 8.2: Most Favored Nation Treatment-----	18
 PART VI: PRINCIPLES PERTAINING TO THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS	
 SUB-PART A: COPYRIGHT AND RELATED RIGHTS-----	
Section 9: Copyright and Related Rights-----	18
Section 9.1: Works Protected-----	18
Section 9.2: Criteria for Eligibility of Protection; Exclusive Rights -----	19
Section 9.3: Derivative Works and Collections-----	20
Section 9.4: Subject Matter not Protected-----	21
Section 9.5: Copyright in Works of Government and International Bodies-----	21
Section 9.6: Economic Rights-----	21
Section 9.7: Moral Rights-----	22
Section 9.8: Fair Use-----	22
Section 9.9 Quotation-----	23
Section 9.10: Private Reproduction for Personal Purposes-----	23
Section 9.11: Temporary Reproduction-----	23
Section 9.12: Reproduction and Other Utilization for Teaching-----	24
Section 9.13: Reproduction by Libraries and Archives-----	24
Section 9.14: Reproduction, Broadcasting and Other Communication to the Public for Information Purposes-----	25
Section 9.15: Reproduction and Adaptation of Computer Programs-----	25
Section 9.16: Visually and Aurally Impaired Persons-----	26
Section 9.17: Ephemeral Recordings-----	26
Section 9.18: Use for Public Security and for the Performance or Reporting of Proceedings-----	26
Section 9.19: Compulsory Licensing-----	27
Section 9.20: Duration of Copyright and Related Rights-----	27
Section 9.21: First Ownership of Copyright-----	27
Section 9.22: Presumption Regarding Authorship, Producers of Audiovisual Works and Publishers -----	28
Section 9.23: Assignment, Relinquishment and licensing of authors' rights -----	28
Section 9.24: Application for Registration; Issuance of Certificate-----	29
Section 9.25: Registration of Transfers and Other Documents-----	29
Section 9.26: Protection of Performers, Producers of Sound Recordings and Broadcasting Organizations of Related Rights-----	30
Section 9.27: Rights of Performers-----	30
Section 9.28: Rights of Producers of Sound Recordings-----	31
Section 9.29: Equitable Remuneration for Use of Sound Recordings-----	32
Section 9.30: Rights of Broadcasting Organizations-----	32
Section 9.31: Limitations on Protection-----	33
Section 9.32: Technological Protection Measures-----	33

Section 9.33: Protection of Rights Management Information-----	33
Section 9.34: Protection of Traditional Cultural Expressions-----	34
Section 9.35: Levy on Copyright Material-----	35
Section 9.36: Royalties-----	35

SUB-PART B: INDUSTRIAL PROPERTY RIGHTS

Section 10: Trademarks -----	36
Section 10.1: Acquisition of Exclusive Right to a Mark; Registrability ----	36
Section 10.2: Unregistrable Trademarks-----	36
Section 10.3: Honest and Concurrent Use-----	38
Section 10.4: Registration to be in Respect of Particular Goods-----	38
Section 10.5: Application for registration; Right of Priority-----	38
Section 10.6: Examination; Publication; Opposition and Registration-----	40
Section 10.7: Certificate of Registration-----	41
Section 10.8: Rights Conferred by Registration-----	42
Section 10.9: Term of Registration; Renewal-----	44
Section 10.10: Invalidation; Revocation-----	44
Section 10.11: Collective Marks-----	45
Section 10.12: Certification Marks-----	46
Section 10.13: Trade Names-----	46
Section 10.14: Well-known Signs-----	47
Section 10.15: Service Marks-----	48
Section 10.16: Licensing and Assignment of Marks-----	48
Section 10.17: Disclaimers-----	49
Section 10.18: Goods Unlawfully Bearing a Mark or Trade Name; Seizure on Importation -----	49
Section 10.19: International Registration Under the Madrid Protocol -----	49
(a) International Applications Originating from Liberia,	
(b) Examination of International Applications in Respect of which Liberia is the Country of Origin-----	49
Section 10.20: Certification-----	49
Section 10.21: Handling Fee-----	50
Section 10.22: Ceasing of Effect of the Basic Application or Basic Registration -----	50
Section 10.23: International Registrations:-----	50
(a) Liberia as Designated Contracting Party-----	50
(b) Advertisement of Application; Opposition -----	50
Section 10.24: Ex-Officio Provisional Refusal of Protection-----	50
Section 10.25: Provisional Refusal Based on an Opposition-----	50
Section 10.26: No Grounds for Refusal - Statement of Grant of Protection-----	51
Section 10.27: Final Decision Following the Notification of a Provisional Refusal-----	51
Section 10.28: Further Decision Affecting Protection of a Mark-----	51
Section 10.29: Effects of an International Registration-----	51
Section 10.30: Invalidation-----	52
Section 10.31: Recordings in the International Register -----	52
Section 10.32: Replacement -----	52

Section 10.33: Transformation-----	53
Section 10.34: Renewal-----	54
Section 10.35: Regulations-----	54
Section 11: Geographical Indications-----	55
Section 11.1: Scope of Protection -----	55
Section 11.2: Availability of Protection Regardless of Registration; Presumption-----	55
Section 11.3: Homonymous Geographical Indications-----	55
Section 11.4: Exclusion from Protection-----	56
Section 11.5: Application for Registration; Right to File Application-----	56
Section 11.6: Content of Application-----	56
Section 11.7: Examination; Publication; Opposition and Registration -----	57
Section 11.8: Scope of Exclusive Rights -----	57
Section 11.9: Limitations and Exceptions-----	58
Section 11.10: Invalidation, Revocation and Amendment of Registration-----	59
Section 11.11: False Indication: Seizure on Importation-----	60
Section 11.12: Infringement of Geographical Indications; Remedies -----	60
Section 12: Industrial Designs -----	60
Section 12.1: Subject Matter of Protection-----	60
Section 12.2: Registrable Industrial Designs-----	60
Section 12.3: Right to Registration of Industrial Design; Naming of Designer-----	61
Section 12.4: Application; Right of Priority -----	61
Section 12.5: Filing Date; Examination; Registration and Publication-----	63
Section 12.6: Rights Conferred by Registration; Duration; Extension-----	64
Section 12.7: Duration of Registration; Extension-----	65
Section 12.8: Invalidation-----	65
Section 13: Patent and Utility Models-----	66
Section 13.1: Purpose-----	66
Section 13.2: Scope of Inventions, Patents; Patentability-----	66
Section 13.3: Patentable Inventions-----	67
Section 13.4: Right to Patent; Naming of Inventor -----	67
Section 13.5: Application for a Patent -----	68
Section 13.6: Unity of Invention; Amendment and Division of Application -----	70
Section 13.7: Right of Priority -----	70
Section 13.8: Information Concerning Corresponding Foreign Applications for Patents -----	71
Section 13.9: Filing Date; Publication; Opposition; Examination -----	71
Section 13.10: Grant of Patent; Changes in Patents -----	73
Section 13.11: Rights Conferred by the Patent; Limitations and Exceptions -----	74
Section 13.12: Duration; Annual Fees; Restoration -----	75
Section 13.13: Compulsory Licenses (Other use without authorization of the right holder) -----	75
Section 13.14: Invalidation; Surrender -----	77
Section 13.15: International Applications under the Patent Cooperation Treaty-----	78

Section 13.16: Filing Date and Effects of International Application	
Designating Liberia-----	78
Section 13.17: The Office as Receiving Office-----	78
Section 13.18: Filing of International Applications with the Office-----	78
Section 13.19: The Office as Designated Office -----	78
Section 13.20: The Office as Elected Office -----	79
Section 13.21: Processing International Applications -----	79
Section 13.22: Entering National Phase -----	79
Section 13.23: Failure to Enter National Phase -----	79
Section 13.24: Reinstatement of Rights After Failure to Enter National Phase -----	79
Section 13.25: Restoration of Right of Priority -----	80
Section 13.26: Processing International Applications in accordance with the Patent Cooperation Treaty-----	80
Section 13.27: Utility Models (Applicability of provisions relating to patents) -----	80
Section 13.28: Special Provisions Relating to Utility Model Certificates-----	80
Section 13.29: Conversions -----	81
Section 14: Layout Designs of Integrated Circuits-----	81
Section 14.1: Subject Matter of Protection; Registration-----	81
Section 14.2: Originality-----	81
Section 14.3: Right to Protection -----	81
Section 14.4: Effect of Protection-----	82
Section 14.5: Duration of Protection -----	84
Section 14.6: Application Requirements-----	84
Section 14.7: Registration and Publication-----	85
Section 14.8: Invalidation-----	86
PART VII: ENFORCEMENT OF RIGHTS	
Section 15: Enforcement of Intellectual Property Rights-----	86
Section 15.1: Infringement of Copyright and Related rights-----	86
Section 15.2: Infringement of Marks and Trade Names-----	87
Section 15.3: Infringement of Geographical Indications-----	87
Section 15.4: Infringement of Industrial Designs-----	87
Section 15.5: Infringement of Patents-----	88
Section 15.6: Infringement of Layout Designs-----	88
Section 16: Civil and Administrative Procedures and Remedies-----	88
Section 16.1: Equitable Procedures-----	88
Section 16.2: Evidence-----	89
Section 16.3: Injunctions-----	89
Section 16.4: Damages-----	89
Section 16.5: Other Remedies-----	90
Section 16.6: Information to the Right Holder -----	90
Section 16.7: Indemnification of the Defendant-----	90
Section 16.8: Appeals -----	90
Section 16.9: Further Sanctions -----	91

Section 16.10: Administrative Procedures -----	91
Section 17: Provisional Measures-----	91
Section 18: Border Measures Requirements-----	92
Section 18.1: Availability of Border Measures (suspension of release by customs Authorities) -----	92
Section 18.2: Application for Suspension-----	92
Section 18.3: Request; Prima Facie Evidence-----	92
Section 18.4: Content of Application-----	93
Section 18.5: Security-----	93
Section 18.6: Procedure-----	94
Section 18.7: Inspection and Examination of Goods-----	94
Section 18.8: Time Limit; Release of Goods-----	94
Section 18.9: Review of Decision-----	94
Section 18.10: Destruction of Goods; Submission to Other Customs Procedures-----	95
Section 18.11: Right of Inspection and Information to the Right Holder-----	95
Section 18.12: Compensation for Wrongful Detention-----	95
Section 18.13 :De Minimis Imports-----	95
Section 18.14 : Goods in Transit-----	95
Section 18.15: Liability of Customs Department-----	95
Section 18.16: Appeals-----	96
Section 19: Criminal Sanctions-----	96
 SCHEDULE ONE: COMPULSORY LICENSE FOR TRANSLATION AND REPRODUCTION OF CERTAIN WORKS -----	 97

PREAMBLE

WHEREAS, Liberia has maintained a Patent, Copyright and Trademark Law as Title 24 of the Liberian Code of Laws Revised; and,

WHEREAS, the Copyright portion of said Title 24 was re-enacted as “An Act Adopting a New Copyright Law of the Republic of Liberia” which came into effect on July 30, 1997; and,

WHEREAS, the Patent and Trademark portions along with other related areas of said Title were developed into the Industrial Property Act of Liberia which came into effect on April 30, 2003; and,

WHEREAS, each of these Acts establish an office to regulate the specific aspect of Intellectual Property within the scope of each Act; and,

WHEREAS, under this arrangement Liberia maintains a Copyright Office separate and distinct from its Industrial Property Office; and,

WHEREAS, this arrangement has created unnecessary bureaucracies and disjointed operations in Liberia’s Intellectual Property regime; and,

REALIZING that it is necessary to combine the Copyright Office and Industrial Property Office and to make them more responsive, both organizationally and functionally, and thereby remove such unwarranted bureaucracies and disjointed operations in order to establish an integrated and efficient Intellectual Property regime for the Country; and,

ACKNOWLEDGING that rationalization of the organizational and functional structures of the Government of the Republic of Liberia promotes economic development, efficiency in utilization of resources and effectiveness in the delivery of public services;

NOW THEREFORE, it is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature assembled.

PART I
PRELIMINARY PROVISIONS

Section 1
Title/Short Title

§1.1 Title

This Act is entitled “An Act to Repeal An Act Adopting a New Copyright Law of the Republic of Liberia approved July 23, 1997; and the Industrial Property Act of Liberia Approved March 20, 2003, constituting Title 24 of the Liberian Code of Laws Revised, and to enact in their stead a New Title 24 to be known as the “Liberia Intellectual Property Act, 2014”.

§1.2 Short Title/Citation

This Act may be cited as the “Intellectual Property Act”

Section 2
REPEALER

§ 2.1 “An Act Adopting a New Copyright Law of the Republic of Liberia, July 23, 1997”

The Act Adopting a New Copyright Law of the Republic of Liberia, July 23, 1997” is hereby repealed in its entirety.

§ 2.2 The Industrial Property Act

The Industrial Property Act of Liberia of March 20, 2003 is hereby repealed in its entirety.

Section 3
DEFINITIONS

§3.1. In this Act, unless the context otherwise requires.

“Anonymous work” means a work on the copies or sound recordings of which no natural person is identified as author.

“Anti-trust laws” means statutes directed against unlawful restraints of trade and monopolies.

“Architectural work” means the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.

“ARIPO” means the African Regional Intellectual Property Organization.

“Artistic work” means any of the following or works similar thereto irrespective of artistic quality works equivalent to:

- a) paintings, drawings, etchings, lithographs, woodcuts, engravings or prints.
- b) maps, plans and diagrams.
- c) works of sculpture.
- d) photographs not comprised in audio-visual works.
- e) works of architecture in the form of buildings or models; and
- f) works of artistic craftsmanship, pictorial woven tissues and articles of applied handicraft and industrial art.

“Applicant” means the author or a literary, scientific or artistic work, his heirs and assigns, and the proprietor thereof.

“Author” means to the person who has created a literary, scientific or artistic work and includes writers, playwrights, composers, designers, painters, architects, sculptors, engravers, lithographers, illustrators, photographers, translators, arrangers, adaptors, and all other creators of literary, scientific or artistic works.

“Audiovisual works” means works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material, such as films or tapes in which works are embodied.

“Banjul Protocol” means the Protocol on Marks within the Framework of ARIPO.

“Basic application” means an application for registration of a mark, filed with the Director General and which is used as a basis for the filing of an international application under the Madrid Protocol.

“Basic registration” means a mark registered by the Director General and which is used as the basis for the filing of an international application under the Madrid Protocol.

“Berne Convention” means to the Berne Convention for the Protection of Literary and Artistic Works.

“Berne Convention of 1971” refers to the Paris Act of this Convention of 24 July 1971.

“Board” means the Board of Directors.

“Broadcasting” means the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof, including transmission by satellite; it includes transmission of encrypted signals where the means for decrypting are provided to the public by the broadcaster or with the broadcaster’s consent.

“Budapest Treaty” means the Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977, as amended.

“Business identifier” means any distinctive sign and shall include any mark, business symbol, trade name or emblem used by an enterprise to convey, in the course of industrial or commercial activities, a particular commercial identity or commercial origin with respect to an enterprise or the products produced or the services rendered by that enterprise.

“Certification mark” means a sign that is used to indicate that specified standards or characteristics, including quality, origin or method of production, have been complied with in respect of goods or services as certified by or under the control of the holder of the registration of the mark.

“Collective mark” means any mark that belongs to a collective organization such as a cooperative, an association or a federation of industries, producers or traders.

“Collective work” means a work which has been created by two or more natural persons at the initiative and under the direction of a natural person or legal entity with the understanding that it will be disclosed by the latter person or entity under his or its own name and that the identity of the contributing natural persons will not be indicated in the work.

“Communication to the public” means the transmission by any means, other than by broadcasting, of images or sounds or both of a work, a performance or a sound recording in such a way that the images or sounds can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the images or sounds would not be perceivable, irrespective of whether the person can receive images or sounds at the same place and time, or at different places or times individually chosen by them.

“Common Regulations” means the Common Regulations under the Madrid Agreement and the Madrid Protocol.”

“Compilation” means a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.

“Compulsory licenses” means licenses issued by the government allowing someone else to produce the patented product or process without the consent of the patent owner. It is one of the flexibilities of patent protection.

“Computer” means an electronic or similar device having information-processing capabilities.

“Computer program” means a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that the computer can read, of causing a computer to perform or achieve a particular task or result.

“Copies” means material objects, other than sound recordings, in which a work is fixed by any method now known or later developed, and which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. It includes the material object, other than a sound recording, in which the work is first fixed.

“Copy” means a reproduction of a work in any manner or form and includes a sound or audio-visual recording of a work and any permanent or transient storage of a work in any medium, by any technology.

“Copyright” means a bundle of exclusive legal rights concerned with the protection of literary and artistic works, also known as “works”. However, where the work is produced by officials, employees, or workers, as part of their duties, the persons who employ them shall be entitled to copyright originally, unless the contrary results from a contract or regulations applying to the parties concerned. Further, where the work is commissioned by a person who is not the employer of the author and who pays or agrees to pay for it and the work made in pursuance of that commission, the person who so commissioned the work shall be entitled to copyright originally, unless there is a stipulation to the contrary or he has not fulfilled his agreement.

“Copyright Owner”, with respect to anyone of the exclusive rights comprised in a copyright, means the owner of that particular right.

“Court” means a court of justice of the Republic of Liberia.

“Deputy Director” means one of the principle deputies to the Director General responsible for the Copyright Office or the Industrial Property Office.

“Derivative work” means a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revision annotations, elaboration, or other modifications, which as a whole, represent an original work of authorship.

“Device machine” or “process” means one now known or later developed.

“Display work” means to show a copy of it, either directly or by means of a film, slide, television image or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images non-sequentially.

“Director General” means the Director General of the Liberia Intellectual Property Office.

“Distribution” means the lawful placement into public circulation of the original or a copy of a work, a fixation of a performance or a phonogram in tangible form through sale or other transfer of ownership, including importing for the purpose of such putting into circulation and public offering for sale and other transfer of ownership.

“Exclusive license” means a license granted to the effect that the licensor is bound to abstain from granting any equivalent license to another person in Liberia and, to abstain from exploiting the licensed industrial property right himself in Liberia.

“Exploitation” means any of the following acts:

(a) if the patent has been granted in respect of a product:

- i. making, offering for sale, selling and using the product.
- ii. importing such product for the purposes of offering for sale, selling or using the product;

(b) if the patent has been granted in respect of a process:

- i. using the process.
- ii. doing any of the acts referred to in item (a) in respect of a product obtained directly by means of the process;

“Geographical indications” means indications which identify a good as originating in the territory of a Member State or a region or locality, in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

“Harare Protocol” means the Protocol on Patents and industrial Designs within the Framework of ARIPO;

“Holder of an international registration” means a natural or legal person in whose name the international registration is recorded on the International Register;

“Industrial designs” means a useful article which is ornamental (attractive) or aesthetic (visual/artistic). It may consist of three-dimensional features such as the shape or surface of the article, or two-dimensional features such as patterns, lines or color;

“International application” means an application to obtain registration of a mark under the Madrid Protocol;

“International Bureau” means the International Bureau of the World Intellectual Property Organization;

“International Classification” means, as regards industrial designs, the classification according to the Locarno Agreement Establishing an International Classification for Industrial Designs and, as regards marks, 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;

“International Register” means the official collection of data concerning international registrations of marks maintained by the International Bureau;

“Joint work” means work prepared by two or more authors with the intent that their contributions be merged into inseparable or interdependent parts of a unitary whole;

“Layout-designs” (topographies) of integrated circuits means the design of the layout, that is, the three-dimensional location of elements and interconnections of an integrated circuit;

“Literary works” means works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia regardless of the nature of the material objects, such as books, periodicals, manuscripts, sound recordings, films, tapes, disks, or cards, in which they are embodied;

“LIPO” means Liberia Intellectual Property Office;

“Madrid Agreement” means the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891;

“Madrid Protocol” means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989;

“Mark” means any visible sign capable of distinguishing the goods (“trademark”) or services (“service mark”) of an enterprise;

“Minister” means the Minister of Commerce of the Republic of Liberia.

“Motion pictures” means audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

“Most-Favored Nation Treatment” means treatment accorded immediately and unconditionally to the nationals of all other Member States;

“National Treatment” means the treatment accorded by the domestic law of the Contracting State in which protection is claimed;

“OAPI-English” means African Intellectual Property Organization;

“OAPI-French” means Organisation Africaine de la Propriété Intellectuelle ;

“Paris Convention” means the Paris Convention for the Protection of Industrial Property of March, 20, 1883, as last revised;

“Patent” means the title granted to protect an invention;

“Perform a work” means to recite, render, play, dance or act a work, either directly or by means of device or process or, in case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible;

“Person” means an individual, partnership, corporation, trustee or legal representation having certain legal rights and responsibilities.

“Priority date” means the date of the earlier application that serves as the basis for the right of priority provided for in the Paris convention.

“Pseudonymous” means a work on the copies or sound recordings of which the author is identified under a fictitious name.

“Registers” means separate registers maintained for patents, industrial designs and marks or the accumulation of all the separate registers into a central register;

“Related rights” means rights that are in certain respects are similar to copyright. The purpose of related rights is to protect the legal interests of certain persons and legal entities who contribute to making works available to the public;

“Registrar” means the officer responsible to keep records of all intellectual property rights matters;

“Rights Management Information (RMI)” means information that identifies content protected by copyright and related rights. RMI may take the form of an electronic watermark placed in protected content;

“Rome Convention” means to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted at Rome on 26 October 1961;

“Semi-conductor products” means the final or intermediate form of an incorporated circuit in a chip, which has an electronic function;

“Sound recordings/phonorecords” means material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "sound recordings" includes the material object in which the sounds are first fixed.

“Technological Protection Measure (TPM)” means a unique method of protection of copyrighted products through the use of digital encryption and other mechanisms to control unauthorized copying, transmission and use of a product

“Trademark” means a sign that is used to distinguish the goods or services offered by one undertaking from those offered by another.

“Trade name” means the name or designation identifying and distinguishing an enterprise.

“Traditional Cultural Expression” means the form in which traditional culture is expressed. This may include music, art, designs, names, signs, and symbols, performance, ceremonies, architectural forms, handicrafts and narratives.

“Transfer of copyright ownership” means an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright, or any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a non exclusive license;

“Transmission program” means a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

“Transmit a performance or display” means to communicate it by any device or process whereby, images or sounds are received beyond the place from which they are sent.

“Utility models” means an exclusive right granted for an invention which allows the right holder to prevent others from commercially using the protected invention without his authorization for a limited period of time.

“WIPO” means World Intellectual Property Office.

“WPPT” means WIPO Performances and Phonograms Treaty of 1996.

“WTO” means World Trade Organization.

PART II
THE LIBERIA INTELLECTUAL PROPERTY OFFICE (LIPO)
SUB-PART A: FORMATION AND NATURE

Establishment, Power, Duties, and Immunity
Section 4

§4.1. Establishment of the Liberia Intellectual Property Office (LIPO)

There is hereby established in the Executive Branch of Government a corporate semi-autonomous agency with perpetual succession and a common seal to be known as “Liberia Intellectual Property Office”, comprising a central administration and two departments, Copyright Department and Industrial Property Department, under the policy direction of the Minister of Commerce to administer all intellectual property matters. Its headquarters shall be in the City of Monrovia.

§4.2. Powers and Duties of LIPO

The powers and duties of the office shall be to:

- (a) sue and be sued;
- (b) take, purchase or otherwise acquire, hold, charge or dispose of movable and immovable property;
- (c) enter into contracts;

- (d) formulate policies on intellectual property rights and/or intellectual property regulations;
- (e) make decisions regarding the management and administration of its operations, and exercise independent control of its budget allocations and expenditures, personnel matters and processes, procurements, and other administrative and management functions in accordance with applicable laws of Liberia;
- (f) grant applications for patents including utility models, copyright/related rights, trademarks, industrial designs, geographical indications; and layout-designs (topographies) of integrated circuits;
- (g) to review technology transfer agreements and licenses
- (h) provide to the public, intellectual property information for technological and economic development;
- (i) conduct programs, studies, exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically;
- (j) maintain registers for all intellectual property rights recordings under this Act;
- (k) promote inventiveness and innovativeness in Liberia;
- (l) establish and operate an intellectual property documentation center for the purpose of dissemination of information on intellectual property;
- (m) collaborate and coordinate with the Ministry of Commerce, the Ministry of Justice, , the Liberia Revenue Authority (Bureau of Customs) and other relevant agencies of Government as well as international authorities or bodies as relates to Liberia intellectual property;
- (n) receive grants, gifts, donations or endowments on behalf of the industry and make legitimate disbursements therefrom;
- (o) charge administrative fees for applications, registrations and other services rendered;
- (p) issue licenses including compulsory licenses, and certificates;
- (q) publish in the Official Gazette all publications required relating to intellectual property;
- (r) promulgate regulations governing intellectual property under this Act;
- (s) hold administrative hearings and render decisions and orders with respect to complaints in connection with intellectual property rights;

- (t) govern the recognition and conduct of agents, attorneys or other persons representing applicants for all intellectual property rights;
- (u) do or perform all such other things or acts necessary for proper performance of its functions under this Act which may lawfully be done by a body corporate;

§4.3. Immunities of the LIPO

An employee of LIPO shall not, in his/her personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his/her functions under this subchapter.

SUB-PART B ORGANIZATION AND STRUCTURE

Section 5 Board of Directors, Appointment of Director General, Deputy Directors

§5.1. Establishment of the Board

There is hereby established a Board of Directors which shall be the governing body of the Office. The Board, shall, in its actions, support the achievement of the overall objectives LIPO.

§5.2. Composition of the Board

- a) The Board which shall be appointed by the President and report directly to him/her, shall comprise eleven members, as follows:
 - i. a representative from the Ministry of Commerce;
 - ii. a representative from the Ministry of Education;
 - iii. a representative from the Ministry of Information and Cultural Affairs;
 - iv. a representative from the Ministry of Justice;
 - v. a representative from the Ministry of Health and Social Welfare;
 - vi. a representative from the Ministry of Agriculture
 - vii. a representative from the Liberia Revenue Authority (Bureau of Custom)

- viii. the Director General of the Intellectual Property Office, who shall be a non- voting member and Secretary to the Board;
 - ix. three persons selected on the basis of their qualifications and experience in technology, performing arts, literary arts, or other innovations;
- b) There shall be no alternate members.

§5.3. Tenure of Board Members

- a) A member of the Board shall hold office:
- i. on such terms and conditions as may be specified in his/her appointment which shall, in the first instance, be for a period of three years; and
 - ii. only for a subsequent period of three years, or not more two terms of three years each.
- b) In the event the tenure of service of a member expires, such member shall continue to serve until a replacement is appointed and ready to assume office.
- c) The President may terminate or suspend the appointment of a member, including the Chairperson:
- i. for the member's physical or mental inability to perform the functions of his/her office;
 - ii. for gross misbehavior or incompetence; or
 - iii. if the member is convicted of a criminal offense.

§5.4. Powers and functions of the Board

The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular but without prejudice to the generality of the foregoing, the Board shall have powers to:

- a) control, supervise and administer the assets of LIPO such manner as best promotes the purpose for which LIPO is established;
- b) determine the provisions to be made for capital and recurrent expenditure and for reserves of LIPO;
- c) enter into association with other bodies or organizations within or outside Liberia as the Board may consider appropriate and in furtherance of the purpose for which LIPO is established;
- d) authorizing the opening of a bank account or bank accounts for the funds of LIPO.

§5.5. Conduct of the business and Affairs of the Board

The conduct of the business and affairs of the Board shall be as provided in this “Act”.

§5.6. Appointment of Director General, Deputy Directors and Qualifications Requirements

- a) With the consent of the Senate, the Director General and Deputy Directors of LIPO shall be appointed by the President of Liberia, giving due consideration to gender balance.
- b) The Director General and Deputy Directors may be removed from office by the President upon recommendation of the Board for proven misconduct or non-satisfactory performance.
- c) The Director General shall possess the following minimum qualification and experience:
 - i. be at the minimum, a licensed Attorney-At-Law, who has practiced law in Liberia for at least three years, or has a bachelor’s degree relating to intellectual property, and has three years’ managerial experience in intellectual property; or
 - ii. be a licensed Counselor-At Law with at least three years managerial experience in intellectual property; or
 - iii. has a master degree in intellectual property with at least three years senior managerial experience in intellectual property.
- d) The Deputy Director for Industrial Property shall possess the following minimum qualification and experience:
 - i. a bachelor of science degree in any of the physical sciences, engineering, or other technology and a certificate of achievement or its equivalent in industrial property;
 - ii. has a minimum of three years’ experience in industrial property.
- e) The Deputy Director for Copyright shall possess the following minimum qualification and experience:
 - i. has a bachelor’s degree in Liberal Arts, Management, Economics, Public Administration, Journalism, English or Sociology, and a certificate of achievement or its equivalent in Copyright;
 - ii. with a minimum of three years’ experience in Copyright.

§5.7. Duties of the Director General

- a) The Director General shall be the Chief Executive Officer of LIPO and head of the central administration. He or she shall perform the following duties:
- i. be responsible for the day-to-day administration of LIPO;
 - ii. issue regulations pertaining to intellectual property law with the approval of the Board;
 - iii. develop a national policy on intellectual property;
 - iv. coordinate all activities affecting bilateral and multilateral agreements relating to intellectual property;
 - v. establish a national public outreach and other programs within LIPO to enhance the protection of intellectual property rights and the development of intellectual property in Liberia, as well as cooperation with international competent authorities responsible for administration of intellectual property;
 - vi. appoint staff as deemed necessary to assist LIPO in the performance of its functions;
 - vii. oversee recruitment, retirement, promotions, dismissal of personnel in keeping with human resource policies.
 - viii. supervise departments, and oversee divisions, sections and units of LIPO in order to ensure effective and efficient performance of their respective functions and duties, and that they are in line with international best practices;
 - ix. ensure implementation of administrative instructions relating to procedures under intellectual property administration and protection;
 - x. authorize the correction of any error of translation or transcription, clerical error or mistake in any application, document or recording filed with the Registrar, as well as the extension of time for doing any act or taking any action mandated this Act by regulation thereunder;
 - xi. perform such other functions relating to intellectual property as are incidental to the position of a director of an intellectual property office.
- b) The Director General shall discharge his duties, in collaboration with the Ministry of Justice, Ministry of Commerce, Ministry of Finance and Development Planning, the Liberia Revenue Authority and other relevant agencies of the Government consistent with the Governments' inter-agency coordination.

§5.8. Duties of the Deputy Director for Industrial Property

The Deputy Director for Industrial Property shall head the Industrial Property Department, responsible for the protection of industrial property rights which shall include technical creative work (innovation) such as patents and utility models, designs (industrial designs), marks, (trademarks), geographical indications and appellation of origin and layout-designs (topography) of integrated circuits. Without limiting the generality of this paragraph, the Deputy Director for Industrial Property shall specifically:

- a) assist the Director General in the operation of LIPO in matters relating to industrial property;
- b) serve the interest of inventors and businesses with respect to their inventions and corporate products and service identification;
- c) develop the Industrial Property Electronic Registration, Recordation System;
- d) maintain files of Liberians and foreign patents and registration of other industrial property;
- e) advise and assist other agencies of government in matters involving industrial property;
- f) develop regulations covering industrial property for approval by the Director General;
- g) conduct hearings on industrial property matters, and report to the Director General;
- h) perform such other functions relating to intellectual property as are incidental to the position of a director of industrial property office.

§5.9. Duties of the Deputy Director for Copyright

The Deputy Director for Copyright shall head the Copyright Department, responsible for the protection of all copyrights and related rights. Without limiting the generality of this paragraph, the Deputy Director for Copyright shall specifically:

- a) assist the Director General in the operation of LIPO in matters relating to Copyright;
- b) develop the Copyright Office Electronic Registration, Recordation and Deposit System;
- c) develop regulations covering Copyright for approval by the Director General;
- d) acquire and assure the security of materials received through mandatory deposit;
- e) secure legal protection of databases;
- f) conduct studies and programs regarding copyright, other matters arising under this title;

- g) foster in cooperation with local and international copyright organizations;
- h) conduct hearings on copyright/related rights matters and report to the Director General
- i) perform such other functions relating to intellectual property as are incidental to the position of a director of Copyright office;

§5.10. Registrar General: Establishment of Office/Appointment

There is also created under this Title the Office of Registrar to be headed by a Registrar General who shall be responsible to perform the task specified in Section 5.11 below. The Registrar General shall be appointed by the Director General upon vetting by the Human Resource Department and shall possess the following minimum qualification and experience:

- i. has acquired at least a bachelor degree in Finance or Accounting and a certificate of achievement or its equivalent in intellectual property;
- ii. a minimum of three-year experience in intellectual property and financial management;
- iii. must meet the requirements of the Civil Service Commission

§5.11. Duties of the Registrar General

The Registrar General shall perform the following duties:

- a) maintain registers for intellectual property registered with LIPO covering all matters required by this Act to be registered;
- b) perform specific duties imposed upon the Registrar General by this Act and related regulations;
- c) arrange by periodical publication a Patent Journal;
- d) furnish information from registers on request and payment of prescribed fee by the public, permitting the public's right of inspection and right to copy pursuant to internal copyright regulations;
- e) perform such other functions as required by this Act and regulations thereto.

§5.12. Organization of the Office of Registrar General

The Office of the Registrar General shall contain separate units responsible for the registration of copyright and related rights and specific industrial property matters. Each unit shall be headed by an Assistant Registrar appointed by the Director General consistent with qualifications determined by the Board.

**PART III
FINANCIAL MATTERS**

**Section 6:
Financial Year, Accounts/Audits and Annual Report**

§6.1. Financial Year

The financial year of LIPO shall be the period of twelve months ending on thirtieth day of June in each year.

§6.2. Accounts and Audits

- a) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of LIPO.
- b) At the end of each financial year, the Board shall submit to the Auditor-General pursuant to the Public Finance Management Law, the accounts of LIPO together with:
 - i. a statement of the income and expenditure during that year; and
 - ii. a statement of the assets and liabilities on the last day of that year.

§6.3. Annual Report

In addition to periodic reports as may be required, the Chairman of the Board shall require the Director General to submit to the President and the Legislature, an Annual Report which shall include a detailed account of registered patents, trademarks, copyrights, and other intellectual property rights statistics of full and adequate information for decision-making income generated and such other relevant facts required to provide.

**PART IV
TRANSITIONAL PROVISIONS**

**Section 7:
Transitional Provisions**

§7.1. Transitional Provisions

Upon the effective date of this Act, the following actions shall be considered automatically taken:

- a) the incumbent Director General of the Industrial Property Office shall serve as Acting Director General of LIPO; while the Officer-In-Charge for Copyright shall serve as Deputy Director for Copyright and Industrial Property pending the appointments of a Director General and Deputy Directors as provided herein.

- b) Personnel of the Copyright Office and Industrial Property Offices shall, in a holdover capacity, continue to perform their respective duties and responsibilities to and receive the corresponding salaries and benefits until the new position structure and staffing pattern of LIPO as instituted by the Director General of the Office and approved by the President.
- c) incumbents whose positions are not included in the organogram of LIPO or who may not be re-appointed shall be deemed redundant. Redundant employees shall be paid severance benefits consistent with the laws of Liberia. In the case of employees who meet eligibility for retirement, they shall receive such retirement benefits as provided for under the laws of Liberia; and
- d) all existing assets, liabilities and obligations of the two agencies shall be transferred to LIPO.
- e) all rights granted by two of the agencies shall be valid until their expiration.

PART V
GENERAL CONDITION AND BASIC PRINCIPLES

Section 8
National Treatment and Most Favored Nation Treatment

§8.1. National Treatment

- a) The Liberia Intellectual Property Office shall accord to the nationals of other Member States, treatment no less favorable than that it accords to its own nationals with regard to the protection of intellectual property rights, subject to the exceptions already provided in; respectively, the Paris Convention of 1967, the Berne Convention of 1971, the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits.
- b) As to performers, producers of phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Act. Any Member other than a Liberian availing itself of the possibilities provided in Article 6 of the Berne Convention of 1971 or paragraph 1(b) of Article 16 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for TRIPS.
- c) The Liberia Intellectual Property Office may avail itself of the exceptions permitted under subsection (a) in relation to legal or court and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of LIPO, only where such exceptions are necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Act and where such practices are not applied in a manner which would constitute a disguised restriction on trade.

§8.2. Most Favored Nation Treatment

- a) With regard to the protection of intellectual property rights, any advantage, favor, privilege or immunity granted by LIPO to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Member States. Exempted from this obligation are any advantage, favor, privilege or immunity accorded by the Liberia Intellectual Office:
 - i. deriving from international agreements on legal assistance or law enforcement of a general nature and not particularly confined to the protection of intellectual property rights;
 - ii. granted in accordance with the provisions of the Berne Convention of 1971 or the Rome Convention authorizing that the treatment accorded be a function not of national treatment but of the treatment accorded in another country;
 - iii. in respect of the rights of performers, producers of phonograms and broadcasting organizations not provided under this Act;
 - iv. deriving from international agreements related to the protection of intellectual property which entered into force prior to the entry into force of the WTO Agreement, provided that such agreements are notified to the Council for TRIPS and do not constitute an arbitrary or unjustifiable discrimination against nationals of other Members States.

PART VI

PRINCIPLES PERTAINING TO THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS

SUB-PART A

COPYRIGHT AND RELATED RIGHTS

Section 9

Copyright and Related rights

§9.1. Works Protected

- a) A literary and artistic work shall not be considered as a work protected by copyright unless it is an original intellectual creation in the literary and artistic domain.
- b) Literary and artistic works under this Act include:
 - i. books, pamphlets, articles and other writings;
 - ii. speeches, lectures, addresses, sermons and other oral works;

- iii. dramatic, dramatico-musical works, pantomimes, choreographic works and other works created for stage productions;
 - iv. musical works, with or without accompanying words;
 - v. audiovisual works and sound recordings;
 - vi. works of architecture;
 - vii. drawings, paintings, sculpture, engraving, lithography, tapestry and other works of fine art;
 - viii. photographic works;
 - ix. works of applied art, including handicrafts and those produced on an industrial scale;
 - x. computer programs;
 - xi. illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science;
- c) Works shall be protected when they are fixed in a medium from which they can be perceived or retrieved, irrespective of their mode or form of expression, as well as their content, quality and purpose.

§9.2. Criteria of Eligibility of Protection; Exclusive Rights

- a) The provisions of this Act concerning the protection of literary and artistic works shall apply to:
- i. works of authors who are nationals of, or have their habitual residence in the Republic of Liberia;
 - ii. works first published in the Republic of Liberia, and works first published in another country and also published in the Republic of Liberia within thirty days, irrespective of the nationality or residence of their authors;
 - iii. audiovisual works, the producer of which has his/her headquarters or habitual residence in the Republic of Liberia; and
 - iv. works of architecture erected in the Republic of Liberia and other artistic works incorporated in a building or other structure located in the Republic of Liberia.
- b) The provisions of this Act shall apply to works that are eligible for protection in the Republic of Liberia by virtue of and in accordance with any international convention or other international agreement to which the Republic of Liberia is party.

- c) Subject to the limitations imposed by provisions of this Act, the owner of copyright has the exclusive rights to do and to authorize any of the following:
- i. to reproduce the copyrighted work in copies or phonorecords/sound recordings;
 - ii. to prepare derivative works based upon the copyrighted work;
 - iii. to distribute copies or phonorecords/sound recordings of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
 - iv. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
 - v. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
 - vi. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

§ 9.3. Derivative Works and Collections

- a) The following derivative works shall be protected as works:
- i. translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.
 - ii. translations, adaptations, arrangements and other transformations or modifications of works, including works inspired by traditional cultural expressions;
 - iii. collections of works and collections of traditional cultural expressions, whether in machine readable or other form, provided that such collections are original by reason of the selection or arrangement of their contents; and
 - iv. compilation of data or other material, in any form, which by reason of the selection or arrangement of their contents constitute intellectual creations so however that protection shall not extend to the data or the material itself and shall be without prejudice to any copyright subsisting in the data or material contained in the compilation.
- b) The protection of any work referred to in subsection (9.1) shall be without prejudice to any protection available to a pre-existing work or traditional cultural expression incorporated in or utilized for the making of such a work.

§9.4. Subject Matter Not Protected

Notwithstanding the provisions of Sections 9.2 and 9.3 of this Part, no protection shall extend under this Part to:

- a) any idea, procedure, system, method of operation, mathematical concept, principle, discovery or mere data.
- b) any official legislative, judicial, or administrative text, including the Laws of the Government of Liberia, as well as any official translation thereof;
- c) news of the day or miscellaneous facts having the character of mere items of press information; and
- d) political speeches and speeches delivered in the course of legal proceedings.

§9.5. Copyright in Works of Government and International Bodies

Copyright is conferred by this section on any work eligible for copyright which is created pursuant to a commission from the Government or such international body or non-governmental body as may be prescribed by LIPO and on which no copyright has otherwise been conferred under any other section applicable.

§9.6. Economic Rights

- a) Subject to exceptions provided for in this Act, the owner of copyright shall have the exclusive right to carry out or to authorize the following acts in relation to the work:
 - i. reproduction of the work;
 - ii. translation of the work;
 - iii. adaptation, arrangement or other transformation of the work;
 - iv. rental of the original or a copy of an audiovisual work, a work embodied in a sound recording or a computer program or other works to the public;
 - v. public performance of the work;
 - vi. broadcasting of the work;
 - vii. other communication to the public of the work.

- b) The right of distribution under subsection (a) (iv) of this Section does not apply to the original or a copy of the work that has already been subject to a sale or other transfer or ownership in any country authorized by the owner of copyright in the work.
- c) The right of rental under subsection (a) (v) of this Section does not apply to rental of computer programs where the program itself is not the essential object of the rental.

§9.7. Moral Rights

- a) Independently of the author's economic rights, and even after the transfer of the said rights, the author of a work shall have the following moral rights:
 - i. to have his name indicated prominently on the copies and in connection with any public use of his work, as far as practicable;
 - ii. to not have his name indicated on the copies and in connection with any public use of his work;
 - iii. to use a pseudonym;
 - iv. to object to any distortion, mutilation or other modification of, or other derogatory action in relation to his work which would be prejudicial to his/her honor or reputation.
- b) Notwithstanding any assignment or sale of the original work, the author of a graphic work, three-dimensional work and manuscript shall have a right to share in the proceeds of any sale of that work or manuscript by public auction or through a dealer whatever the method used by the latter to carry out the operation.
- c) The conditions for the exercise of the right conferred by subsection (b) of this section shall be determined by Regulations to be made by the Intellectual Property Office established under this Part.
- d) The rights mentioned in subsections (a) and (b) shall not be transmissible during the life of the author, but the right to exercise any of those rights may be transferred by testamentary disposition or by operation of law following the death of the author.

§9.8. Fair Use

- a) Notwithstanding the provisions of Sections 9.6 and 9.7, the fair use of a copyright work, including such use by reproduction in copies or sound recordings or by any other means specified by that section, for purposes such as parody, satire, criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include:

- i. the purpose and character of the use, including whether such use is of a commercial nature or is for educational purposes;
 - ii. the nature of the copyrighted work;
 - iii. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 - iv. the effect of the use upon the potential market for or value of the work.
- b) The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

§ 9.9. Quotation

- a) The reproduction, in the form of quotation from a work that has been published shall be permitted without authorization of the owner of copyright, provided that the quotation is compatible with fair practice and does not exceed the extent justified by the purpose including quotations from newspaper articles and periodicals in the form of press summaries.
- b) Any quotation made in accordance with subsection (a) shall be accompanied by an indication of source and the name of the author, if the name appears in the work from which the quotation is taken.

§ 9.10. Private Reproduction for Personal Purposes

- a) Subject to the provisions of subsection (b), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.
- b) The permission under subsection (a) shall not extend to reproduction:
- i. of a work of architecture in the form of building or other construction;
 - ii. of the whole or of a substantial part of a database in digital form; and

§ 9.11. Temporary Reproduction

The temporary reproduction of a work shall be permitted if all of the following conditions are met:

- a) the reproduction is made in the process of a transmission of the work or an act of making a stored work perceptible;
- b) it is caused by a person or entity that by virtue of authorization by the owner of the copyright or by operation of law, is entitled to make that transmission or make the work perceptible; and

- c) it is an accessory to that transmission or making perceptible, that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those, referred to in subsections (a) and (b) of this Section

§ 9.12. Reproduction and Other Utilization for Teaching

- a) The following acts shall be permitted without authorization of the author, or other owner of copyright:
 - i. the utilization by way of illustration for teaching purposes of a work that has lawfully been made available to the public, in publications, broadcasting or sound or visual recordings, provided that such utilization is compatible with fair practice and does not exceed the extent justified by the purpose; the utilization can also include the making available of such works in computer networks, provided that access to the works is only available to enrolled pupils or students and their teachers;
 - ii. the reprographic reproduction, for face-to-face teaching in educational institutions the activities of which do not serve direct or indirect commercial gain, of published articles, other short works or short extracts of works, to the extent justified by the purpose, provided that :
 - iii. the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions;
 - iv. there is no collective license available, offered by a collective management organization of which the educational institution is or should be aware, under which such reproduction can be made.
- b) The source of the work and the name of the author shall be indicated, as far as is practicable, on all copies made under subsection (a) of this Section or otherwise in reasonable connection with the work.

§ 9.13. Reproduction by Libraries and Archives

Any library or archive whose activities do not serve direct commercial gain may, without the authorization of the owner of copyright, make a copy of a work:

- a) by reproduction where the work reproduced is a published article, other short work or short extract of a work, and where the purpose of the reproduction is to satisfy the request of a person, provided that:
 - i. the library or archive is satisfied that a copy will be used solely for the purposes of study, scholarship or private research,

- ii. the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions, and
 - iii. there is no collective license available or offered by a collective administration organization of which the library or archive is or should be aware, under which such copies can be made or
- b) where the copy is made in order to preserve and, if necessary, replace a copy, or to replace a copy which has been lost, destroyed, or rendered unusable in the permanent collection of another similar library or archive, provided that it is impossible to obtain such a copy under reasonable conditions, and provided further that the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions.

§9.14. Reproduction, Broadcasting and Other Communication to the Public for Information Purposes

The following acts shall be permitted in respect of a work without the authorization of the owner of copyright, subject to the obligation to indicate the source and the name of the author as far as practicable:

- a) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a lecture, address, sermon (religious issues) or other work of a similar nature delivered in public, to the extent justified by the purpose of providing current information.
- b) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current issues or a broadcast work of the same character, in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved;
- c) for the purpose of reporting current events, the reproduction and the broadcasting or other communication to the public by means of photography, audiovisual, broadcasting or other communication of short excerpts of a work seen or heard in the course of such events, to the extent justified by the purpose;

§9.15. Reproduction and Adaptation of Computer Programs

- a) The reproduction, in a single copy, or the adaptation of a computer program by the lawful owner of a copy of that computer program shall be permitted without the authorization of the owner of copyright, provided:
 - i. that the copy or adaptation is necessary for use of the computer program with a computer for the purpose and extent for which the computer program has been obtained; or
 - ii. that the copy or adaptation is necessary for archival purposes and for the replacement of the lawfully owned copy of the computer program in the event that the said copy of the computer program is lost destroyed or rendered unusable.

- b) No copy or adaptation of a computer program shall be used for any purpose other than those specified in subsection (a), and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful. Any copies prepared in accordance with the provisions of this section may be leased, sold, or otherwise transferred along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of all rights in the program.

§9.16. Visually Impaired Persons

- a) It shall be permitted without the authorization of the owner of copyright to reproduce a published work for visually or aurally impaired persons or persons with print disabilities in a specialized format which enables their perception of the work, and to distribute the copies exclusively to those persons, provided that the work is not reasonably available in an identical or largely equivalent form enabling its perception by the visually, aurally impaired or print disabled person; and the reproduction and distribution are made on a non-profit basis.
- b) The copies of works made in pursuance of this section shall bear a copyright notice identifying the copyright owner and the date of the original publication and notice that any further reproduction or distribution in a format other than a specialized format is an infringement.
- c) The distribution of works made pursuant to this section is also permitted where the copies had been made abroad and the conditions mentioned above have been fulfilled.

§9.17. Ephemeral Recordings

Any broadcasting organization may make, without the authorization of the owner of copyright, for the purpose of its own broadcasts, an ephemeral recording of any work which it is authorized to broadcast. All copies of it shall be destroyed within six months of the making or within any longer term agreed to by the owner of the copyright; however, where such recording has an exceptional documentary character, copies of it may be preserved in official archives.

§9.18. Use for Public Security and for the Performance or Reporting of Proceedings

- a) A work may be used, without authorization from the copyright owner, for the purposes of public security and to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings and the discharge of related functions.
- b) Notwithstanding the provisions of the foregoing subsection, the moral rights of the author shall be upheld as far as is reasonable.

§9.19. Compulsory Licensing

- a) The Intellectual Property Office shall have the power to grant compulsory licenses in accordance with the provisions of Schedule One to this Act and may make regulations providing further for the procedure and requirements for the exercise of the provisions of the said Schedule.
- b) Any person aggrieved by a decision of the Intellectual Property Office by virtue of this section shall have a right of appeal to the Court.

§ 9.20. Duration of Copyright and Related Rights

- a) The economic and moral rights in literary, musical and artistic works, other than photographic work, shall be protected during the life of the author and for fifty years after the end of the year in which the author dies.
- b) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for fifty years after the end of the year in which that author dies.
- c) In the case of an audiovisual work and sound recordings, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by authorized publication or by any other means, whichever date is the latest.
- d) In the case of a broadcast, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the broadcast took place.
- e) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public, by authorized publication, whichever date is the latest, provided that where the author's identity is revealed or is no longer in doubt before the expiration of the period, the provisions of subsection (a) or subsection (b) shall apply, as the case may be.
- f) In the case of a work of applied art, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made.
- g) In the case of a photograph, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by publication, whichever date is the latest.

§9.21. First Ownership of Copyright

- a) Subject to the provisions of subsections (b) to (d) of this section, the first owner of any copyright granted under this Act shall be the author of the work.

- b) For a work of joint authorship, the co-authors shall be the first owners of the economic rights. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the first owner of the economic rights in the part that he has created.
- c) For a work created by an author, employed by a natural person or legal entity, in the course of his employment, the first owner of the economic rights shall, unless provided otherwise in a contract, be the employee.
- d) For an audiovisual work, the first owner of the economic rights shall be the producer, unless provided otherwise in a contract. The co-authors of the audiovisual work and the authors of the pre-existing works included in or adapted for the making of the audiovisual work shall, however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be the subject of acts covered by their economic rights separately from the audiovisual work.

§9.22. Presumption Regarding Authorship, Producers of Audiovisual Works and Publishers

- a) The natural person whose name is indicated as the author of a work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the author of the work. This provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.
- b) The person whose name appears on an audiovisual work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the producer of the work.
- c) In the case of an or pseudonymous work, subject to the provision of subsection (a) of this section, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the author and, in this capacity, shall be entitled to exercise and enforce the moral and economic rights of the author. This presumption shall cease to apply when the author reveals his identity.

§9.23. Assignment, Relinquishment and Licensing of Authors' Rights

- a) Subject to this section, copyright shall be transmissible by assignment, license, and testamentary disposition or by operation of law, as movable property.
- b) An assignment, license or testamentary disposition of copyright may be limited so as to apply only to some of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.
- c) Any assignment of copyright and any exclusive license to do an act subject to authorization by the owner of copyright shall be in writing signed by or on behalf of the assignor or licensor, as the case may be.

- d) An assignment in whole or in part of any economic right, or a license to do an act subject to authorization by the owner of copyright, shall not include or be deemed to include the assignment or license of any other rights not explicitly referred to therein.
- e) An assignment, license or testamentary disposition may be effectively granted or made in respect of a future work, or an existing work in which copyright does not yet subsist and the prospective copyright in any such work shall be transmissible by operation of law as movable property.
- f) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, in the absence of anything to the contrary, be taken to include the disposition of any copyright or prospective copyright in the work which is vested in the testator.

§ 9.24. Application for Registration; Issuance of Certificate

The application for copyright registration shall be made pursuant to regulations of the Intellectual Property Office. When, after examination, the Registrar of the Copyright Department, determines that in accordance with the provisions of this Part, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of regulations of the Intellectual Property Office have been met, shall register the claim and issue to the applicant a certificate of registration under the seal of the Intellectual Property Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

§ 9.25. Registration of Transfers and other Documents

- a) Any transfer of copyright ownership or other document pertaining to a copyright may be registered in the Intellectual Property Office if the document filed for registration bears the actual signature of the person who executed it, or if it is accompanied by a sworn affidavit or official certification that it is a true copy of the original, signed document.
- b) The Director General shall, upon receipt of a document provided by sub-section (a) and of the fee as specified by the Intellectual Property Office, shall register through the Registrar the document and return it with a certificate of record.
- c) Registration of a document in the Intellectual Property Office shall give all persons constructive notice of the facts stated in the registered document.
- d) In the case of works first published in Liberia by Liberian authors, no persons claiming by virtue of a transfer to be the owner of copyright may institute an infringement action unless the claim has been registered in the Intellectual Property Office. An infringement action may be initiated after registration on a cause of action that arose before registration.

§9.26. Protection of Performers, Producers of Sound Recordings and Broadcasting Organizations of Related Rights

- a) The protection of performers shall apply to performers who are nationals of the Republic of Liberia, and performers who are not nationals of the Republic of Liberia but whose performances:
 - i. take place on the territory of the Republic of Liberia; or
 - ii. are incorporated in phonograms that are protected under this Act; or
 - iii. have not been fixed in a phonogram but are included in broadcasts qualifying for protection under this Part.
- b) The provisions of this Act on the protection of sound recordings shall apply to:
 - i. sound recordings the producers of which are nationals of the Republic of Liberia;
 - ii. sound recordings first fixed in the Republic of Liberia; and
 - iii. sound recordings first published in the Republic of Liberia.
- c) The provisions of this Act on the protection of broadcasts shall apply to:
 - i. broadcasts of broadcasting organizations the headquarters of which are situated in the Republic of Liberia; and
 - ii. broadcasts transmitted from transmitters situated in the Republic of Liberia.
- d) Section 9.5 applies to program-carrying signals the originating organization of which is a national of the Republic of Liberia.
- e) The provisions in this Act shall apply to performances, producers of sound recordings, and broadcasts, broadcasting organizations that are eligible for protection in the Republic of Liberia by virtue of and in accordance with any international convention or other international agreement to which the Republic of Liberia is party.

§9.27. Rights of Performers

- a) A performer shall have the exclusive right to carry out or to authorize any of the following acts:
 - i. the broadcasting or other communication to the public of his performance, except where the broadcasting or the other communication is made from a fixation of the performance which the performer has authorized to be made or is a rebroadcasting made or authorized by the organization initially broadcasting the performance;

- ii. the fixation of his unfixed performance;
 - iii. the direct or indirect reproduction of a fixation of his performance, in any manner or form;
 - iv. the distribution of a fixation of his performance, or of copies thereof, to the public;
 - v. the commercial rental to the public of a fixation of his performance, or copies thereof;
 - vi. the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.
- b) Once the performer has authorized the incorporation of his performance in an audiovisual fixation, he shall, in the absence of contractual provisions to the contrary, be deemed to have assigned his exclusive economic rights with respect to that fixation to its producer.
 - c) The right of distribution under item (iv) of subsection (a) shall not apply to a copy of a fixation of his performance that has already been subject to a sale or other transfer of ownership in any country authorized by the performer.
 - d) Independently of the performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.
 - e) Modifications consistent with the normal exploitation of a performance in the course of a use authorized by the performer shall not be considered prejudicial to the performer's reputation. The provisions of Section 9.7 (b) apply *mutatis mutandis* to the rights granted under this subsection.
 - f) The rights under this section shall be protected until the end of the fiftieth calendar year following the year in which the performance was fixed.

§9.28. Rights of Producers of Sound Recordings

- a) A producer of a sound recording shall have the exclusive right to carry out or to authorize any of the following acts:
 - i. the direct or indirect reproduction of the sound recording, in any manner or form;
 - ii. the distribution of the original or copies of the sound recording to the public;
 - iii. the commercial rental of the original or copies of the sound recording to the public,

- iv. the making available to the public of the sound recording, by wire or wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.
- b) The right of distribution under subsection (a) (ii.) of this Section shall not apply to the original or the copy of the sound recording that has already been subject to a sale or other transfer of ownership in any country authorized by the producer.
- c) The rights under subsection (a) shall be protected from the publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, if the sound recording has not been published from the fixation of the sound recording until the end of the fiftieth calendar year, following the year of fixation.

§9.29. Equitable Remuneration for use of Sound Recordings

- a) If a sound recording published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user to the producer or a collective management organization licensed by the Intellectual Property Office.
- b) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under subsection (a) shall be paid by the producer to the performer or performers.
- c) The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of fifty calendar years following the year of publication.
- d) For the purposes of this section, sound recordings that have been made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they have been published for commercial purposes.
- e) Subsection (a) does not apply to the extent that the use of the sound recording is covered by an exclusive right under Section 9.2(a) (iv.) and Section 9.3(a) (iv.) of this Part.

§9.30. Rights of Broadcasting Organizations

- a) A broadcasting organization shall have the exclusive right to carry out or to authorize any of the following acts:
 - i. the rebroadcasting of its broadcast;
 - ii. the communication to the public of its broadcast;

- iii. the fixation of its broadcast;
 - iv. the reproduction of a fixation of its broadcast.
- b) The rights under this section shall be protected from the moment when the broadcasting takes place until the end of the twentieth calendar year following the year in which the broadcast takes place.
- c) Program-carrying signals transmitted by satellite which are not intended for direct reception by the public, but for simultaneous or subsequent broadcasting or cable distribution by an authorized receiving organization, may not be broadcast or communicated to the public by anyone else without authorization of the person or legal entity that decided what program the emitted signal would carry (originating organization).

§9.31. Limitations on Protection

Sections 9.2, 9.3, 9.4 and 9.5 shall not apply where the acts referred to in those sections are related to:

- a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- b) cases where, under this Part, a work can be used without the authorization of the owner of copyright.
- c) any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of the copyright.

§9.32. Technological Protection--Measures.

- a) Technological protection measures shall be regarded as effective where the use of a work or object of related right protected under this Act is controlled by the right holder through application of an access control or protection process which, in the normal course of its operation, achieves the protection objective.
- b) Notwithstanding the provisions of this section, a beneficiary of any exception or limitation under this Act may circumvent any technological protection measure to the extent required to benefit from such exception or limitation.

§9.33. Protection of Rights Management Information

- a) It is prohibited to knowingly:
 - i. remove or alter any electronic rights management information without the consent of the right holder, or

- ii. distribute, import for distribution, broadcast or communicate to the public of works or other subject-matter protected under this Act from which electronic copyright management information has been removed or altered without the authorization of the right owner when such act will induce, enable, facilitate or conceal an infringement of any right covered by this Part.
- iii. Subsection (a) does not prohibit any governmental activities for public policy or security authorized by law.
- iv. Notwithstanding subsection (a), upon the request by the beneficiary of an exception or limitation in accordance with this Act, the Director General of the Intellectual Property Office may order that the necessary means be made available to a beneficiary in order that he may enjoy or apply the exception or limitation, to the extent required to benefit from it.

§9.34. Protection of Traditional Cultural Expressions

- a) Traditional cultural expressions are protected against the following actions:
 - i. reproduction;
 - ii. fixation of a previously unfixed performance;
 - iii. communication to the public by performance, broadcasting, distribution by cable or other means;
 - iv. adaptations, translations and other transformations;
 - v. when such expressions are made for commercial purposes outside their traditional or customary context by persons who are not Liberians citizens or domiciled in Liberia.
- b) The rights conferred under subsection (a) of this Section shall not include the right to control:
 - i. use for educational purposes;
 - ii. use by way of illustration in an original works of an author; provided that the extent of such use is within the scope of fair use;
 - iii. incidental inclusion of in a copyright work.
- c) In all publications including fixations of performances and in connection with any communication to the public or broadcast of any identifiable traditional cultural expression, its source shall be indicated in an appropriate manner and in conformity with fair practice, by mentioning the community or place from where the expression was derived.

- d) The right to authorize acts referred to in subsection (a) of this section shall vest in the Intellectual Property Office.
- e) The Intellectual Property Office shall ensure that any benefits accruing from the commercial exploitation of traditional cultural expression are realized by the relevant community from where it originated and where the community cannot be clearly identified or the work cuts across more than one community, the benefits shall be administered by the Intellectual Property Office for the promotion of cultural activities in Liberia.

§9.35. Levy on Copyright Material

- a) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.
- b) The levy payable under subsection (a) of this Section shall be as may be determined by the Minister from time to time and published and different levies may be imposed on different categories of materials.
- c) The levy shall be paid into the funds of the Intellectual Property Office and the Office shall have power to disburse the funds amongst approved collective management organizations in accordance with regulations made by the Office.
- d) In this section, “material” includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work.

§9.36. Royalties

- a) In the absence of an agreement to the contrary, no person may broadcast, cause the transmission of or play a sound recording without payment of a royalty to the owner of the relevant copyright.
- b) The amount of a royalty contemplated in subsection (a) of this Section shall be determined by an agreement between the user of the sound recording, the performer and the owner of the copyright, or between their representative collecting societies.
- c) In the absence of an agreement, the user, performer or owner may refer the matter to the courts or they may agree to refer the matter for disputes resolution in the form of mediation or arbitration.
- d) The owner of the copyright who receives payment of a royalty in terms of this section shall share such royalty with any performer whose performance is featured on the sound recording and who would have been entitled to receive a royalty in that regard under this Section.
- e) The performer’s share of the royalty shall be determined by an agreement between the performer and the owner of the copyright.

- f) In the absence of an agreement between the performer and the owner of the copyright, or between their representative collecting societies, the performer or owner may refer the matter to the courts, or seek alternative disputes resolution in the form of mediation or arbitration.

SUB-PART B

INDUSTRIAL PROPERTY RIGHTS

Section 10 Trademarks

§ 10.1. Acquisition of Exclusive Right to a Mark; Registrability

- a) Any sign, or any combination of signs, capable of distinguishing, the goods or services of one undertaking from those of other undertakings shall be capable of constituting a trademark and shall be visually perceptible. The nature of the goods or services of which a trademark is to be applied shall in no case form an obstacle to registration of the trademark.
- b) A mark may consist, in particular, of words, letters, numerals, figures, pictures, combinations of colors, the shape of goods or of parts of the goods, or the packaging or other conditioning of goods.
- c) The exclusive right to use a mark, as provided in this Part, shall be acquired by registration in accordance with the provisions hereof.

§10.2. Unregistrable Trademarks

- a) A sign shall not be validly registered as a mark if:
- i. it is devoid of any distinctive character or is otherwise incapable of distinguishing the goods or services of one enterprise from those of other enterprises;
 - ii. it consists exclusively of a sign or indication that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services in respect of which the mark is to be used;
 - iii. it consists exclusively of a sign or indication that has become customary in current language or in the *bona fide* established practices of the trade to designate goods or services in respect of which the mark is to be used, or that is a usual or recognized technical or scientific name of those goods or services;

- iv. it consists of the shape of a product or of its container or packaging where the shape results from the nature of the product, container or packaging, or it is a shape that provides a technical effect, functional advantage or substantial value to the goods;
 - v. it is not distinct or separable from the goods or services to which it applies, or it consists of a feature or characteristic that results from the nature of the goods or services themselves;
 - vi. it is contrary to public order or morality; however, the nature of the goods or services to which a mark is to be applied shall not be an obstacle to registration of the mark;
 - vii. it is likely to deceive or mislead the public or trade circles, in particular as regards the geographical origin or provenance of the goods or services concerned or their nature, quality or other characteristics;
 - viii. it is identical with, or is an imitation of or contains as an element, any sign covered under article 6ter of the Paris Convention, unless authorized by the competent authority of the State or organization concerned.
- b) A sign cannot be validly registered as a mark if the use of such mark would conflict with prior third-party rights in force in Liberia, in particular where:
- i. the sign is identical with or similar to an earlier registered mark or geographical indication belonging to a different person, or to a mark having an earlier filing or priority date, in respect of identical, similar or related goods or services, and this would be likely to cause confusion or a likelihood of association with the earlier mark or geographical indication;
 - ii. the sign is a reproduction, imitation or translation of a distinctive sign that is well known in Liberia in respect of identical or similar goods or services of another person, or is well-known in Liberia for goods or services which are not identical or similar to those in respect of which registration is applied for, provided, in the latter case, that use of the sign in relation to those goods or services would be likely to cause confusion or a likelihood of association with the well-known distinctive sign, or would indicate a connection between those goods or services and the owner of the well-known distinctive sign, or that the reputation of the sign or of the owner thereof would be damaged by such use, or such use without due cause would take unfair advantage of, dilute or otherwise be detrimental to, the distinctive character or the repute of the well-known distinctive sign;
 - iii. the use of the sign in Liberia is liable to be prevented by virtue of any rule of law, in particular, protecting an unregistered mark, trade name, geographical indication or other sign used in the course of trade, or by virtue of an earlier intellectual property right, in particular the law of copyright or of industrial designs;
 - iv. the application for registration has been made in bad faith, or the registration of the sign would consolidate or facilitate an act of unfair competition.

- c) For the purposes of subsection (b)(i), where the sign is identical with the earlier registered mark or geographical indication irrespective of identical goods or services, a likelihood of confusion shall be presumed.
- d) For the purposes of subsection (b)(ii), in determining whether a distinctive sign is well known, Section 10.13 shall apply.
- e) The prior user of a mark that is neither registered nor the subject of a pending application under subsection (b)(i), may oppose an application for a registration by another person of an identical or similar mark for identical or similar goods or services, provided he:
 - i. submits evidence that he has used that mark in Liberia in good faith prior to the filing date or the priority date, if applicable;
 - ii. submits evidence that he has acquired clientele or reputation in Liberia in connection with that mark; and
 - iii. files an application for registration of his own mark prior to filing the notice of opposition.
- f) The Director General or the court shall have the authority to decide whether a mark has acquired in Liberia secondary meaning or distinctiveness through continued use and may, in such case, register the mark notwithstanding the provisions of subsection (10.2) (a) (ii) and (iii).

§10.3. Honest and Concurrent Use

In case of honest concurrent use, or of other circumstances in which the court or the Director General find it proper to do so, the court or the Director General may allow the registration of marks that are identical or nearly resemble each other in respect of the same goods or services or description of goods or services by more than one proprietor subject to such conditions and limitations, if any, as the court or the Director General, as the case may be, may impose.

§10.4. Registration to be in Respect of Particular Goods

A trademark shall be registered in respect of goods or services falling in a particular class or classes in accordance with the prescribed classification, provided that the rights arising from the registration of a trademark shall be determined in accordance with prescribed classification applicable at the date of registration thereof.

§10.5. Application for Registration; Right of Priority

- a) The owner of a trademark used in commerce may request through submission of an application for registration of the trademark on the principal register therefor by paying the fees and filing in the Intellectual Property Office an application as may be prescribed by the Director General.

- b) The application for registration of a mark shall contain:
- i. a request for registration;
 - ii. a sufficiently clear reproduction or representation of the mark, as prescribed;
 - iii. a list of the goods or services for which registration of the mark is requested, grouped in accordance with the applicable class or classes of the International Classification Marks;
 - iv. proof of payment of the prescribed application fee; and
 - v. shall comply with other prescribed requirements.
- c) When the mark consists of a sign that is not visually perceptible, the application shall contain a graphic representation of the mark. Such representation may not consist of a written description of the sign.
- d) The application may contain a declaration claiming, in accordance with the Paris Convention, the priority of one or more earlier applications filed for the same mark in respect of corresponding goods or services, by the applicant or his predecessor in title, in or for any State party to the said Convention or any Member of the World Trade Organization.
- e) The period of priority shall be for six months and shall be computed in accordance with the provisions of Article 4 of the Paris Convention, that is from the date of filing of the first application, but shall exclude the day of filing in the six months period, and shall end on the last day of the period unless an official holiday or a day the Intellectual Property Office is not open in which case the period shall be extended until the next working day for the filing of application.
- f) The effect of claiming priority shall be in compliance with the Paris Convention, in particular, an application filed within the priority period shall not be refused or invalidated by reason of any acts occurring during that period, in particular, another filing or the publication or used of the mark, and such acts shall not give rise to any third-part right or any right of personal possession.
- g) Where the application contains a declaration claiming priority the Director General may request the applicant to furnish, within the prescribed time limit which shall not be less than three months from the date of filing, a copy of the earlier application certified as correct by the foreign authority with which it was filed. The Director General may also request that the copy be accompanied by a certificate from that authority showing the date of filing, and by a translation into English.
- h) If the Director General finds that the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.

- i) The filing date of an application for registration of a mark shall be the date on which the application is received at the Office if, at the time of receipt, it contains at least the following elements:
 - i. an express or implicit indication that the registration of a mark is applied for;
 - ii. sufficient information to identify the applicant and to contact the applicant or his representative;
 - iii. a sufficiently clear reproduction of the mark or a representation of the mark, as prescribed;
 - iv. a list specifying the goods or services for which the registration is sought; proof of payment of the prescribed application fee;
- j) If the application omits one of the elements indicated in the previous paragraph, the Director General shall notify the applicant requesting that the omission be corrected. Until the omission is corrected, the application shall be regarded as not filed. The provisions of Section 10.6 (b) and (c) shall apply.
- k) The applicant may amend or correct the application at any time during the procedure. An amendment or correction shall not be accepted if it involves a change in the mark or results in an enlargement or a broadening of the scope of the list of goods or services specified in the initial application, but said list may be reduced or limited.
- l) The applicant may at any time during pendency divide his application in order to separate into two or more applications the goods or services specified in the initial application. A division shall not be accepted if it results in an enlargement or broadening of the scope of the list of goods or services specified in the initial application, but said list may be reduced or limited.
- m) Each divisional application shall retain the filing date and the right of priority of the initial application. After the division, each divisional application shall be independent. If publication of the application occurred before the division, the publication shall have effect for each divisional application.
- n) The applicant may at any time withdraw his application or limit the list of goods or services covered by the application.

§10.6. Examination; Publication; Opposition and Registration

- a) Upon the filing of an application for registration and payment of the prescribed fee, the Director General shall refer the application to the Registrar in charge of the registration of marks, who shall cause an examination to be made as to whether it appears that the applicant is entitled to registration or would be entitled to registration.

- b) If the application does not comply with the prescribed requirements, the Director General shall notify the applicant accordingly requesting him to correct the application within two months from the date of the notification.
- c) If the required correction is not made within the specified period, the application shall be considered withdrawn.
- d) Where the Director General finds that the conditions referred to under subsection (a) through subsection (e) of this section are fulfilled he shall cause the application to be published in the prescribed manner.
- e) Any interested person may, within the prescribed period and in the prescribed manner, file with the Director General a notice of opposition to the registration of the mark specifying the grounds that the opponent deems relevant to refuse the registration of that mark.
- f) The Director General shall notify the opposition to the applicant and, within the period of three months and in the prescribed manner, the applicant may send to the Director General a reply to the opposition.
- g) If the applicant sends a reply to the opposition, the Director General shall furnish a copy thereof to the person giving notice of opposition and shall hear the parties, if either or both wish to be heard.
- h) The Director General shall examine and determine whether the mark complies with the definition in Section 10.1 and is registrable under Section 10.2. Where one or more oppositions have been filed on grounds under Section 10.2, he/she shall also examine whether the mark is registrable under those grounds.

§10.7. Certificate of Registration

- a) Where the Director General finds that the conditions for registration are fulfilled, he/she shall refer the applicant to the Registrar for registration of the mark, publication of a reference to the registration and issue to the applicant a certificate of registration. . Otherwise, he shall refuse the application.
- b) Where an application for registration of a mark claims the benefit of Article *6quinquies* of the Paris Convention that every trademark duly registered in the country of origin shall be accepted for filing and protection in Liberia as part of the Union under the Paris Convention, the Director General shall ensure that in deciding on the registration, a certificate of registration of the country of origin issued by the competent authority is produced by the applicant and that the country of origin is where the applicant has a real and effective industrial or commercial establishment, or is domiciled, or is a national of the country of origin. Trademarks covered by this subsection shall not be denied registration or invalidated except in keeping with rules and regulations issued by the Director General pursuant to said Article of the Paris Convention.

§10.8. Rights Conferred by Registration

- a) Registration of a mark shall confer on its registered holder the right to prevent any unauthorized third party from carrying out the following acts:
 - i. affixing a sign identical to the mark on goods for which the mark has been registered, on goods associated to the services for which the mark has been registered, or on the containers, wrapping or packaging of such goods;
 - ii. suppressing or distorting the mark for commercial purposes after it has been affixed as specified in subsection (a);
 - iii. manufacturing, selling, offering for sale, distributing or stocking material that bears the mark or may be used as labels, containers, wrappings, packaging, business paper or advertising;
 - iv. refilling or re-utilizing for commercial purposes containers or packaging bearing the mark;
 - v. using in the course of trade a sign that is identical or similar to the mark in respect of any goods or services, where such use may cause a risk of confusion or association with the holder of the registration, provided that where an identical sign is used for identical goods or services, a likelihood of confusion shall be presumed;
 - vi. using in the course of trade a sign that is identical or similar to the mark in respect of any goods or services where such use may cause unfair economic prejudice to the holder of the registration, or would take unfair advantage of, dilute or otherwise be detrimental to the distinctive character or advertising value of the mark, or would take unfair advantage of the reputation of the mark or its holder;
 - vii. using publicly a sign that is identical or similar to the mark, even for non-commercial purposes, where this may cause a dilution of the distinctive character or advertising value of the mark, or would take unfair advantage of the reputation of the registered mark or its holder.

- b) For the purposes of this Section, the following acts, in particular, shall be regarded as use of a sign in the course of trade:
 - i. introducing on the market, selling, offering for sale or distributing goods or services with the sign or with reference to the sign;
 - ii. importing, exporting, storing or transporting goods that bear the sign or that refer to the sign;

- iii. using the sign in advertising, publications, business papers, commercial documents or written or oral communications, irrespective of the means of communication or media used;
 - iv. using the sign for commercial purposes on the Internet or other electronic communication media or networks open to the public where such use is intended for Liberia or has a commercial effect in Liberia;
 - v. adopting or using the sign as part of a domain name or other similar identification or designation on the Internet or other electronic communication media or networks open to the public.
- c) The rights conferred by registration of a mark may not be exercised to prevent:
- i. any acts in respect of goods lawfully bearing the mark after those goods have been put on the market in Liberia or abroad by the registered holder or by a person acting with the holder's consent or having an economic tie to the holder, provided that the goods and the packaging or wrapping in direct contact with the goods have not suffered any material alteration or damage; to this effect an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the mark, or where a third party may exercise such an influence on both persons;
 - ii. use of the registered mark by any person for the purpose of indicating truthfully in the course of trade that the goods or services that bear the mark originate with the holder of the mark or a licensee thereof;
 - iii. use of the registered mark by any person to provide information regarding the intended purpose, use or compatibility of a product or service, in particular with respect to accessories or spare parts;
 - iv. use by a person in the course of trade of that person's name, address, place of business or place of production or distribution of goods or services, or those of that person's predecessor in business.
- d) The acts under subsection (c) (ii.), (iii.), (iv.) and (v.) shall be allowed subject to compliance with honest practices and provided such acts do not cause confusion regarding the provenance of the goods or services, and do not take unfair advantage of, or are detrimental to, the distinctive character or repute of the mark, and do not otherwise constitute unfair competition.
- e) The holder of a registered mark may assign it without transferring the business to which the mark belongs.

§10.9. Term of Registration; Renewal

- a) The term of registration of a mark shall be of ten years computed from the date of the registration.
- b) The registration of a mark may be renewed for further consecutive periods of ten years each, upon compliance with the prescribed requirements and payment of the prescribed renewal fee.
- c) A grace period of six months shall be allowed for renewal of the registration, on payment of the prescribed surcharge.
- d) If renewal does not take place as prescribed, the registration of the mark shall lapse.

§10.10. Invalidation; Revocation

- a) Any interested person may request the Director General to invalidate the registration of a mark in respect of one, some or all the goods or services covered by the registration.
- b) A request for invalidation on grounds of prior third-party rights may not be filed after the expiration of a period of five years counted from the date of the registration, unless the registration was obtained in bad faith. A request for invalidation on other grounds may be filed at any time.
- c) The Director General shall invalidate the registration if it is proven that the registered sign does not comply with the definition of 'mark' provided in Section 10.1 or that the mark was registered in contravention of any of the grounds specified in Section 10.1(c).
- d) Any invalidation of the registration of a mark shall be deemed to have been effective as of the date of registration, and it shall be recorded and a reference thereto published as soon as possible.
- e) The Director General may revoke the registration of a mark in respect of one, some or all the goods or services covered by the registration, on any of the following grounds:
 - i. within the period of three years following the date of completion of the registration procedure the mark has not been put to genuine use in Liberia in relation to the goods or services for which it is registered, and there are no justified reasons for such failure to use;
 - ii. substantive use of the mark has been suspended for an uninterrupted period of three years, and there are no justified reasons for such failure to use;
 - iii. in consequence of acts or inaction of the registered holder, the mark has become the common name or the only effective designation available for use in the ordinary course of trade in respect of a product or service for which the mark is registered;
 - iv. in consequence of the manner in which the registered holder used the mark or allows it to be used the mark is liable to mislead the public, particularly as to the nature, quality or geographical origin of the goods or services for which the mark is registered.

- f) For the purpose of subsection 10.10 (b) use of a mark includes use in a form differing in elements that do not alter the distinctive character of the mark in the form in which it was registered, and use in Liberia includes affixing the mark to goods or to the packaging of goods in Liberia solely for export purposes.
- g) Where in any proceedings under this Act it is required to prove the use to which a mark has been put, including the duration, nature or scope of the use, the burden of such proof shall lie with the registered holder.
- h) The registration of a mark shall not be revoked on the grounds mentioned in subsection 10.10 (a) or (b) if use of the mark is commenced or resumed after the expiry of the three-year period and not less than one month before the request for revocation is made.
- i) Where grounds for invalidation or revocation exist in respect of only some of the goods or services for which the mark is registered, invalidation or revocation shall relate to those goods or services only.
- j) Where the registration of a mark is revoked to any extent, the effects of revocation shall be deemed to have taken place to that extent as from the date of the request for revocation, and it shall be recorded and a reference thereto shall be published as prescribed, as soon as possible.
- k) A request for invalidation or revocation may be made by any person, and may be made either to the Director General or to the court.
- l) For the purposes of proceedings under this section, the provisions of Section 10.6 (c) and (d) shall apply

§10.11. Collective Marks

- a) Section 10.1 (b) to Section 10.6 of this Part shall apply to collective marks. However, where a collective mark consist of, or contains, a geographical name that corresponds to the place of origin of the goods in respect of which the mark is to be registered, the Director General may decide not to apply Section 10.1 (c) as required.
- b) A mark capable of distinguishing, in the course of trade, the goods or services of persons who are members of an association, from goods or services of persons who are not members of such association, shall on application in the prescribed manner, be registrable as a collective trade mark or service mark in respect of the goods or services in the name of such an association.
- c) Where an international registration designating Liberia is a collective mark or a certification mark, the regulations governing the use of such collective mark or certification mark shall be submitted directly, by the holder of that international registration, to the Director General.
- d) Any changes made in respect of the rules referred to in subsection (c) shall be communicated to the Director General, who shall record the changes.

- e) A collective mark may not be the subject of a license contract other than for the members of the registered holder of the collective mark.
- f) The Director General may refuse protection to a collective mark if the collective mark is contrary to the public interest.

§10.12. Certification Marks

- a) Section 10.1 to Section 10.6 of this Act shall apply to certification marks. However, where a certification mark consist of, or contains, a geographical name that corresponds to the place of origin of the goods in respect of which the mark is to be registered, the Director General may decide not to apply Section 10.1 (c).
- b) The application for the registration of a certification mark shall designate the sign as a certification mark and shall be accompanied by a copy of the rules governing the use of that mark, which shall be made of public record.
- c) Any changes made in respect of the rules referred to in item (a) shall be communicated to the Director General, who shall record the changes.
- d) The holder of a certification mark may not use the mark to certify its own goods or services.
- e) The Director General shall invalidate the registration of a certification mark if it is proven that the registered holder has contravened the provision in subsection (c) of this section, or that he permits use of the mark in contravention of the rules referred to in subsection (c) of this section or 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.

§10.13. Trade Names

- a) A name or designation may not be used as a trade name if by its nature or by the use to which it may be put in the course of trade, it would be contrary to public order or morality. In particular, such use shall not be allowed if it is liable to deceive the trade circles or the public as to the nature of the enterprise identified by that name or of the activities thereof.
- b) Notwithstanding any laws or regulations providing for any obligation to register a business name or a company name, a trade name used in Liberia shall be protected, even prior to or without such registration, and whether or not it forms part of a trademark, against any unlawful act committed by third parties.
- c) Any unauthorized use of a trade name whether as a trade name, a mark or other business identifier, likely to mislead the public, shall be deemed unlawful.

§10.14. Well-known Signs

- a) A well-known distinctive sign shall be infringed by the unauthorized use of a sign identical with or confusingly similar to that distinctive sign, where such use would indicate a connection between goods or services and the owner of the well-known sign or the reputation of the well-known distinctive sign or of its owner is likely to be damaged by such use.
- b) In determining whether a distinctive sign is well known, all relevant circumstances shall be taken into consideration, in particular the following factors:
 - c) The degree of knowledge of the sign among members of the relevant sector of the public within the country;
 - d) The duration, scope and geographical extension of the use of the sign, inside and outside the country;
 - e) The duration, scope and geographical extension of the promotion of the sign, inside and outside the country, including advertising and presentation at fairs, exhibitions or other events, of the establishment, activity, goods or services to which the sign applies;
 - f) The existence and age of any registration or registration application for the distinctive sign, in the country or abroad;
 - g) The taking of actions to defend the distinctive sign, in particular any decision taken by a national or foreign authority, in which the sign has been recognized as being well known;
 - h) The value of any investment made to promote the distinctive sign, or to promote the establishment, activity, goods or services to which the sign applies.
- i) For the purpose of recognizing a sign as well-known it shall be sufficient for the sign to be generally known in one relevant sector of the public.
- j) The following, in particular, shall be considered relevant sectors of the public for the purpose of recognizing a distinctive sign as well known:
 - i. actual or potential consumers of the type of goods or services to which the distinctive sign applies;
 - ii. persons involved in marketing or distribution channels of the type of goods or services to which the distinctive sign applies;
 - iii. the entrepreneurs in the business circles relating to the type of goods, services, establishment or activity to which the sign applies.

- k) The following shall not be required as a condition to recognizing a distinctive sign as being well-known:
- i. that the sign be registered or in the process of registration in Liberia or abroad;
 - ii. that the sign has been used or is being used in trade in the country or abroad;
 - iii. that the sign be well known abroad;
 - iv. that the sign be known to the general public in Liberia.
- l) When deciding an action relating to the unauthorized use of a well-known distinctive sign, the authority shall take into account the good or bad faith of the parties in the adoption and use of that sign.

§10.15. Service Marks

Subject to the provisions relating to the registration of trademarks, so far as they are applicable, service marks shall be registrable, in the same manner and with the same effect as are trademarks, and when registered they shall be entitled to the protection provided herein in the case of trademarks. Applications and procedures relative to this section shall conform as nearly as practicable to those prescribed for the registration of trade marks.

§10.16. Licensing and Assignment of Marks

- a) Any license 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. If the license contract does not provide for such quality control or if such quality control is not effectively carried out, the license contract shall not be valid
- b) The registration of a collective mark or an application therefor, may not be the subject of a license contract.
- c) A registered mark or a mark for which an application to register has been filed shall be assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill of the business connected with the use of any good symbolized by the mark.
- d) A compulsory licensing of trademarks shall not be permitted by a registered trademark owner, and that the owner shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.
- e) Assignments shall be by instruments in writing duly executed.

- f) The Liberia Intellectual Property Office shall maintain a record of information on assignments in such form as may be prescribed by the Director General.

§10.17. Disclaimers

- a) The Director General may require the applicant to disclaim an unregistrable component of a mark otherwise registrable. An applicant may voluntarily disclaim a component of a mark sought to be registered.
- b) No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or his right of registration on another application of the disclaimed matter be or shall have become distinctive of his goods or services.

§10.18. Goods Unlawfully Bearing a Mark or Trade Name; Seizure on Importation

All goods unlawfully bearing a trademark or trade name contrary to this Part shall be subject to seizure upon importation pursuant to customs laws and regulations, and the civil procedure law of Liberia.

§10.19. International Registration Under the Madrid Protocol:

(a) International Applications Originating from Liberia,

Any communication, including an international application, submitted to the International Bureau through the intermediary of the Office shall be in English.

(b) Examination of International Applications in Respect of which Liberia is the Country of Origin

Where an international application is filed with the Director General for transmittal to the International Bureau, the Director General shall verify that Liberia may be considered as the country of origin in respect of that application, and that the relevant particulars appearing in the international application correspond to the relevant particulars appearing in the basic application or basic registration, as the case may be, in accordance with the provisions of the Madrid Protocol and the Common Regulations.

§10.20. Certification

- a) Where the international application complies with the prescribed requirements, the Director General shall so certify in the international application, indicating also the date on which the international application was received, and shall forward the international application to the International Bureau.
- b) Where the international application does not meet the prescribed requirements, the Director General shall not forward it to the International Bureau, and shall inform the applicant accordingly.

§10.21. Handling Fee

The prescribed handling fee shall be due and payable to the Director General for the certification and transmittal to the International Bureau of an international application originating in Liberia.

§10.22. Ceasing of Effect of the Basic Application or Basic Registration

In accordance with Article 6 of the Madrid Protocol stipulating that registration of a mark at the International Bureau is effected for 10 years but that upon expiration of a period of 5 years becomes independent of the basic application or registration resulting from such application or the basic registration which if they are revoked, cancelled or invalidated results in loss of the protection afforded by the international registration, where the basic application, the registration resulting from such application or the basic registration ceases to have effect the Director General shall inform the International Bureau and shall request the cancellation of the international registration in respect of the goods and services affected.

§10.23. International Registrations

(a) Liberia as designated contracting party

Where Liberia has been designated in an international application, the Director General shall advertise the international registration as prescribed.

(b) Advertisement of Application; Opposition

Opposition to the international registration shall be governed by the provisions of this Part regarding opposition to the registration of a mark before the Director General.

§10.24. Ex Officio Provisional Refusal of Protection

Where the Director General finds that, in accordance with this Act, the mark that is the subject of an international registration designating Liberia cannot be protected, the Director General shall, before the expiry of the refusal period applicable under Article 5 of the Madrid Protocol, notify to the International Bureau a provisional refusal of protection, complying with the requirements of the Madrid Protocol and the Common Regulations. The holder of that international registration shall enjoy the same remedies as if the mark had been filed for registration directly with the Director General.

§10.25. Provisional Refusal Based on an Opposition

Where an opposition is filed with the Director General in respect of an international registration designating Liberia, the Director General shall, before the expiry of the refusal period applicable under Article 5 of the Madrid Protocol, notify that fact to the International Bureau as a provisional refusal of protection based on an opposition, in accordance with the provisions of the Madrid Protocol and the Common Regulations. The holder of the international registration concerned shall enjoy the same remedies as if the mark had been filed for registration directly with the Director General.

§10.26. No Grounds for Refusal - Statement of Grant of Protection

Where all procedures before the Director General have been completed and there is no ground to refuse protection to the mark, the Director General shall, as soon as possible and before the expiry of the refusal period applicable under Article 5 of the Madrid Protocol, send to the International Bureau a statement to the effect that protection is granted to the mark in Liberia.

§10.27. Final Decision Following the Notification of a Provisional Refusal

- a) Where the Director General has notified to the International Bureau a provisional refusal of protection of the mark in accordance with Section 10.24 or Section 10.25 and such provisional refusal is subsequently totally or partially withdrawn, the Director General shall send to the International Bureau either:
 - i. a statement to the effect that the provisional refusal is withdrawn and that protection of the mark is granted in Liberia for all the goods and services for which protection has been requested, or
 - ii. a statement indicating the goods and services for which protection of the mark is granted in Liberia.
- b) Where the Director General has sent to the International Bureau a notification of total provisional refusal of protection of the mark in accordance with Section 10.24 or Section 10.25 and the Director General subsequently decides to confirm such total refusal of protection, the Director General shall send to the International Bureau a statement to that effect.

§10.28. Further Decision Affecting Protection of a Mark

Where, following the sending of a statement in accordance with this Section, there is a further decision that affects the protection of a mark in Liberia, the Director General shall, to the extent that he is aware of that decision, send to the International Bureau a further statement indicating the goods and services for which the mark is protected in Liberia.

§ 10.29. Effects of an International Registration

- a) An international registration designating Liberia shall have the same effects, as from the date of the international registration, as if an application for the registration of the mark had been filed directly with the Director General under this Part.
- b) If no refusal is notified by the Director General to the International Bureau in accordance with the Madrid Protocol and the Common Regulations, or if a refusal has been so notified but has subsequently been withdrawn, or if a statement of grant of protection is sent by the Director General, the protection of the mark in Liberia shall be the same as if the mark had been registered directly by the Director General on the date of the international registration.

§10.30. Invalidation

- a) Where the effects of an international registration are invalidated in Liberia and the invalidation is no longer subject to appeal, the Director General shall, provided that the Director General is aware of that decision, notify the International Bureau in accordance with the relevant provisions of the Madrid Protocol and the Common Regulations.
- b) Invalidation of an international registration may not be pronounced without the holder of such international registration having been afforded the opportunity of defending his rights by the Director General.

§10.31. Recordings in the International Register

Any recording made in the international register in respect of an international registration, shall, to the extent that it applies to Liberia as a designated Contracting Party, have the same effect as if it had been recorded in the register of marks of the Liberia Intellectual Property Office.

§10.32. Replacement

- a) The Director General shall take note of an international registration in the register when requested by the holder of an international registration where:
 - i. a mark registered in Liberia is also the subject of an international registration that extends to Liberia, and
 - ii. the same person is recorded as holder of the registration in Liberia and of the international registration, and
 - iii. all the goods and services listed in the registration in Liberia are also listed in the international registration in respect of Liberia, and
 - iv. the extension of that international registration to Liberia took effect after the date of registration of the mark in Liberia,
- b) A request filed with the Director General in accordance with item (a), shall be made as prescribed.
- c) Where the Director General has taken note of an international registration in accordance with subsection (a) of this section, the Director General shall notify the International Bureau accordingly and such notification shall indicate the following:
 - i. the number of the international registration in question,
 - ii. where only some of the goods and services listed in the international registration are concerned, those goods and services,

- iii. the filing date and number of the application for registration of the mark in Liberia,
 - iv. the registration date and number of the registration in Liberia,
 - v. the priority date, if any, of the registration in Liberia, and
 - vi. information relating to other rights acquired by virtue of the registration in Liberia.
- d) Where a mark that is the subject of a national registration in Liberia Intellectual Property Office is also the subject of an international registration and both registrations stand in the name of the same person, the international registration shall be deemed to replace the national registration without prejudice to any rights acquired by virtue of the latter provided that:
- i. the protection resulting from the international registration extends to Liberia;
 - ii. all the goods and services listed in the national registration are also listed in the international registration;
 - iii. such extension takes place after the date of the national registration.

§10. 33. Transformation

- a) Where an international registration designating Liberia is cancelled at the request of the office of origin, in accordance with Article 6(4) of the Madrid Protocol, in respect of all or some of the goods and services listed in the international registration, an application constituted with regulations promulgated by the Director General may be made to the Registrar, within three months from the date on which the international registration was cancelled, by the person who was the holder of the international registration at the date of its cancellation, for registration of the same trademark, in respect of goods and services covered by the list of goods and services contained in the international registration for which protection has been requested in Liberia.
- b) Subject to subsections (c) and (e) of this section, the provisions applicable to a trademark application filed directly with the Registrar shall apply inclusive of all necessary changes made, to an application resulting from transformation.
- c) An application resulting from transformation shall be made on a pre-designed form specified by the Director General and shall, in addition, include the following:
- i. a statement that the application is made by way of transformation;
 - ii. the international registration number of the international registration which has been cancelled;

- iii. the date of the said international registration, or the date of recording of the territorial extension made subsequently to the international registration, as appropriate;
 - iv. the date on which the cancellation of the international registration was recorded; and,
 - v. where applicable, the date of any priority claimed in the international application and recorded in the International Register.
- d) An application resulting from transformation shall be subject to the payment of the prescribed transformation fee.
- e) Where a mark that is the subject of an international registration has become protected in Liberia on or before the date on which the international registration was cancelled and, provided that all the requirements relating to an application resulting from transformation have been met, that trademark shall be registered by the Registrar. The date of registration shall be the date of the cancelled international registration, or the date of recording of the territorial extension to Liberia made subsequently to the international registration, as appropriate, and that registration shall enjoy any priority enjoyed by the cancelled international registration.
- f) Where a mark that is the subject of an international registration has not yet become protected in Liberia on or before the date on which the international registration was cancelled, any procedures or measures already undertaken on or before the date on which an application resulting from transformation is filed for the purpose of the international registration shall be considered as having been undertaken for the purposes of the application resulting from transformation. The filing date of the application resulting from transformation shall be the date of the international registration or the date of recording of the territorial extension to Liberia made subsequently to the international registration, as appropriate.
- g) The filing date of an application resulting from transformation shall be the date of the international registration or the date of the recording of the subsequent territorial extension to Liberia.

§10.34. Renewal

- a) The international registration is effective for ten years from the date of international registration.
- b) The international registration can be renewed in accordance with the provisions of the Madrid Protocol.

§10.35. Regulations

The Director General may issue regulations regarding international registration in conformity with and to further implement the Madrid Protocol.

Section 11

Geographical Indications

§11.1. Scope of Protection

- a) Any interested person may institute proceedings in the court to prevent, in respect of geographical indications:
 - i. the use of any indication or device in the presentation of a good in the course of trade that suggests that the good in question originates in a geographical area other than its true place of origin in a manner which misleads the public as to the geographic origin of the good,
 - ii. any use that would constitute an act of unfair competition under the Unfair Competition Act of Liberia; or
 - iii. protection under this Part shall be available against another geographical indication which, although literally true as to the territory, region or locality in which the goods originate falsely represents to the public that the goods originate in another territory.
- b) any use of a geographical indication for goods (wines and spirits) not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by waivers, de-localizing clarifications or expressions such as “kind”, “type”, “style”, “imitation” or others of similar effect.

§11.2. Availability of Protection Regardless of Registration; Presumption

(a) Protection under this Act shall be available regardless of whether a geographical indication has been registered. However, registration of a geographical indication under this Part shall, in any proceedings, raise a presumption that such indication is a geographical indication.

§11.3. Homonymous Geographical Indications

- a) In the case of homonymous geographical indications for identical products, protection under this Part shall be accorded to each indication, subject to the provisions of Section 10.1 (a) (iii).
- b) The Director General may allow homonymous geographical indications to be concurrently registered if he or she is satisfied that the public will not be misled. In case of permitted concurrent use of such indications, the Director General shall determine the practical conditions under which the homonymous indications will be differentiated, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled and issue appropriate legislation.

§11.4. Exclusion from Protection

The following shall not be protected as geographical indications:

- a) an indication that does not comply with the definition of geographical indications in Section 3 of this Act;
- b) an indication the use of which must be prevented on grounds of public order or morality;
- c) a geographical indication that is not, or that ceases to be, protected in its country of origin, or which has fallen into disuse in that country;
- d) an indication that is identical with the term customary in common language in Liberia as the common name for the relevant goods or for related services.

§11.5. Application for Registration; Right to File Application

- a) An application for the registration of a geographical indication shall be filed with the Registrar of the Industrial Property Office.
- b) The following shall have the right to file an application for registration of a geographical indication:
 - i. a grouping of producers or a legal entity that groups producers that operates in a specified geographical area and with respect to specified goods;
 - ii. any competent authority on behalf of the persons or the legal entity indicated under subsection of this section.

§11.6. Content of Application

- a) An application for the registration of a geographical indication shall specify:
 - i. the name, address and domicile of the persons or legal entity filing the application;
 - ii. the geographical indication for which registration is sought;
 - iii. the geographical area to which the geographical indication applies;
 - iv. the goods designated by the geographical indication.
- b) The application shall be accompanied by a specification describing in sufficient detail the specific characteristics of the goods for which the geographical indication is used, the area and method of production of the goods, the link between the characteristics of the goods and the area and method of production, the manner in which the specified characteristics are controlled and other prescribed particulars, and shall be subject to the payment of the prescribed fee.

- c) The application shall indicate the manner in which the continued compliance of the conditions laid down in the specification will be controlled by an independent body or authority.

§11.7. Examination; Publication; Opposition and Registration

- a) The Director General shall examine whether the application complies with the requirements of Sections 11.4 and 11.5 (b) and Section 10.6 and the regulations pertaining thereto.
- b) Where the Director General finds that the conditions referred to in subsection (a) of this section are fulfilled; he/she shall cause the application to be published in the prescribed manner.
- c) Any interested person or competent authority may, within the prescribed period and in the prescribed manner, give notice to the Director General of opposition to the registration of the geographical indication specifying the grounds of the opposition.
- d) The Director General shall publish a notice of the opposition in the Official Gazette, and, within the period of three months and in the prescribed manner, the applicant shall send to the Director General a counter-statement of the grounds on which he/she relies for his application.
- e) If the applicant sends a counter-statement, the Director General shall furnish a copy thereof to the person giving notice of opposition and, after hearing the parties, if either or both wish to be heard, and considering the merits of the case, shall decide whether the geographical indication should be registered.
- f) Where the Director General finds that the conditions referred to in subsection (a) of this section are fulfilled he/she shall register the geographical indication, publish a reference to the registration and issue to the applicant a certificate of registration. Otherwise, he shall refuse the application.

§11.8. Scope of Exclusive Rights

- a) Only producers carrying on their activity in the geographical area specified in the Register shall have the right to use a registered geographical indication, in the course of trade, with respect to the products specified in the Register.
- b) For the purposes of this section, the following acts, in particular, shall be regarded as use of a geographical indication in the course of trade:
 - i. introducing on the market, selling, offering for sale or distributing goods or services with the geographical indication or with reference to the geographical indication;
 - ii. importing, exporting, storing or transporting goods that bear the geographical indication or that refer to the geographical indication;
 - iii. using the geographical indication in advertising, publications, business papers, commercial documents or written or oral communications, irrespective of the means of communication or media used;

- iv. using the geographical indication for commercial purposes on the internet or other electronic communication media or networks open to the public where such use is intended for Liberia or has a commercial effect in Liberia;
- v. adopting or using the geographical indication as part of a domain name or other similar identification or designation on the internet or other electronic communication media or networks open to the public.

§11.9. Limitations and Exceptions

- a) The rights conferred by registration of a geographical indication may not be exercised to prevent:
 - i. any acts in respect of goods lawfully bearing the geographical indication after those goods have been put on the market in Liberia or abroad by the registered holder or by a person acting with the holder's consent or having an economic tie to the holder, provided that the goods and the packaging or wrapping in direct contact with the goods have not suffered any material alteration or damage; to this effect an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the geographical indication, or where a third party may exercise such an influence on both persons;
 - ii. use of the registered geographical indication by any person for the purpose of indicating truthfully in the course of trade that the goods or services that bear the geographical indication originate with the holder of the geographical indication or a licensee thereof;
 - iii. use of the registered geographical indication by any person to provide information regarding the intended purpose, use or compatibility of a product or service, in particular with respect to accessories or spare parts;
 - iv. use of indications concerning the kind, quality, quantity, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services;
 - v. use by a person in the course of trade of that person's name, address, place of business or place of production or distribution of goods or services, or those of that person's predecessor in business.
 - vi. The acts under subsection (a) (ii.) (iii.) (iv) and (v) shall be allowed subject to compliance with honest practices and provided such acts do not cause confusion regarding the provenance of the goods or services, and do not take unfair advantage of, or are detrimental to, the distinctive character or repute of the mark, and do not otherwise constitute unfair competition.

- b) Where a mark has been applied for or registered in good faith, or where rights to a mark have been acquired through use in good faith either:
 - i. before the date of entry into force t; or
 - ii. before the geographical indication is protected in its country of origin;
 - iii. the registrability or the validity of the registration of that mark, or the right to use that mark, shall not be affected on grounds that such mark is identical with, or similar to, a geographical indication.
- c) Nothing in this Act shall prevent continued and similar use in Liberia of a particular foreign geographical indication by any national or domiciliary of Liberia who has used that geographical indication in connection with goods or services in the territory of Liberia, in a continuous manner with regard to the same or related goods or services, either:
 - i. for at least 10 years preceding April 15, 1994; or
 - ii. in good faith at any time prior to that date.

§11.10. Invalidation, Revocation and Amendment of Registration

- a) Any interested person or any competent authority may request the Director General to order:
 - i. the invalidation of a registration of a geographical indication on the ground that the registered indication did not qualify for protection as such under this Act;
 - ii. the revocation of a registration of a geographical indication on the ground that the registered indication is used in a manner that does not correspond to the specifications of the products designated by the indication; or
 - iii. the amendment of a registration of a geographical indication where the specifications recorded in the register need to be corrected.
- b) In any proceedings under this section, the Director General shall cause a notice of the request:
 - i. to be served on the persons who filed the application for registration of the geographical indication; and
 - ii. to be given by publication in the Official Gazette to all persons having the right to use the registered geographical indication.
 - iii. the persons referred to in subsection (b) of this section and any other interested person may, within a period, which shall be specified by the Director General in the said notice, apply to join in the proceedings.

§11.11. False Indication: Seizure on Importation

Where there is direct or indirect use of a false indication of the source of the goods or the identity of the producer or manufacturer or merchant, all goods affected shall be subject to seizure upon importation into Liberia pursuant to the Customs Law.

§11.12. Infringement of Geographical Indications; Remedies

- a) A geographical indication protected under this Act shall be infringed by the performance of any act referred to in Section 11.8 (a) or any use of a geographical indication by a party who does not have the right to use the geographical indication in accordance with this Act, subject to the limitations and exceptions provided for in Section 11.8(b).
- b) On the request of any interested person or of any interested group of producers or consumers, the court may grant an injunction to prevent the unlawful use of the geographical indication, award damages and grant any other remedy provided for in the general law or under this Act.

Section 12 Industrial Designs

§12.1. Subject Matter of Protection

- a) Registration under this Section shall not be granted to a design the features of which are dictated solely by technical or functional considerations.
- b) An industrial design shall not be registered if it is determined that its commercial exploitation would be contrary to public order or morality.

§12.2. Registrable Industrial Designs

- a) An industrial design is protected and registrable if it is independently created new or original.
- b) An industrial design shall not be regarded as new if it does not significantly differ from designs disclosed to the public anywhere in the world, by publication, exhibition, use in trade or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration.
- c) An industrial design applied to or embodied in a product that is a component part of a complex product shall only be considered to be new if the component part remains visible during the normal use of the complex product. To this effect “normal use” means use by the end user and do not include maintenance, servicing or repair works in relation to the product.

- d) For the purposes of determining novelty, disclosure to the public of an industrial design shall not be taken into consideration if it occurred within twelve months preceding the filing date or, where applicable, the priority date of the application, and if it was by reason or in consequence of an abuse committed by a third party with regard to the applicant or his predecessor in title, or by reason of any act committed by the applicant or his predecessor in title, other than the filing of an application to register or otherwise obtain legal protection for the industrial design with an industrial property authority.

§12.3. Right to Registration of Industrial Design; Naming of Designer

- a) The right to registration of an industrial design shall belong to a person first register his/her designs.
- b) If two or more persons have jointly created an industrial design the right to registration shall belong to them jointly.
- c) The right to registration of an industrial design may be assigned, and may be transferred by succession.
- d) Where an industrial design is made in execution of an employment contract the purpose of which is to create one or more designs, the right to registration of the industrial design shall belong, in the absence of contractual provisions to the contrary, to the employer. If the economic gains obtained by the employer from the commercial exploitation of the industrial design rise above the reasonable expectations of gain of the employer at the time he hired the designer, the latter shall be entitled to an equitable remuneration.
- e) Any anticipated promise or undertaking by the designer to the effect that he/she will waive any remuneration he/she is entitled to under this section shall be without legal effect.
- f) The designer shall be named as such in the registration of the industrial design, unless he/she indicates to the Director General in writing that he/she wishes not to be named. Any promise or undertaking by the designer to the effect that he/she will make such a declaration shall be without legal effect.

§12.4. Application; Right of Priority

- a) An application for the registration of an industrial design shall be filed with the Registrar and shall contain:
 - i. a request for registration,
 - ii. a graphic representation of each industrial design included in the application;
 - iii. an indication of the product or products in respect of which each design is to be used;
 - iv. proof of payment of the prescribed application fee for each design; and
 - v. shall comply with other prescribed requirements.

- b) Where the applicant is not the designer, the request shall include a statement justifying the applicant's right to the registration of the industrial design.
- c) The application may contain up to one hundred industrial designs provided they all refer to products that belong to the same class of the International Classification.
- d) The application may contain a request that the publication of the industrial design be deferred for a specified period not exceeding 30 months from the date of filing or, if priority is claimed, from the date of priority, of the application.
- e) The application may, in accordance with Article 4 of the Paris Convention, contain a declaration claiming the priority of one or earlier applications filed for the same industrial design by the applicant or his predecessor in title or for any state party to the said Convention or any Member of the World Trade Organization.
- f) The period of priority shall be of six months and shall be computed in accordance with the provisions of Article 4 of the Paris Convention, that is from the date of filing of the first application, but shall exclude the day of filing in the six months period, and shall end on the last day of the period unless an official holiday or a day the Intellectual Property Office is not opened in which case the period shall be extended until the next working day.
- g) The effect of the claiming of priority shall be as provided in Article 4B of the Paris Convention. In particular, an application filed within the priority period shall not be refused or invalidated by reason of any acts occurring during that period, in particular, another filing or the publication or exploitation of the industrial design, and such acts shall not give rise to any third-party right or any right of personal possession.
- h) Where the application contains a declaration claiming priority, the Director General may request the applicant to furnish, within the prescribed time limit which shall not be less than three months following the date of filing, a copy of the earlier application certified as correct by the foreign authority with which it was filed. The Director General may also request that the copy be accompanied by a certificate from that authority showing the date of filing, and by a translation into a prescribed language.
- i) If the Director General finds that the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.
- j) The applicant may amend or correct the application at any time during its pendency. An amendment or correction shall not be accepted if it involves a change in or addition to any of the designs contained in the initial application.
- k) The applicant may divide his application at any time during pendency in order to separate into two or more applications the designs contained in the initial application. A division shall not be accepted if it involves a change in or addition to any of the designs contained in the initial application.

- l) Each divisional application shall retain the filing date and the right of priority of the initial application. After the division, each divisional application shall be independent. If publication of the application occurred before the division, the publication shall have effect for each divisional application.
- m) The applicant may withdraw the application entirely or in respect of one or more designs at any time during its pendency.

§12.5. Filing Date; Examination; Registration and Publication

- a) The filing date of an application for registration of an industrial design shall be the earliest date on which the application contains at least the following:
 - i. an express or implicit request for the registration of one or more industrial design;
 - ii. indications allowing the identity of the applicant to be established or allowing the applicant to be contacted;
 - iii. a representation of each industrial design for which registration is sought;
 - iv. an indication of the product or products in respect of which each design is to be used;
 - v. proof of payment of the prescribed application fee for each design.
- b) The Director General shall examine whether the application complies with the requirements of Section 12.4 and the Regulations pertaining thereto, and whether the industrial design for which registration is sought complies with the definition contained in Section 12.3 and with Section 12.1 and Section 12.2 of this Part.
- c) If the application does not comply with the prescribed requirements, the Director General shall notify the applicant accordingly requesting him to correct the application within two months from the date of the notification. Upon justified request, that period may be extended by the Director General.
- d) If the required correction is not made within the specified period, the application shall be considered withdrawn.
- e) Where the Director General finds that the conditions referred to in subsection (b) are fulfilled he/she shall cause the application to be published in the prescribed manner.
- f) Where a request has been made under Section 12.4 (d) for deferment of publication, the application shall not be published until the expiry of the period of deferment.
- g) The Director General shall publish the industrial design upon request by the applicant at any time before the expiry of the period of deferment.
- h) Fees for securing protection for textile designs in particular with respect to examination or publication shall not unreasonably impair the opportunity to seek protection.

§12.6. Rights Conferred by Registration; Duration; Extension

- a) The registration of an industrial design shall confer on its holder the right to prevent others from exploiting the registered industrial design in Liberia. This right shall extend to designs that so closely resemble the registered industrial design that they produce the same overall impression.
- b) Where an industrial design is registered only for a part of a product that is integral and inseparable from that product, infringement of the registered design shall be assessed taking into account the overall aspect of the product embodying the registered design, and not just that part in isolation.
- c) Nothing in this Section shall prevent a registered industrial design from enjoying any protection to which it may be entitled under the law of copyright.
- d) The rights conferred by the registration of an industrial design shall not extend to:
 - i. acts in respect of a product that embodies the industrial design after the product has been put on the market in Liberia or abroad by the registered holder or by a person acting with the holder's consent or having an economic tie to the holder; to this effect an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the industrial design, or where a third party may exercise such an influence on both persons;
 - ii. the use of the industrial designing the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Liberia, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels;
 - iii. acts done privately and for non-commercial purposes;
 - iv. acts done for purposes of teaching, education or scientific research in academic, educational or research institutions;
 - v. acts done only for experimental purposes relating to the industrial design;
 - vi. the reproduction of any features of the industrial design that are dictated solely by functional or technical considerations or that are necessary to fulfill a technical function or purpose;
 - vii. the reproduction of any features of the industrial design that must necessarily be reproduced in their exact form in order to permit the product in which the design is embodied to be mechanically connected to or placed in, around or against another product so that each product may perform its function;
 - viii. the reproduction of any features of an industrial design, that is embodied in a component part of a complex product, where that part is used for the purpose of repairing that product so as to restore its original appearance.

- e) An international application may designate Liberia for an industrial design under the Harare Protocol.
- f) The owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent for making, selling, or importing articles bearing or embodying a design which is a copy or substantially a copy of the protected design, when such acts are undertaken for commercial purposes.

§ 12.7. Duration of Registration; Extension

- a) The registration of an industrial design shall be for a period of ten (10) years from the filing date of the application for registration.
- b) Upon payment of the prescribed fee in the prescribed manner, the registration may be extended for an additional period of ten (10) years. Advance payment may be made at any time.
- c) A period of grace of six months following the expiration of each period of registration shall be allowed to apply for extension of the registration, on payment of the prescribed surcharge.

§ 12.8. Invalidation

- a) Any interested person may request the Director General or the court to invalidate the registration of an industrial design.
- b) The registration shall be invalidated if it is established that the object of the registration is not an industrial design in accordance with the definition provided in Section 12.3 or that the requirements of Section 12.1 or Section 12.2 have not been complied with.
- c) When the grounds for invalidation are established with respect to only one or some of the designs included in the registration, invalidation shall be limited accordingly.
- d) Any invalidated registration shall be regarded as null and void from the date of the registration and shall be deemed not to have been granted.
- e) Any dispute over the right to registration of the industrial design under Section 12.3 shall be heard by the court. An interested person may request the court to transfer the registration of the industrial design to him or, alternatively, to invalidate the registration. In case the plaintiff claims to be a joint designer, he may request the court to have his name added as joint designer and, where applicable, as co-holder of the corresponding registration.
- f) Any final decision of a court on an action taken under this section shall be notified to the Director General who shall record it and publish a reference thereto as prescribed.

Section 13

Patent and Utility Models

§13.1. Purpose

The purpose of this Section is to provide for the promotion of inventive and innovative activities, to facilitate the acquisition of technology through the grant and regulation of patents and utility models.

§13.2. Scope of Inventions, Patents; Patentability

- a) The following matters shall not be regarded as inventions for the purpose of this Part:
 - i. matter that does not comply with the definition of invention under Section 13.1 of this Act;
 - ii. discoveries, scientific theories and mathematical methods;
 - iii. schemes, rules or methods for doing business, performing mental acts or playing games;
 - iv. products of nature and substances obtained or extracted from nature, even if purified or otherwise isolated from nature; this exclusion shall not apply to the processes of isolating those natural substances;
 - v. computer programs and the presentation of information;
 - vi. methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision shall not apply to products for use in any of those methods.

- b) The following matter shall be excluded from patent protection:
 - i. plants and animals, including parts thereof, other than micro-organisms, and essentially biological processes for the production of plants or animals and parts thereof, other than non-biological and microbiological processes;
 - ii. animals and plants varieties; inventions, the prevention within the territory of Liberia of the commercial exploitation of which is necessary to protect public order or morality; such exclusion shall not be made merely because the exploitation of those inventions is prohibited upon by law or subject to regulation; pharmaceutical products until January 1, 2016, or until the expiry of such a later period of extension agreed upon the World Trade Organization for least Developed Countries.

- c) The Director General may by regulation determine that any exclusion under this sub-section is suspended should national policy or market circumstances so require pursuant to the policy directives of the Minister.

§13.3. Patentable Inventions

- a) An invention is patentable if it is industrially applicable, new and involves an inventive step.
- b) An invention shall be considered industrially applicable if it can be made in any kind of industry leading to the production of goods and services; it shall include, among others, manufacturing, handicraft, agriculture, fishery and services.
- c) An invention is new if it does not form part of the state of the art.
- d) The state of the art shall consist of everything disclosed to the public, anywhere in the world, by publication or by oral disclosure, by use or in any other way, or by deposit of a material in any deposit institution, prior to the filing or, where appropriate, the priority date, of the application claiming the invention. The content of any patent application, the filing or priority date of which is earlier than the filing or priority date of the application claiming the invention, and which is subsequently published, shall also be considered as comprised in the state of the art for the purposes of determining novelty and inventive step.
- e) For the purposes of determining novelty and inventive step, disclosure to the public of an invention shall not be taken into consideration if it occurred within twelve months preceding the filing date or, where applicable, the priority date of the application, and if it was by reason or in consequence of an abuse committed by a third party with regard to the applicant or his predecessor in title, or by reason of any act committed by the applicant or his predecessor in title, other than the filing of an application to patent or otherwise obtain legal registration for the invention, with an industrial property authority.
- f) An invention shall be considered as involving an inventive step if, having regard to the state of the art, including written and non-written knowledge, it would not have been obvious to a person in the field with ordinary skill, creativity and intuition. An inventive step will not exist when the invention can be directly derived from the combination of any pieces of prior art.
- g) In the case of chemical substances of therapeutic use, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives thereof shall not be deemed to involve an inventive step unless they meet the requirement set out in subsection (f) of this Section and they result in a significant enhancement of the therapeutic efficacy of the known substance. Advantageous properties such as thermodynamic stability, lower hygroscopicity and potency of a substance shall not be deemed to constitute an enhancement of therapeutic efficacy.

§13.4. Right to Patent; Naming of Inventor

- a) The right to a patent shall belong to the inventor.
- b) If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly.

- c) If 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 priority date shall have the right to the patent, provided such application is not withdrawn, abandoned or rejected. To this effect, the Director General shall take into account the matter claimed in the respective application.
- d) The right to a patent may be assigned, and may be transferred by succession.
- e) Where an invention is made under an employment contract the purpose of which is to invent, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer. If the economic gains obtained by the employer from the commercial exploitation of that invention rise above the reasonable expectations of gain that the employer had from his employee's inventive output at the time he hired him, the employee shall be entitled to an equitable remuneration.
- f) Where an invention is made by an employee outside an employment contract, but in making that invention the employee used materials, data or know-how of the employer, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer. The employee shall be entitled to an equitable remuneration equivalent to one third of the economic gains obtained by the employer from the commercial exploitation of the invention.
- g) Any invention claimed in a patent application filed by a former employee within one year following the expiry of his employment, where the invention falls within the scope of the former employer's main line of business, shall be presumed to have been made during the employment relationship, unless the employee produces evidence to the contrary.
- h) Any anticipated promise or undertaking by the inventor made to his employer to the effect that he will waive any remuneration he is entitled to under this section shall be without legal effect.
- i) The inventor shall be named as such in the patent, unless he indicates to the Director General in writing that he wishes not to be named. Any promise or undertaking by the inventor made to the effect that he will make such a declaration shall be without legal effect.

§13.5. Application for a Patent

- a) The application for a patent shall be filed with the Registrar and shall contain a request, a description, one or more claims, one or more drawings (where required), and an abstract, as prescribed in the Regulations. It shall be subject to the payment of the prescribed fee.
- b) 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.
- c) Where the applicant is not the inventor, the request shall include a statement justifying the applicant's right to the patent.

- d) The description shall disclose the invention in a manner sufficiently clear and complete for all the claimed embodiments of the invention to be carried out by a person having ordinary skill in the art in Liberia, and shall, in particular, indicate at least the best mode for carrying out the invention known to the inventor at the filing date or, where priority is claimed, at the priority date of the application.
- e) In the case of inventions related to biological material that cannot be described as required under subsection (d) of this Section, the applicant shall deposit a sample thereof, not later than the date of filing of the application, with a depositary institution recognized under the Budapest Treaty. After the publication of the application, any interested party shall have access to a sample of the deposited biological material, subject to the obligation by said party to use said sample for experimental purposes only.
- f) Where the claimed invention consists of or is directly derived from biological material or from traditional knowledge obtained from a particular community, the description shall indicate the source and the origin of that material or knowledge, as known to the applicant. The application shall also provide information, including evidence, of compliance with any applicable legal requirements in the supplying country regarding prior informed consent and sharing of benefits arising from the commercial or other utilization of such material and/or knowledge.
- g) The Director General may, at any time before the grant of the patent, require the description in a patent application to be amended to comply with the requirements of this section to ensure technology dissemination, provided that any amendment shall not result in the application disclosing matter extending beyond what was disclosed in the initial application.
- h) The claim or claims shall define the matter for which protection is sought. The description and the drawings may be used to interpret the claims.
- i) Claims shall be clear and concise. They shall be fully supported by the description. Subject to Section 13.5 of this Part, a main claim shall define all novel and essential features of the invention. All claims dependent on a main claim shall be subordinated to and narrower than that main claim.
- j) In the case of inventions relating to chemical products and processes, the description, claims and abstract shall include the relevant internationally recognized chemical denomination of the claimed products or of the products obtainable with the claimed process. In the case of pharmaceutical products, the international non-proprietary name, wherever available at the date of filing the application, shall be included.
- k) Drawings shall be required when they are necessary to understand the invention.
- l) The abstract, must be concise and precise and accurately describe the essential elements and industrial applicability of the invention. It shall 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 conferred by the patent.

- m) Failure to disclose prior art known to the applicant that is material to the patentability of a claimed invention, or to comply with the requirements set out in subsections (f) (j) of this Section shall result in the refusal of the patent or, if granted, its invalidation in whole or in part.
- n) The applicant may withdraw the application at any time during its pendency.

§13.6. Unity of Invention; Amendment and Division of Application

- a) An application for a patent shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.
- b) The applicant may, up to the time when the application is in order or grant, divide the application into two or more applications (“divisional applications”), provided that each divisional application shall not introduce matter not comprised in the disclosure of the initial application.
- c) Each divisional application shall be entitled to the filing date and, where applicable, the priority date of the initial application.
- d) The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention under subsection (a) shall not be a ground for the invalidation of the patent.
- e) The applicant may, up to the time when the application is in order for grant, amend the application, provided that the amendment shall not result in the application disclosing matter extending beyond what was disclosed in the initial application.

§13.7. Right of Priority

- a) The application may, in accordance with Article 4 of the Paris Convention, contain a declaration claiming the priority of one or earlier applications filed for the same invention by the applicant or his predecessor in title in or for any State party to the said Convention or any Member of the World Trade Organization. The period of priority shall be of twelve months and shall be computed in accordance with the provisions of Article 4 of the Paris Convention, that is from the date of filing of the first application, but shall exclude the day of filing in the six months period, and shall end on the last day of the period unless an official holiday or a day the Intellectual Property Office is not opened in which case the period shall be extended until the next working day.
- b) The effect of the claiming of priority shall be as provided in Article 4B of the Paris Convention. In particular, an application filed within the priority period shall not be refused or invalidated by reason of any acts occurring during that period, in particular, another filing or the publication or exploitation of the invention, and such acts shall not give rise to any third-party right or any right of personal possession.
- c) Where the application contains a declaration claiming priority the Director General may request the applicant to furnish, within the prescribed time limit which shall not be less than three months following the date of filing, a copy of the earlier application or applications, certified as correct by the foreign authority with which it was filed. The Director General may also request that the copy be accompanied by a certificate from that authority showing the date of filing, and by a translation into a prescribed language.

- d) If the Director General finds that the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.

§13.8. Information Concerning Corresponding Foreign Applications for Patents

- a) The applicant shall indicate in the patent application the date and number of any application filed abroad (“foreign application”) by him or by his predecessor in title relating to the same or essentially the same invention as that claimed in the application filed in Liberia.
- b) The applicant shall, at the request of the Director General, provide a copy of the patent granted on the basis of the foreign application, accompanied by a translation into English if required, relating to any of the foreign applications referred to in subsection (a) of this Section, as indicated by the Director General:
- c) The applicant shall provide the following documents, within sixty days from having received notice thereof, accompanied by a translation into English if required, relating to any of the foreign applications referred to in subsection (a) of this Section, as indicated by the Director General:
 - 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 any final decision rejecting the foreign application or refusing the grant requested in the foreign application.
 - iii. a copy of any final decision invalidating the patent granted on the basis of the foreign application referred to in subsection (a) of this Section.

§13.9. Filing Date; Publication; Opposition; Examination

- a) The filing date of a patent application shall be the earliest date on which the application contains at least the following:
 - i. an express or implicit indication that the granting of a patent is sought;
 - ii. indications allowing the identity of the applicant to be established;
 - iii. a part, which, on the face of it, appears to be a description of an invention.
- b) If the Director General finds that the application did not fulfill, at the time of receipt, the requirements referred to in subsection (a) of this Section, he/she shall notify the applicant inviting him to file the required correction within two months from the date of notification. If the correction is made in due time, the filing date shall be the date of receipt of the required correction; otherwise the application shall be treated as if it had not been filed.

- c) Where the application refers to drawings that in fact are not included in the application, the Director General shall notify the applicant inviting him to furnish the missing drawings within two months from the date of the notification. If the applicant complies with the said invitation, the filing date shall be the date of receipt of the missing drawings. Otherwise, the filing date shall be the date of receipt of the application and any reference to the said drawings shall be treated as non-existent.
- d) Upon payment of the prescribed fee, the applicant or any interested party may request the Director General, within 36 (thirty six) months counted from the date of filing, the examination of the application. An application for which such request has not been filed will be deemed abandoned. If that request is duly filed, the Director General shall cause the application to be examined for compliance with the requirements of Section 13.4, Subsections (a) and (b) of this Act and the Regulations pertaining thereto, and to determine whether any information required under Section 13.7 has been provided.
- e) The application is found to comply with the requirements mentioned in subsection (c); the Director General shall verify compliance with the requirements of Sections 13.1, 13.2, and 13.4, subsections (d), (e) and (f).
- f) For the purposes of subsection (e) of this Section, and to decide on the grant or refusal of the application, the Director General may take into account, the following:
 - i. the results of any international search report and any international preliminary examination report established under the Patent Cooperation Treaty in relation to the application;
 - ii. any document submitted under Section 13.7;
 - iii. a search and examination report carried out by an external search and examination authority or by a specialized agency within Liberia or abroad,
 - iv. any information and evaluation provided in accordance with subsection (g)
- g) Immediately after eighteen months from the filing date, the Director General shall lay open the patent application for public inspection and publish in the prescribed manner an announcement containing the following:
 - i. the number and the filing date of the application;
 - ii. the title of the invention;
 - iii. the name of the applicant(s) and of the inventor(s);
 - iv. the priority date(s);

- v. the international classification;
 - vi. one drawing, if any, that depicts the main element(s) of the invention;
 - vii. the abstract.
- h) After publication, any interested person shall, upon request and payment of the prescribed fees, receive a copy of the entire patent application. With respect to applications referred in Section 13.4, Subsection (e), the Director General shall, upon request and as prescribed, issue the certificate mentioned in rule 12.2 of the Regulations under the Budapest Treaty.
 - i) The Director General shall not give access to or information about the contents of the patent application to third persons until the announcement mentioned in subsection (g) of this Section is published.
 - j) At any time before the expiration of the period mentioned in subsection (g) of this Section, the applicant may request the Director General to lay open of the application for public inspection.
 - k) After the publication mentioned in subsection (g) and up to the time when the application is in order for grant, any interested party may file with the Director General a notice of opposition. The notice of opposition shall identify the opposed patent application, as well as the grounds that the opponent deems relevant to refuse the grant. The opponent shall produce all relevant evidence in support of his opposition.
 - l) The Director General shall give notice of the opposition to the applicant.
 - m) The patent applicant shall have three months from the publication of the notice of opposition to file a counter-statement.
 - n) The Director General shall grant a hearing at which the patent applicant and the opponent may argue on their cases and submit additional evidence.

§13.10. Grant of Patent; Changes in Patents

- a) Where the Director General finds that the conditions under this Act are fulfilled, he shall grant the patent. Otherwise, he shall refuse the application and notify the applicant of that decision.
- b) When he grants a patent, the Director General shall:
 - i. order a reference to the grant of the patent to be published in the Official Gazette;
 - ii. issue to the applicant a certificate of the grant of the patent and a copy of the patent document;
 - iii. ensure the patent is recorded on the patents register;
 - iv. make available copies of the patent to the public, on payment of the prescribed fee.

- c) The Director General shall, upon request of the holder of the patent, authorize changes in the text or drawings of the patent in order to limit the extent of the protection conferred thereby. No change shall be allowed that would result in the patent containing subject matter that extends beyond the matter disclosed in the initial application or in an extension of the matter claimed in the patent.

§13.11. Rights Conferred by the Patent; Limitations and Exceptions

- a) A patent shall confer on its holder the right to prevent third parties from exploiting the patented invention in Liberia. The scope of the right conferred by the patent shall be defined by the claims.
- b) The rights under a patent may not be used to prevent:
 - i. acts in respect of a product covered by the patent after that product has been put on the market in Liberia or abroad by the holder of the patent, by a person acting with the holder's consent or having an economic tie to the holder, or by an otherwise authorized person. For the purposes of this provision, an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the patented invention, or where a third party may exercise such an influence on both persons;
 - ii. acts done for purposes of scientific research in academic, educational or research institutions;
 - iii. acts done for experimental purposes relating to the subject matter of the patented invention;
 - iv. acts performed by any person to make, construct, use or sell the patented invention solely for uses reasonably related to the development and submission of information required under any law of Liberia or a country other than Liberia that regulates the manufacture, construction, use or sale of any product;
 - v. acts performed by any person who in good faith, before the filing or, where priority is claimed, the priority date of the application on which the patent is granted, was using the invention or had made effective and serious preparations for such use in Liberia (the "prior user");
 - vi. acts done privately and for non-commercial purposes;
 - vii. the use by a farmer of the product of his harvest for propagation or multiplication by him on his own holding or for exchange with other farmers in the context of traditional or communal practices, where the plant material used by the farmer to produce the harvest was put on the market in accordance with subsection (b) (i) of this Section;
 - viii. the use of the invention in the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Liberia, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels;
 - ix. the extemporaneous preparation in a pharmacy of a medicine for an individual in accordance with a prescription, and to dealing with the medicines so prepared.

- c) The right of the prior user referred to in subsection (b)(v) of this Section may be transferred or devolve only together with the enterprise or business, or with that part of the enterprise or business, in which the use or preparations for use have been made.

§13.12. Duration; Annual Fees; Restoration

- a) Subject to subsection (b), a patent shall expire 20 years after the filing date of the patent application.
- b) In order to maintain the patent or the patent application, as the case may be, an annual fee as prescribed shall be paid in advance to the Liberia Intellectual Property Office for each year, starting one year after the filing date of the application for grant of the patent. A period of grace of six months shall be allowed for the late payment of the annual fee on payment of the prescribed surcharge. If an annual fee is not paid in accordance with this subsection, the patent application shall be deemed to have been withdrawn or the patent shall lapse, as the case may be

§13.13. Compulsory Licenses (Other use without authorization of the right holder)

- a) The Director General or the court may grant, upon request, a compulsory license where:

the public interest, in particular, national security or cases of national emergency or other circumstances of extreme urgency, including those involving nutrition or health, so requires; or

- i. a court or administrative body has determined that the manner of exploitation of the patented invention, by the holder of the patent or someone acting under his authorization or with his consent, is anti-competitive, and that the exploitation of the invention in accordance with this subsection would remedy such practice; or
- ii. the holder of the patent is abusing his exclusive rights or neglecting to take measures to prevent someone acting under his authorization or with his consent from abusing the exclusive rights conferred by the patent; or
- iii. 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 patented invention is not exploited or is insufficiently exploited, by working the invention in Liberia. Notwithstanding this, a compulsory license shall not be issued if the owner of the patent demonstrates that legitimate reasons such as *force majeure* exist which justify the non-exploitation or insufficient exploitation of the patented invention in Liberia;
- iv. a patent (the “second patent”) claiming an invention that involves an important technical advance of considerable economic significance in relation to an invention claimed in an earlier patent (the “first patent”) cannot be exploited without infringing the earlier patent; or
- v. the patent owner has refused to grant a voluntary license to a third party on reasonable commercial terms and conditions.

- b) Each request for a compulsory license shall be considered on its individual merits. The decision shall be taken after hearing the holder of the patent if he wishes to be heard. Where the compulsory license is granted by the court, the Director General shall be notified with the decision.
- c) The exploitation of the patented invention shall be limited to the purpose and duration for which it was authorized and shall be subject to the payment to the said holder of an adequate remuneration in the circumstances of each case. Such remuneration shall take into account the economic value of the compulsory license and, where the decision has been taken under subsection (a) (ii) or (iii) of this Section this shall be taken into account in determining the amount of the remuneration.
- d) The government of Liberia may decide at any time the use of a patented invention for public non-commercial purposes through a government agency, a subcontractor or another third person designated by the respective Ministry or the court. The right holder shall be informed promptly of such use.
- e) Upon request of the holder of the patent, or of the Government agency or person licensed to exploit the patented invention, the court may, after hearing the parties, if either or both wish to be heard, vary the terms of the decision authorizing the exploitation of the patented invention to the extent that changed circumstances justify such variation.
- f) Upon the request of the holder of the patent, the Director General or the court may terminate the compulsory license if it is determined, after hearing the parties, if either or both wish to be heard, that the circumstances which led to the decision to grant the compulsory license have ceased to exist and are unlikely to recur. License where an adequate protection of the legitimate interests of the Government agency or third person designated to exploit the invention justifies the maintenance of the decision.
- g) A compulsory license may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within which the patented invention is being exploited.
- h) A compulsory license shall be non-exclusive. Therefore, it shall not exclude:
 - i. the exploitation of the invention by the patent holder himself; and
 - ii. the conclusion of license contracts by the holder of the patent; and
 - iii. the exercise, by the holder of the patent, of his rights under Section 13.10 (a) of this Act to the extent that it does not interfere with the operation of the compulsory license.
- i) A request for a compulsory license shall be addressed to the Director General or to the court and accompanied by evidence that the holder of the patent has received, from the person seeking the compulsory license, a request for a contractual license, but that that person has been unable to obtain such a license on reasonable commercial terms and conditions and within ninety days from the request.

- j) Evidence concerning an attempt to obtain a voluntary license shall not be required in cases of national emergency or other circumstances of extreme urgency or in cases of public non-commercial use or when the license is granted to remedy a practice determined after judicial or administrative process to be anti-competitive; in such cases the holder of the patent shall be notified of the Director General's decision as soon as reasonably practicable.
- k) The exploitation of the invention under a compulsory license shall be predominantly for the supply of the market in Liberia except when the compulsory license concerns a patent claiming a pharmaceutical product or a process to obtain a pharmaceutical product, and the purpose of the license is to export the patented product or the product manufactured by the patented process to a foreign territory with no or insufficient manufacturing capacity, in accordance with the WTO Decision of 30 August, 2003 or Article 31 of the TRIPS Agreement, as appropriate, and the Annex thereto.
- l) A compulsory license in respect of an invention in the field of semi-conductor technology or layout designs of integrated circuits shall only be granted for public non-commercial use or where a judicial or administrative body has determined that the manner of exploitation of the patented invention, by the holder of the patent or someone acting under his authorization or with his consent, is anti-competitive and that the grant of the non-voluntary license would remedy such practice.
- m) Where a compulsory license is granted under subsection (a)(v) of this Section, the holder of the first patent shall be entitled to a cross-license on reasonable terms to use the invention claimed in the second patent; and the license on the first patent may not be assigned separately from the second patent.

§13.14. Invalidation; Surrender

- a) Patents shall be granted without any guarantee about the novelty, inventive step or industrial applicability of the invention.
- b) Any interested person may request the Director General or the court to invalidate a patent. Invalidation shall be decided on the evidence submitted by the parties.
- c) The Director General or the court shall invalidate the patent if Sections 13.1, 13.2, and Section 13.4, Subsections (h) thru (k) of this Act are not complied with.
- d) When the grounds for invalidation are established with respect to a main claim, any dependent claim may be deemed invalid if it does not comply with Section 13.4, Subsections (h) thru (j) of this Act. If a dependent claim is invalidated, the other claims may remain valid if they comply with Section 13.4, subsections (h) thru (j) of this Part.

- e) 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, and shall be deemed as if it had never been granted. Any limitation shall be deemed to have existed from the applicable filing date.
- f) Any dispute over the right to the patent under Section 13.3 of this Act shall be heard by the court. An interested person may request the court to transfer the granted patent to him or to invalidate the patent. In case the interested person claims co-inventor-ship, he may request the court to have his name added as co-inventor and, where applicable, as co-holder of the corresponding patent.
- g) The final decision of the court shall be notified to the Director General who shall instruct the Registrar to record it and publish a reference thereto as prescribed.
- h) A patent may be surrendered by its holder. The surrender may be limited to one or more claims.

§13.15. International Applications Under the Patent Cooperation Treaty

Specific Meanings: for purposes of this Part, the expressions: “designate,” “designated office,” “elect,” “elected office,” “international application,” “international filing date,” “international preliminary examination”, “priority period” and “receiving office” have the same meanings as in the Patent Cooperation Treaty.

§13.16. Filing Date and Effects of International application Designating Liberia

An international application designating Liberia shall, subject to this section, be treated as an application for a patent filed under this Act having as its filing date the international filing date accorded under the Patent Cooperation Treaty.

§ 13.17. The Office as Receiving Office

The Office shall act as a receiving office in respect of an international application filed with it by a resident or national of Liberia.

§ 13.18. Filing of International Applications with the Office

An international application filed with the Office as receiving office shall be filed in English and the prescribed transmittal fee shall be paid to the Office.

§ 13.19. The Office as Designated Office

The Office shall act as a designated office in respect of an international application in which Liberia is designated for the purposes of obtaining a national patent under this Act.

§ 13.20. The Office as Elected Office

The Office shall act as an elected office in respect of an international application in which Liberia is designated as referred to in Section 13.18 of this Section if the applicant files a demand for the purposes of international preliminary examination under Section 13.14 of the Patent Cooperation Treaty.

§ 13.21. Processing International Applications

The Office as designated office or elected office shall not commence processing of an international application designating Liberia before the expiration of the time limit referred to in Section 13.22 except if the applicant complies with the requirements of that subsection and files with the Office an express request for early commencement of such processing.

§ 13.22. Entering National Phase

The applicant shall, in respect of an international application designating Liberia and before the expiration of the time limit applicable under Article 22(1) or 39(1)(a) of the Patent Cooperation Treaty or of such later time limit as may be specified in the regulations to this Act, pay the national fee to the Office and file with the Office a translation of the international application into English if the international application was not filed in, and has not been published under the Patent Cooperation Treaty as a translation into English.

§13.23. Failure to Enter National Phase

If the applicant does not comply with the requirements of Section 13.21 of this Act within the time limit referred to in that subsection, the international application shall be considered withdrawn for purposes of this Act.

§13.24. Reinstatement of Rights After Failure to Enter National Phase

- a) Where the international application is considered withdrawn under Section 13.22 of this Act, the Office shall, upon request of the applicant in accordance with the regulations to this Act, reinstate the rights of the applicant with respect to that international application if it finds that the failure to meet the time limit referred to in Section 13.8 of this Act occurred in spite of due care required by the circumstances having been taken.
- b) The Office shall not refuse a request for reinstatement of rights without giving the applicant the opportunity to make observations on the intended refusal within a time limit, which shall not be less than three months counted from the date of notification.

§ 13.25. Restoration of Right of Priority

- a) Where the international application claims the priority of an earlier application and has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the Office shall, upon request of the applicant in accordance with the regulations to this Part, restore the right of priority with respect to that international application if the Office finds that the failure to file the international application within the priority period was unintentional or occurred in spite of due care required by the circumstances having been taken.
- b) The Office shall not refuse, totally or in part, a request for restoration of right of priority without giving the applicant the opportunity to make observations on the intended refusal within a time limit, which shall not be less than three months counted from the date of notification.

§13. 26. Processing International Applications in Accordance with the Patent Cooperation Treaty

- a) The Office shall process international applications in accordance with the provisions of the Patent Cooperation Treaty, the Regulations established thereunder and the Administrative instructions under those Regulations and with the provisions of this Part and the regulations thereunder. In the event of conflict, the provisions of the Patent Cooperation Treaty, the Regulations thereunder and the Administrative Instructions under those Regulations shall apply.
- b) Further details concerning the processing of international applications by, and other functions of, the Office in connection with the Patent Cooperation Treaty, including fees payable, time limits, prescribed languages and other requirements in relation to international applications, may be included in the regulations.

§13.27. Utility Models (Applicability of provisions relating to patents)

The provisions of this Part shall apply *mutatis mutandis* to utility models certificates or applications thereof.

§13.28. Special Provisions Relating to Utility Model Certificates

- a) An invention qualifies for a utility model certificate if it is new and industrially applicable.
- b) The provisions of this Act on patentable inventions and inventive steps, however, shall not apply to utility model certificates.
- c) A utility model certificate shall expire at the end of the 10th year after the date of the grant of the utility model, and shall not be renewable.

§13.29. Conversions

- a) At any time before the grant or refusal of a patent an applicant for a patent may, upon payment of the prescribed fees, convert his/her application into an application for a utility model certificate which shall be accorded the filing date of the initial application.
- 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 fees, convert his application into a patent application, which shall be accorded the filing date of the initial application.
- c) An application may not be converted under subsection (a) of this Section more than once.

Section 14 Layout Designs of Integrated Circuits

§14.1. Subject Matter of Protection; Registration

- a) The layout-design of an integrated circuit shall be protected if it is registered pursuant to this Part.
- b) The layout-design of an integrated circuit may be registered if it is original within the meaning of Section 14.2 of this Part.
- c) Registration may only be applied for if the layout-design has not yet been commercially exploited, or has been commercially exploited for not more than two years, anywhere in the world before the date of filing in Liberia.
- d) For the purposes of this Part, “right holder” means the person who is to be regarded as the beneficiary of the protection referred to in Section 14.4 of this Part.

§14.2. Originality

- a) A layout-design shall be considered to be original if it is the result of its creator’s own intellectual effort and is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation.
- b) A layout-design consisting of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, is original within the meaning of subsection (a).

§14.3. Right to Protection

- a) The right to layout-design registration shall belong to the creator of the layout-design. It may be assigned or transferred by succession. Where several persons have jointly created a layout-design, the right shall belong to them jointly.

- b) If 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 priority date shall have the right to the layout-design, provided such application is not withdrawn, abandoned or rejected. To this effect, the Director General of the Liberia Intellectual Property Office shall take into account the matter claimed in the respective application.
- c) The right to a layout design may be assigned, and may be transferred by succession.
- d) Where an invention is made under an employment contract the purpose of which is to invent, the right to the layout design shall belong, in the absence of contractual provisions to the contrary, to the employer. If the economic gains obtained by the employer from the commercial exploitation of that invention rise above the reasonable expectations of gain that the employer had from his employee's inventive output at the time he hired him, the employee shall be entitled to an equitable remuneration.
- e) Where an invention is made by an employee outside an employment contract, but in making that invention the employee used materials, data or know-how of the employer, the right to the layout design shall belong, in the absence of contractual provisions to the contrary, to the employer. The employee shall be entitled to an equitable remuneration equivalent to one third of the economic gains obtained by the employer from the commercial exploitation of the invention.
- f) Any invention claimed in a layout design application filed by a former employee within one year following the expiry of his employment, where the invention falls within the scope of the former employer's main line of business, shall be presumed to have been made during the employment relationship, unless the employee produces evidence to the contrary.
- g) Any anticipated promise or undertaking by the inventor made to his employer to the effect that he will waive any remuneration he is entitled to under this section shall be without legal effect.
- h) The inventor shall be named as such in the layout design, unless he indicates to the Director General in writing that he wishes not to be named. Any promise or undertaking by the inventor made to the effect that he will make such a declaration shall be without legal effect.
- i) If two or more persons have jointly made an invention, the right to the layout-design invention shall belong to them jointly.

§14.4. Effect of Protection

- a) The registration of a layout-design shall have the effect that the following acts shall be unlawful if performed without the authorization of the registered right holder:
 - i. reproducing, whether by incorporation in an integrated circuit or otherwise, the protected layout-design in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality referred to in Section 14.2.

- ii. importing, selling or otherwise distributing for commercial purposes the protected layout-design, an integrated circuit in which the protected layout-design is incorporated or an article incorporating such an integrated circuit in so far as it continues to contain an unlawfully reproduced layout-design.
- b) The rights conferred by the registration of a layout-design shall not extend to:
- i. the reproduction or use of the protected layout-design for private non-commercial purposes;
 - ii. the reproduction or use of the protected layout-design for the sole purpose of academic or scientific research or teaching;
 - iii. the reproduction or use of the protected layout-design for the sole purpose of evaluation or analysis of the layout-design;
 - iv. the incorporation in an integrated circuit of a layout-design created on the basis of such evaluation or analysis and which is itself original in the meaning of Section 14.2 or the performance of any of the acts referred to in subsection (a) in respect of a layout-design so created;
 - v. the performance of any of the acts referred to in subsection (a) (ii) where the integrated circuit in which such a layout-design is incorporated, or the article incorporating such an integrated circuit, has been put on the market in Liberia or abroad by the right holder or by a person acting with the right holder's consent or having an economic tie to the right holder; to this effect an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the layout-design, or where a third party may exercise such an influence on both persons;
 - vi. the performance of any of the acts referred to in subsection (a) (ii) in respect of an integrated circuit incorporating an unlawfully reproduced layout-design or any article incorporating such an integrated circuit where the person performing or ordering such an act did not know and had no reasonable ground to know, when acquiring the integrated circuit or the article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design; however, after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the said acts only with respect to the stock on hand or ordered before such time and shall be liable to pay to the right holder a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated license in respect of such a layout-design;
 - vii. the performance of any of the acts referred to in subsection (a) (ii) where the act is performed in respect of an identical layout-design which is original and has been created independently by a third party;

- viii. the use of an integrated circuit in which the layout-design is incorporated, or of an article incorporating such an integrated circuit, in the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Liberia, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels.

§14.5. Duration of Protection

The registration of a layout-design shall lapse at the end of whichever of the following periods expires earliest:

- a) ten years counted from the filing date of the application for registration of the layout-design in Liberia, if the layout-design has not been previously exploited commercially anywhere in the world;
- b) ten years counted from the date of the first commercial exploitation of the layout-design anywhere in the world, by or with the consent of the right holder;
- c) fifteen years counted from the date of creation of the layout-design.

§14.6. Application Requirements

- a) An application for the registration of a layout-design shall be in writing and shall be filed with the Registrar's Office. A separate application shall be filed for each layout-design.
- b) The application shall:
 - i. contain a request for registration of the layout-design and a brief and precise designation thereof;
 - ii. indicate the name, address, nationality and, if different from the address, the habitual residence of the applicant;
 - iii. be accompanied by a copy or drawing of the layout-design along with information defining the electronic function which the integrated circuit is intended to perform; however, the application may omit such parts of the copy or drawing that relate to the manner of manufacture of the integrated circuit, provided that the parts submitted are sufficient to allow the identification of the layout-design;
 - iv. specify the date of first commercial exploitation of the layout-design anywhere in the world or indicate that such exploitation has not commenced;
 - v. specify the date of creation of the layout-design;
 - vi. include a statement justifying the applicant's right to the registration under Section 14.3;
 - vii. include proof of payment of the prescribed fee.

- c) The filing date of an application for registration of a layout-design shall be the earliest date on which the application contains at least the following:
 - i. an express or implicit request that registration of a layout-design is sought;
 - ii. indications allowing the identity of the applicant to be established or allowing the applicant to be contacted;
 - iii. a reproduction of the layout-design for which registration is sought.
- d) Where the application does not comply with the requirements of subsection (b), the Registrar shall notify the applicant of the defects through the Deputy Director of the Industrial Property Department and invite him/her to correct them within two months. If the defects are not corrected within the time limit, the application shall be deemed not to have been filed.
- e) With respect to compliance with subsection (c), if the Deputy Director of the Industrial Property Department finds that the application did not fulfill, at the time of receipt, the requirements, he/she shall notify the applicant through the Director General inviting him/her to file the required correction within two months from the date of notification. If the correction is made in due time, the filing date shall be the date of receipt of the required correction; otherwise the application shall be treated as if it had not been filed.
- f) If the prescribed fee was not paid at the time of filing, the Director General shall notify the applicant that the application will be deemed not to have been filed unless payment is made within one month from the date of the notification. If the application fee is not paid within that time limit, the application shall be deemed not to have been filed.

§14.7. Registration and Publication

- a) Where the application complies with the requirements of Section 14.6 the Registrar shall register the layout-design in the register of layout-designs without examination of the originality of the layout-design, the applicant's entitlement to protection or the facts stated in the application.
- b) The register of layout-designs shall contain the number, title, filing date and, where indicated in the application under Section 14.6 (b) (iii), the date of first commercial exploitation, anywhere in the world, of the layout-design as well as the name and address of the right holder and other prescribed particulars.
- c) Any person may consult the register of layout-designs and obtain extracts therefrom, subject to the payment of the prescribed fee.
- d) The registration of a layout-design shall be published in the prescribed manner.

§14.8. Invalidation

- a) Any interested person may request that the registration of a layout-design be invalidated on the grounds that:
 - i. the object of the registration is not a layout-design as defined in Section 3;
 - ii. the layout-design is not protectable under Section 14.1(b); or
 - iii. where the layout-design has been commercially exploited, anywhere in the world, before the filing of the application for registration of the layout-design, the said application was not filed within the time limit referred to in Section 14.1(c).
- b) Where the grounds for invalidation are established with respect only to a part of the layout-design, only the corresponding part of the registration shall be invalidated.
- c) A request for invalidation of the registration of the layout-design on the grounds specified in subsection (a) may be filed with the Liberia Intellectual Property Office or with the court. The request shall state the grounds on which it is based.
- d) Any invalidated layout-design, or claim or part of a claim, shall be regarded as null and void from the date of the grant of the lay-out design, and shall be deemed as if it had never been granted. Any limitation shall be deemed to have existed from the applicable filing date. In the event of a dispute over the right to registration of the layout-design registration, the interested person may ask the court to transfer the title to him instead of invalidating it.
- e) Any invalidated layout-design registration, or part thereof, shall be regarded as null and void from the date of the commencement of protection.
- f) The final decision of the court shall be notified to the Director General who shall instruct the Industrial Property Department to record it and publish a reference thereto in accordance with the Regulations.

PART VII ENFORCEMENT OF RIGHTS

Section 15 Enforcement of Intellectual Property Rights

§15.1. Infringement of Copyright and Related Rights

A copyright and related right is primarily to prevent an infringement from occurring and preserve relevant evidence in regard to the alleged infringement, including cultural or traditional expressions;

§15.2. Infringement of Marks and Trade Names

- a) A registered mark or a well-known mark shall be infringed by the performance of any act referred to in Section 12.6 (a) and (b) in Liberia by a person other than the holder of the right in the mark and without the holder's authorization, subject to the limitations and exceptions provided for in Section 12.6 (c) and (d).
- b) A well-known mark shall be infringed by the use of a sign identical with or confusingly similar to the well-known mark without the agreement of the owner of the well-known mark provided that the use of the sign in relation to goods or services would indicate a connection between those goods or services and the owner of the well-known mark or that the reputation of the well-known mark or of the owner thereof is likely to be damaged by such use.
- c) On the request of the holder of a registered mark or of a licensee if he has requested the holder of the mark to institute court proceedings for a specific relief and the holder of the mark has refused or failed to do so within ninety-days, the court may grant an injunction to prevent infringement, or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Part.
- d) A trade name shall be infringed by the performance of any act referred to in Section 10.13 (a).
- e) The court may, on the request of any competent authority or any interested person, group association or syndicate, including producers, manufacturers or traders, grant relief where it is satisfied that an act of infringement has been committed or is imminent.

§15.3 Infringement of Geographical Indications

- a) A geographical indication protected under this Part shall be infringed by the performance of any act referred to in Section 11.8 (a) or any use of a geographical indication by a party who does not have the right to use the geographical indication in accordance with this Part, subject to the limitations and exceptions provided for in Section 11.8 (b).
- b) On the request of any interested person or of any interested group of producers or consumers, the court may grant an injunction to prevent the unlawful use of the geographical indication, award damages and grant any other remedy provided for in the general law or under this Part.

§ 15.4. Infringement of Industrial Designs

- a) An industrial design registered under this Act shall be infringed by the performance of any act referred to in Section 12.6 (b) by a person other than the registered holder of the industrial design and without the holder's agreement, subject to the limitations and exceptions provided for in Section 12.6 (f).

- b) On the request of the registered holder of the industrial design or of a licensee if he has requested the holder to institute court proceedings for a specific relief and the holder has refused or failed to do so within ninety days, the court may grant an injunction to prevent infringement or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Act.

§15.5. Infringement of Patents

- a) A patent shall be infringed by the performance of any act referred to in Section 13.10 (b) by a person other than the holder of the patent and without the holder's agreement, subject to the limitations and exceptions provided for in Section 13.10 (c).
- b) On the request of the holder of the patent the court may grant an injunction to prevent infringement or an imminent infringement and, where the infringer acted knowingly or with reasonable grounds to know, award damages and grant any other remedy provided for in the general law or under this Act.

§ 15.6. Infringement of Layout Designs

- a) A layout-design (topography) of an integrated circuit protected under this Act shall be infringed by the performance of any act referred to in Section 14.4 (a) by a person other than the registered holder of the layout-design (topography) and without the holder's agreement, subject to the limitations and exceptions provided for in Section 14.4 (b).
- b) On the request of the registered holder of the layout-design (topography) of an integrated circuit, or of a licensee if he has requested the holder to institute court proceedings for a specific relief and the holder has refused or failed to do so within ninety days, the court may grant an injunction to prevent infringement or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Act.

Section 16

Civil and Administrative Procedures and Remedies

§16.1. Equitable Procedures

The court shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered under this Part. Defendants shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims. Parties shall be allowed to be represented by independent legal counsel, and procedures shall not impose overly burdensome requirements concerning mandatory personal appearances. All parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence. The procedure shall provide a means to identify and protect confidential information, unless this would be contrary to existing constitutional requirements.

§16.2. Evidence

- a) The court may, where a party to proceedings before it has presented reasonably available evidence sufficient to support its claims and has specified evidence relevant to the substantiation of those claims which lies in the control of the opposing party, order that this evidence be produced by the opposing party, subject, in appropriate cases, to conditions which ensure the protection of confidential information.
- b) In cases in which a party to a proceeding voluntarily and without good reason refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes a procedure relating to an enforcement action, the court may make preliminary and final determinations, affirmative or negative, on the basis of the information presented to it, including the complaint or the allegation presented by the party adversely affected by the denial of access to information, subject to providing the parties an opportunity to be heard on the allegations or evidence.

§16.3. Injunctions

- a) The court shall have the authority to order a party to desist from an infringement, *inter alia* to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods. The Court may grant the order to prevent the entry into the commerce of Liberia in respect of protected subject matter acquired or ordered by a person prior to knowing or having reasonable grounds to know that dealing in such subject matter would entail the infringement of an intellectual property right.
- b) Notwithstanding the other provisions of this Section and provided that the provisions of Part VI specifically addressing use by the government, or by third parties authorized by a government, without the authorization of the right holder are complied with, Members may limit the remedies available against such use to payment of remuneration in accordance with subparagraph (h), Article 31 of the TRIPS Agreement. In other cases, the remedies under this Part shall apply or, where these remedies are inconsistent with this Act, declaratory judgments and adequate compensation shall be available.

§16.4. Damages

- a) Where damages are awarded in accordance with this Section, the court shall order the infringer to pay the holder of the right adequate compensation for the infringement, provided that the infringer acted knowingly or with reasonable grounds to know of the infringement. The court shall also order the infringer to pay for the right holder's expenses, including appropriate attorney's fees.
- b) The court may order the infringer to pay for damages relating to acts of infringement that took place:
 - i. after the patent application or of the application for registration, as the case may be, was published in the prescribed manner; or
 - ii. after the applicant of the registration gave notice to the alleged infringer of the contents of the application; or

- iii. after the alleged infringer acquired knowledge of the contents of the application.
- c) The request for the court to order the payment of damages under subsection (b) may be filed only after the industrial property right in question is granted.

§16.5. Other Remedies

- a) Where goods have been found to be infringing, the court shall, wherever this is considered adequate under the circumstances to create an effective deterrent to further infringement, taking due account of the need for proportionality between the seriousness of the infringement and the remedies as well as the legitimate interest of third parties, order, without compensation of any kind/type, that these goods be disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the holder of the right.
- b) In respect of goods bearing counterfeit marks or geographical indications, the simple removal of the mark or geographical indication unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.
- c) The court shall also, wherever this is considered adequate, taking due account of the conditions set out in subsection (a), order that materials or implements the predominant use of which has been the creation of infringing goods be disposed of outside the channels of commerce without compensation of any sort in such a manner as to minimize the risks of further infringement.

§16.6. Information to the Right Holder

The court shall order the infringer to inform the holder of the right of the identity of third persons involved in the production and distribution of the infringing goods or rendering of services and of their channels of distribution, where this would be in proportion to the seriousness of the infringement.

§16.7. Indemnification of the Defendant

The court shall order the person at whose request measures were taken and who has abused enforcement procedures to provide to a defendant wrongfully enjoined or restrained adequate compensation for the injury suffered as a consequence of such abuse, and to pay the defendant's procedural expenses, including appropriate attorney's fees.

§16.8. Appeals

- a) Any decision by the court in infringement proceedings shall be subject to an appeal.
- b) The appeal shall follow the procedure provided under the Civil Procedure Law of the Republic of Liberia.

§16.9. Further Sanctions

When a person has been found guilty of an offence under the provisions of the intellectual property law referred to in Section 15, the court shall, whenever this is considered adequate under the circumstances to create an effective deterrent to further infringement, order the seizure, forfeiture or disposal of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence.

§16.10. Administrative Procedures

To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those set forth in this Section.

Section 17 Provisional Measures

- a) The court may order provisional measures to prevent any infringement or an unlawful use referred to in this Section from occurring, or to preserve relevant evidence in regard to an alleged infringement.
- b) In respect of any measure under this Section the court may require the applicant to furnish:
 - i. evidence satisfying the court that the applicant is the holder of the right and that the applicant's
 - ii. rights are being infringed or that such infringement is imminent;
 - iii. security or equivalent assurance required by the court to protect the defendant and to prevent abuse;
 - iv. any information necessary to identify the goods concerned by the authority that will execute the provisional measure.
- c) In exceptional circumstances where any delay is likely to cause irreparable harm to the holder of the right or where there is a demonstrable risk of evidence being destroyed, the court may order provisional measures without giving the other party an opportunity of being heard. In such case, the court shall give the parties affected notice of the decision at the latest after the execution of the measures.
- d) Where, provisional measures have been ordered under subsections (b) and (c), the defendant may file a request for review with the court within two weeks from the notification of the decision. In the review proceedings, the court shall give the parties concerned an opportunity of being heard and shall confirm, modify or revoke the decision within a reasonable period after the notification of the decision.

- e) Where the applicant does not initiate court proceedings leading to a decision on the merits of the case within 20 working days or 31 calendar days, whichever is longer, from the notification of the decision ordering provisional measures or within any other reasonable period determined by the court in the decision, the court shall revoke the provisional measures upon the request of the defendant.
- f) In granting a provisional measure in accordance with this section, the court shall request the alleged infringer to lodge a guarantee to be able to continue in the use of the invention, in order to ensure the compensation of the right holder in the case that an infringement is finally determined.
- g) Where the provisional measures are revoked or where the court decides on the merits of the case that there has been no infringement or threat of an infringement, the court shall order the applicant, upon the request of the defendant, to provide the defendant appropriate compensation for any injury caused by the execution of the provisional measures.

Section 18

Border Measures Requirements

§18.1. Availability of Border Measures (suspension of release by customs authorities)

Where justified, and provided the conditions set out in this Section are met, border measures may be ordered by the Director General to prevent the importation of goods bearing a counterfeit mark or pirated copyright goods to enable a right holder, who has valid grounds for suspecting that such importation occur in writing by filing an application.

§18.2. Application for Suspension

The holder of exclusive rights in a mark or a geographical indication under this Act, who has valid grounds for suspecting that the importation of counterfeit may take place, may file an application with the Director General requesting him to order the customs authority to suspend customs clearance of those goods.

§18.3. Request; Prima Facie Evidence

- a) The application for suspension of customs clearance shall be presented in writing and shall state the grounds for the request.
- b) It shall be accompanied by:
 - i. prima facie evidence that the applicant is the holder of the exclusive right in the mark or geographical indication;
 - ii. prima facie evidence that his right has been infringed or that an infringement is imminent;

- iii. a sufficiently detailed description of the goods alleged to be counterfeit in order to make them readily recognizable; and,
- iv. the prescribed fee.

§18.4. Content of Application

- a) The applicant shall furnish all information necessary, a sample of the genuine goods produced by or with the consent of the right holder, a sample or photograph of the goods alleged to be counterfeit, or other means enabling the customs authority to recognize the said goods, in order to enable the Director General to take a decision on the requested suspension.
- b) The information furnished by the person applying for suspension shall include, if known, the following:
 - i. the name and address of the importers and/or consignees of the goods alleged to be counterfeit;
 - ii. the country or countries of origin or manufacture of the goods alleged to be counterfeit ;
 - iii. the names and addresses of persons or business entities involved in the manufacture and distribution of the goods alleged to be counterfeit;
 - iv. the manner of transportation and the names and addresses of the transporters of the goods alleged to be counterfeit ;
 - v. the port or ports where it is anticipated that the goods alleged to be counterfeit will be imported into the territory of Liberia and presented to the customs authority for dispatch;
 - vi. the expected date of importation and presentation to the customs authority for dispatch.

§18.5. Security

- a) The Director General may require the right holder to provide security or other equivalent assurance to:
 - i. cover any liability on his part *vis-à-vis* persons affected by border measures where the said measures are discontinued by virtue of an act or omission by the right holder or where the goods in question are subsequently found not to be infringing;
 - ii. ensure payment of the expenditure incurred in keeping the goods in suspension by the customs authority; and
 - iii. prevent any abuse of the border measures or compensate in case of such abuse.

§18.6. Procedure

- a) The decision by the Director General to suspend the release into free circulation of goods alleged to be counterfeit shall specify the period for which the customs authority will have to take action.
- b) The Director General shall forward his order without delay to the customs authority, and shall notify the importer of the goods and the applicant with the order.
- c) The customs authority shall, upon receipt of the order of the Director General suspend the customs clearance procedures for the allegedly counterfeit goods.

§18.7. Inspection and Examination of Goods

Without prejudice to the protection of confidential information, the customs authority shall allow the right holder and the importer to examine the goods the clearance of which has been suspended, and to remove samples for examination, testing and analysis, in order to substantiate their respective claims.

§18.8. Time Limit; Release of Goods

- a) If, within a period of 10 working days after the applicant has been notified of the suspension of customs clearance for the goods in question, no proceedings leading to a decision on the merits of the case have been initiated by a party other than the defendant or the customs authority has not been notified accordingly, the goods shall be released, provided that all other conditions for importation have been complied with.
- b) The Director General may extend the suspension period by a further period of ten working days. A further extension may be ordered only if required under the circumstances.

§18.9. Review of Decision

- a) If proceedings leading to a decision on the merits of the case have been initiated, the Director General shall review, upon the request of the defendant, the decision with the view to determining whether the measures shall be modified, revoked or confirmed.
- b) Where the suspension of the release of goods is continued in accordance with a provisional measure ordered by the court, the period of further suspension shall be determined by the court. Where no such determination has been made, said period shall not exceed 20 working days or 31 calendar days, whichever is the longer.

§18.10. Destruction of Goods; Submission to Other Customs Procedures

- a) The court may, where the conditions set out in Section 16.8 are met; order the disposal of the counterfeit goods outside the channels of commerce in such a way as to preclude injury to the right holder, without compensation of any sort.
- b) The following shall not be permitted in respect of counterfeit goods:
 - i. re-exporting the goods in an unaltered state; or
 - ii. placing the goods under a different customs procedure.

§18.11. Right of Inspection and Information to the Right Holder

After a positive determination has been made by the court on the merits of the case, the customs authority may, upon request, without prejudice to the protection of confidential information, inform the right holder of the names and addresses of the importer, consignor and consignee and of the quantity of the goods suspended from clearance, provided that this is in proportion to the seriousness of the infringement, and provide the right holder with copies of documents lodged in respect of such goods or with any information or documents relating to any previous importation of identical or similar goods in which the same importer, consignor or consignee were involved.

§18.12. Compensation for Wrongful Detention

The court shall order the applicant to pay the importer, the consignee and the owner of the goods appropriate compensation for any injury caused to them through the wrongful detention of goods or through the detention of goods released by virtue of failure to initiate proceedings leading to a decision on the merits of the case.

§18.13. De Minimis Imports

Small quantities of goods of a non-commercial nature contained in the traveler's personal luggage or sent in small consignments shall be excluded from suspension from release into free circulation.

§18.14. Goods in Transit

The provisions on border measures in this Act shall not apply to goods that are in transit in the territory of Liberia, including those that transit through the territory of Liberia but are not intended for importation.

§18.15. Liability of Customs Department

- a) The customs authority shall not be liable for any action taken or intended in good faith in respect of the release or suspension of release into free circulation of counterfeit goods including, in particular:
 - i. any failure to detect such goods; and
 - ii. the inadvertent release of such goods.

§18.16. Appeals

An aggrieved party may lodge an appeal against any decision taken by the Director General on or in connection with the suspension or release into free circulation of counterfeit goods. The appeal may be filed within two months from the notification of the decision.

Section 19 Criminal Sanction

- a) Any infringement of intellectual property rights under this Act, if committed willfully and knowingly on a commercial scale including copyright/related rights, shall be punishable by imprisonment for a period of not less than one (1) year and not more than two (2) years, or by a fine of not less than United States One Thousand and Five Hundred Dollars (US\$1,500.00) and not more than United States Two Thousand-Five Hundred Dollars (US\$2,500.00) or both. This reduces the judge's discretion to levy a far lesser penalty/inadequate penalty.
- b) The court shall take into particular account the defendant's profits attributable to the infringement when fixing the amount of the fine and may increase up to double the upper limit of the penalties specified in subsection (a), where the defendant has been convicted for a new act of infringement committed within five (5) years of a previous conviction for an infringement.
- c) The court may apply the measures and remedies referred to under Part VII of this Act.
- d) The court may also order the forfeiture of property used to facilitate the offense, including but not limited to:
 - i. real property where the infringing activity took place,
 - ii. vehicles used to transport infringing goods,
 - iii. intangible such as licenses, and
 - iv. equipment and devices used to execute the infringement.
- e) Any person who knowingly makes a false representation of a material fact in the application for intellectual property rights registration or in any written statement filed in connection with the application shall be guilty of an offence and liable to a fine not less than United States Five Hundred Dollars (US\$500.00) and any person who knowingly makes such a false representation on more than one occasion shall be punishable by a fine of not less than United States One Thousand Dollars (USD\$1000) or imprisonment for a period of not more than one (1) year or to both, for each occurrence of the false representation.

- f) Any person who, with fraudulent intent, removes or alters any notice of copyright and other areas pertaining to intellectual property rights appearing on a copy of a work or on a product in which under this Act shall be guilty of an offence and liable to a fine of not more than United States Two Thousand Dollars (US\$2,000.00) or twice the value of the defendant's profits attributable to the infringement, whichever is greater.
- g) Any person who, with fraudulent intent, places on any article a notice of copyright or words or areas relating to intellectual property rights of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be guilty of an offence and liable to a fine of not more than United States Two Thousand Dollars (US\$2,000.00) or twice the value of the defendant's profits attributable to the infringement, whichever is greater.
- h) No criminal proceedings shall commence under the provisions of this section if a period of three years has elapsed following the action.
- i) "Commercial scale" as referred to in subsection (a), includes the reproduction or distribution, including by electronic means, during the period of a year, of at least 10 copies of a work in which copyright subsists under this Act, with a view to direct or indirect economic or commercial benefit.

SCHEDULE ONE

COMPULSORY LICENCE FOR TRANSLATION AND REPRODUCTION OF CERTAIN WORKS

a) Interpretation

In this Schedule:

"qualified person" means a citizen of Liberia or an individual domiciled in Liberia; or a body corporate incorporated under any written law in Liberia;

"research" shall not include industrial research, or research carried out by bodies corporate (not being bodies corporate owned or controlled by the Government), companies, associations or bodies of persons carrying on any business;

"purposes of teaching, research or scholarship" include: (a) purposes of instruction activity at all levels in educational institutions; and (b) purposes of all types of organized educational activity.

b) License to produce and publish translations:

- i. Any qualified person may apply to the Intellectual Property Office for a license to produce and publish a translation of a literary or dramatic work which has been published in printed or analogous forms of reproduction for the purposes of teaching, scholarship or research.

- ii. An application under this paragraph shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.
- iii. Every applicant for a license under this paragraph shall along with his application; deposit with the Intellectual Property Office such fee as may be prescribed.
- iv. Where an application is made to the Intellectual Property Office under this paragraph it may, after holding such inquiry as may be prescribed, grant to the applicant a license, not being an exclusive license, to produce and publish a translation of the work in the language mentioned in the application subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Intellectual Property Office may, in the circumstances of each case, determine in the prescribed manner, except that the royalties shall be consistent with the standards normally operating in the case of licenses freely negotiated between persons in Liberia and owners of translation rights in the country of the owner of the right of translation; and that the license shall not extend to the export of copies of the translation of the work outside Liberia and every copy of such translation shall contain a notice in the language of such translation that the copy is available for distribution only in Liberia.
- v) Subparagraph (iii) of this paragraph shall not apply to the export by the Government of Liberia or any authority under the Government, copies of such translation in language other than English to any country if such copies are sent to citizens of Liberia residing outside Liberia or to any association of such citizens outside Liberia; and such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose in either case, the government of the country to which the copies are exported has agreed to the receipt or distribution or both, of the copies exported to that country.
- vi) No license shall be granted by the Intellectual Property Office under this paragraph until the expiration of whichever of the following periods is applicable one year from the date of first publication of the work where the application is for a license for translation into any language spoken in Liberia other than English, three years from the date of first publication of the work where the application is for a license for translation into English.

No license shall be granted by the Intellectual Property Office unless the Intellectual Property Office is satisfied that no translation of the work into the language in question has been published in printed or analogous forms of reproduction, by or with the authorization of the owner of the right of translation, or that all previous editions in that language are out of print; the applicant has proved to the satisfaction of the Intellectual Property Office that he had requested and had been denied authorization by the owner of the copyright to

produce and publish such translation, or that he was, after due diligence on his part, unable to find such owner, where the applicant was, after due diligence on his part, unable to find the owner of the copyright, he had sent a copy of his request for such authorization by registered air-mail post to the publisher whose name appears from the work, not less than two months before the application for the license.

- vii) The applicant had at the time he submitted an application under this paragraph informed any national or international information center designated for this purpose by the government of the country in which the publisher of the work to be translated is believed to have his principal place of business, the Intellectual Property Office is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this Act; a period of six months in the case of an application for a license for translation into English or nine months in the case of an application for a license for translation into any language spoken in Liberia other than subparagraph (g)(ii) of this paragraph or where a copy of the request has been sent under subparagraph (g)(iii) of the said paragraph from the date of sending of such copy, and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorized by him within the period of six months or nine months, as the case may be the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation if the work is composed mainly of illustrations, the author has not withdrawn from circulation copies of the work; and an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.
- c) License to produce and publish works for certain purposes
- i. Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary or artistic work, the copies of such edition are not made available in Liberia; or such copies have not been put on sale in Liberia for a period of six months, by the owner of the right of reproduction or by any person authorized by him in that behalf to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in Liberia for comparable works, any qualified person may apply to the Intellectual Property Office for a license to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or at a lower price for the purposes of systematic instructional activities.
 - ii. Every such application shall be made in such forms as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.

- iii. Every applicant for a license under this paragraph shall, along with his application, deposit with the Intellectual Property Office such fee as may be prescribed.
- iv. Where an application is made to the Intellectual Property Office under this paragraph it may, after holding such inquiry as may be prescribed, grant to the applicant a license, not being an exclusive license, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Intellectual Property Office may, in the circumstances of each case, determine in the prescribed manner, except that the royalties shall be consistent with the standards normally operating in the case of licenses freely negotiated between persons in Liberia and owners of reproduction rights in the country of the owner of the reproduction right, a license granted under this paragraph shall not extend to the export of copies of the reproduction of the work outside Liberia and every copy of such reproduction shall contain a notice that the copy is available for distribution only in Liberia.
- v. No license shall be granted to an applicant under this paragraph unless the applicant has proved to the satisfaction of the Intellectual Property Office that he had requested and been denied authorization by the owner of the copyright in the work to reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner, where the applicant was unable to find the owner of the copyright, a copy of his request for such authorization by registered air-mail post to the publisher whose name appears on the work not less than three months before the application for the license; the applicant had informed any national or international center designated for this purpose by the government of the country in which the publisher of the work to be reproduced is believed to have his principal place of business.
- vi) The Intellectual Property Office is satisfied that the applicant is competent to reproduce and publish an accurate reproduction of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this paragraph; the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Intellectual Property Office, being a price reasonably related to the price normally charged in Liberia for works of the same standard on the same or similar subjects; a period of six months in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work, has lapsed from the date of making the request under sub-paragraph (v) of this paragraph, or where a copy of the request has been sent under said sub-paragraph (v) of the said paragraph, from the date of

sending of a copy, and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorized by him within the period of six months or three months, as the case may be, the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction, the author has not withdrawn from circulation copies of the work; and an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

- vii) No license to reproduce and publish the translation of a work shall be granted under this paragraph unless such translation has been published by the owner of the right of translation in a language spoken in Liberia. The provisions of this paragraph shall also apply to the reproduction and publication, or translation into a language spoken in Liberia, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.
- d) For purposes of this paragraph, “relevant period” in relation to any work, means a period of seven years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to fiction, poetry, drama, music or art; three years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to natural science, physical science, mathematics or technology.
- e) License for domestic broadcasting organization
 - i. any broadcasting organization in Liberia or any qualified person who is the holder of a license for a television or broadcasting station may apply to the Intellectual Property Office for a license to produce and publish the translation of
 - ii. a work referred to in paragraph b of this Schedule and published in printed or analogous forms of reproduction; or any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities for broadcasting such translation for the purpose of teaching or for the dissemination of the results of specialized, technical or scientific research to the experts in any particular field.

This Act shall take effect immediately upon publication into Handbills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING

2015

**FOURTH SESSION OF THE FIFTY-THIRD
LEGISLATURE OF THE REPUBLIC OF LIBERIA**

SENATE'S ENGROSSED BILL NO. 2 ENTITLED:

"AN ACT TO REPEAL AN ACT ADOPTING A NEW COPYRIGHT LAW OF THE REPUBLIC OF LIBERIA APPROVED JULY 23, 1997 AND THE INDUSTRIAL PROPERTY ACT OF LIBERIA APPROVED MARCH 20, 2003 CONSTITUTING TITLE 24 OF THE LIBERIAN CODE OF LAW REVISED, AND TO ENACT IN THEIR STEAD A NEW TITLE 24 TO BE KNOWN AS THE LIBERIA INTELLECTUAL PROPERTY ACT, 2015"

On motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Thursday, September 10, 2015

On motion, Bill taken from the Committee Room for its second reading. On motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the law and ordered engrossed today, Thursday, September 24, 2015 @ 13:37 G.M.T.



SECRETARY, LIBERIAN SENATE, R.L.

2016

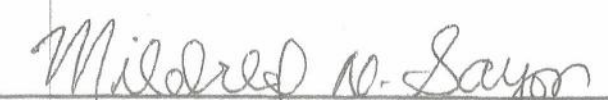
**THIRD SESSION OF THE FIFTY-THIRD
LEGISLATURE OF THE REPUBLIC OF LIBERIA**

HOUSE'S ENDORSEMENT TO SENATE'S ENGROSSED
BILL NO. 2, ENTITLED:

"AN ACT TO REPEAL AN ACT ADOPTING A NEW COPYRIGHT LAW OF THE REPUBLIC OF LIBERIA APPROVED JULY 23, 1997 AND THE INDUSTRIAL PROPERTY ACT OF LIBERIA APPROVED MARCH 20, 2003 CONSTITUTING TITLE 24 OF THE LIBERIAN CODE OF LAW REVISED, AND TO ENACT IN THEIR STEAD A NEW TITLE 24 TO BE KNOWN AS THE LIBERIA INTELLECTUAL PROPERTY ACT, 2015"

On motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Tuesday, September 29, 2015 at 14:25 G.M.T.

On motion, Bill taken from the Committee Room for its second reading. On motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the law and ordered engrossed today, Tuesday, June 14, 2016 at 13:05 G.M.T.



CHIEF CLERK, HOUSE OF REPRESENTATIVES

2016

ATTESTATION

“AN ACT TO REPEAL AN ACT ADOPTING A NEW COPYRIGHT LAW OF THE REPUBLIC OF LIBERIA APPROVED JULY 23, 1997 AND THE INDUSTRIAL PROPERTY ACT OF LIBERIA APPROVED MARCH 20, 2003 CONSTITUTING TITLE 24 OF THE LIBERIAN CODE OF LAW REVISED, AND TO ENACT IN THEIR STEAD A NEW TITLE 24 TO BE KNOWN AS THE LIBERIA INTELLECTUAL PROPERTY ACT, 2015”



VICE PRESIDENT OF THE REPUBLIC OF LIBERIA/PRESIDENT OF THE SENATE



THE SECRETARY, LIBERIAN SENATE



THE SPEAKER, HOUSE OF REPRESENTATIVES



THE CHIEF CLERK, HOUSE OF REPRESENTATIVES, R.L.



SECRETARY OF THE SENATE

The Liberian Senate

CAPITOL BUILDING, CAPITOL HILL, MONROVIA, LIBERIA
WEST AFRICA

FIFTH SESSION OF THE FIFTY-THIRD LEGISLATURE OF THE
REPUBLIC OF LIBERIA.

SCHEDULE OF SENATE'S ENROLLED BILL NO. 8, ENTITLED:

~~"AN ACT TO REPEAL AN ACT ADOPTING A NEW COPYRIGHT LAW OF
THE REPUBLIC OF LIBERIA APPROVED JULY 23, 1997 AND THE
INDUSTRIAL PROPERTY ACT OF LIBERIA APPROVED MARCH 20, 2003
CONSTITUTING TITLE 24 OF THE LIBERIAN CODE OF LAW REVISED,
AND TO ENACT IN THEIR STEAD A NEW TITLE 24 TO BE KNOWN AS THE
LIBERIA INTELLECTUAL PROPERTY ACT, 2015"~~

PRESENTED TO THE PRESIDENT OF THE REPUBLIC OF LIBERIA FOR
EXECUTIVE APPROVAL.

APPROVED THIS 14th DAY OF JUNE A.D. 2016

AT THE HOUR OF 1:59 P.M.

THE PRESIDENT OF THE REPUBLIC OF LIBERIA