

**Federal Democratic Republic of Nepal**  
**The Patent, Design and Trade Mark Act**  
As amended in November 24, 2006

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## **Chapter 1 Preliminary**

### **1. Short Title Extent and Commencement**

(1) This Act may be called "Patent, Design and Trade Mark Act, 1965".

(2) It shall be applicable throughout the Kingdom of Nepal.

(3) It shall come into force immediately.

### **2. Definitions**

Unless the subject or the context otherwise requires in this Act:

(a) "patent" means any useful invention relating to a new method of process or manufacture, operation or transmission of any material or a combination of materials, or that made on the basis of a new theory or formula.

(b) "Design" means the form or shape of any material manufactured in any manner.

(c) "Trade-mark" means word, symbol, or picture or a combination thereof to be used by any firm, company or individual in its products or services to distinguish them with the product or services of others.

(d) "Department" means the department prescribed by Government of Nepal by notification in the Nepal Gazette and the Department of Industry unless so prescribed.

(e) "Schedule" means the schedule to this Act.

(f) "Prescribed or as prescribed" means prescribed as prescribed in the Rules framed or orders issued under this Act.

## **Chapter 2 Patents**

### **3. Acquisition of Patent Rights**

(1) A person desirous of obtaining right over any patent shall register such patent in his/her name under this Act.

(2) No one shall copy or use or cause to use in the name of the others without transforming the ownership or written permission pursuant to Section 21d, the patent registered in the name of any person pursuant to this Act.

(3) (Deleted)

### **4. Application for Acquiring Right over Patent**

(1) A person desirous of having any patent registered in his/her name shall submit to the Department an application as specified in Schedules 1 (a), containing the particulars mentioned hereunder, along with all available evidence in his/her possession:

- (a) Name address and occupation of the parson inventing the patent.
- (b) If the applicant him/herself is not the inventors, how and in what manner he/she acquired title thereto from the inventor.
- (c) Process of manufacturing, operating or using the patent.
- (d) The theory or formula if any, on which the patent is based.

(2) Along with the application pursuant Sub-Section (1), applicant shall also submit map and drawings along with particulars, of the patent, as well as the fee specified in Schedule 3(1) (a).

### **5. Investigation by Department**

(1) On receipt of application submitted under Section 4, the Department shall, on the advice of experts if so considered necessary, conduct all investigation or study to ascertain whether the patent investigations in the application is a new invention or not, and whether it is useful to the general public or not, and thereafter decide whether or not to register such patent.

(2) In case the Department concludes that any patent should not be registered in the circumstances mentioned in Section 6, it shall give a notice to the applicant to the effect that the patent cannot be registered according to his/her application.

(3) (Deleted)

## **6. Circumstances in Which Patents Cannot Be Registered**

(1) The Department shall not register any patent under this Act in the following circumstances:

(a) In case the patent is already registered in the name of any other person, or

(b) In case the applicant him/herself is not the inventor of the patent sought to be so registered nor has acquired rights over it from the original inventor, or

(c) In case the patent sought to be registered is likely to adversely effect the public health, conduct or morality or the national interest, or

(d) In case it is contradictory to the prevailing laws (the registration of the patent) will constitute a contravention of existing Nepal law.

(2) In the circumstances mentioned in Sub-Section (1), the Department may cancel the registration of any patent which had been registered. Provided that the Department shall, before cancelling the registration of any patent, provide reasonable opportunity to the patentee to show the cause, if any, why the registration of this patent should not be cancelled.

## **7. Registration Of Patent**

(1) On receipt of applications filed under Section 4 for registration of a patents, the Department shall, after completing necessary investigations under Section 5 issue a registration certificate in a format as specified in Schedule 2 (a) to the applicant, except in the circumstance mentioned in Section 6.

(2) For obtaining the certificate mentioned in Sub-Section (1), the applicant shall pay the registration fees as to the department specified in schedule 3 (1) (b).

### **7A. Registered patents to be published**

(1) Patents registered under this Act, other than those which must be kept secret in the national interest, shall be published by the Department in the Nepal Gazette for the information of the public.

(2) In case anybody desires to see or copy the particulars, maps, or drawings of a patent published under Sub-Section (1), one may be allowed

to do so after paying the fees prescribed by the Department.

(3) In case anyone has any objection to such a patent, one may file a complaint with the Department within a period of 35 days from the date of seeing or copying the patent under Sub-Section 92).

(4) In case any complaint is received under Sub-Section (3), the Department shall take necessary Action after conducting inquiries

### **8. Term of Patent**

(1) The title of the patentee to the patent shall be valid only for a period of seven years from the date of registration thereof under Section 7, except when it is renewed under Section 23 B.

(2) Notwithstanding, anything contained in Sub-Section (1), in the case of patent registered before the commencement of this Section, the term fixed according to the provision in force at the time of registration thereof shall be valid After the expiry of that term, the patent must be renewed under Section 23B.

### **9. (Deleted)**

### **10. Submission of Design or Model of Patent to Government Archives**

The patentee shall submit to the National Archive also a copy of the design or model of the article manufactured according to the patent registered under this Act.

### **11. Penalty for violation of Section 3**

A person, who commits any of the acts, shall be fined as per gravity of offense by the order of the Department and the goods or commodities related to the offense shall be confiscated:

(a) A fine of upto Five Hundred Thousand Rupees for committing an offense mentioned in Sub-section (2) of Section 3.

(b) A fine of upto Two Hundred and Fifty Thousand (Two lac fifty thousand) Rupees for committing an attempt or abetment of an offense mentioned in Sub-section (2) of Section 3.

## **Chapter 3 Designs**

### **12. Acquisition of Title to Design**

(1) A person may acquire title under this Act to the design of any article manufactured or caused to be manufactured upon registration under Section 14.

(2) No one shall copy or use or cause to use in the name of the others without transforming the ownership or written permission pursuant to Section 21d, the design registered in the name of any person pursuant to this Act.

### **13. Application for Registration of Design**

(1) A person desirous to register the design of any article manufactured or caused to be manufactured under Section 14, shall submit to the Department, an application in a formals as specified in Schedule 1 (b), together with four copies of such design and maps, and drawings and particulars thereof.

(2) The person submitting an application under Sub-Section (1) shall pay, along with the application, the application fee to the department specified in Schedule 3 (2) (a).

### **14. Registration of Design**

(1) On receipt of the application filed by any person under Section 13, the Department shall register the design in the name of the applicant and issue a certificate as mentioned in Schedule 2 (b). Provided that in case such design hurts the prestige of any individual or institution or adversely affects the public conduct or morality, or undermines the national interest, or in case such design has already been registered in the name of any other person, it shall not be registered under this-Section.

(2) For obtaining the certificate mentioned in Sub-Section (1), the applicant shall pay a design registration fee as prescribed in Schedule 3 (2) (b), to the department.

(3) In case the Department is satisfied that there exists any circumstance as mentioned in the provision of Sub-Section (1), it may cancel the registration of any design. Provided that the department shall, before cancelling the registration

of such design, provide reasonable opportunity to the design-holder to show case if any, why the registration of his/her design should not be cancelled.

**14A. Term of Design**

The title of the person in whose name a design has been registered under Section 14 shall remain valid for a period of five years from the date of registration thereof, except when it is renewed under Section 23B.

**15. Punishment for Contravention of Section 12**

In case a person, contravenes the provisions or Sub-Section (2) of Section 12, or operates a design invalidated the Department, may be punished with a fine not exceeding Fifty thousand Rupees, and articles and goods connected with such offense shall be confiscated on the order of the Department, as per the gravity of offense.



## **Chapter 4 Trade-Marks**

### **16. Acquisition of title to trade marks**

(1) A person may acquire, under this Act, title to the trade-mark of his business, upon registration in the department under Section 18.

(2) No one shall copy or use or cause to use in the name of the others without transforming the ownership or written permission pursuant to Section 21d, the trademark registered in the name of any person pursuant to this Act.

### **17. Application for Registration of Trademark**

(1) A person desirous to register the trademark of his business registered under Section 18 shall submit to the Department an application in a format as specified in Schedule 1(c), along with four specimen of such trade-marks.

(2) The person submitting application under Sub-section (1), shall pay an application fee to the department as specified in Schedule 3(3) (a).

### **18. Registration of Trademark**

(1) In case any person files an application under Section 17 for registration of trademark, the department shall register such trademark in the name of the applicant the specimen form indicated in Schedule 2 (c), shall conduct necessary investigation and provide sufficient opportunity to defend him/herself and also conduct further inquiry if finds it appropriate to register it.

Provided that in case it is felt such trade-mark may hurt the prestige of any individual or institution or adversely affect the public conduct or morality or undermine the national interest or the reputation of the trade-mark of any other person, or in case such trade-mark is found to have already been registered in the name of another person, it shall not be registered.

(2) To obtain a certificate as mentioned in Sub-Section (1), the applicant shall pay registration fees as specified in Schedule 3 (3) (b) to the Department.

(3) The Department may cancel the registration of any trade-mark, if it is satisfied that any of the circumstance prescribed in the provision

of Sub-Section (1) exists.

Provided that the Department shall, before cancelling the registration of a trademark provide a reasonable opportunity to the holder of the trademark to show cause if any, why his/her trademark should not be cancelled.

**18A. Classification of Goods and Services for Trade-Mark Registration**

(1) For the purpose of registering trade-marks related to any goods or services, Government of Nepal may classify such goods or services by a notification in the Nepal Gazette.

(2) Separate application shall be submitted to register trademarks of goods or services placed in different categories.

(3) The trade-mark registered for goods or services in one category under Sub-section (1) may be registered for goods or services under another category if it so falls.

**18B. Prohibition to Use Trade-marks**

No trade-mark may be used as a registered trade-mark without registering it at the Department.

**18C. Time Limit for Use of Trade-marks**

In case a trade-mark registered at the Department is not brought into use within one year from the date of registration thereof, the department shall conduct necessary inquiries and cancel such registration.

**18D. Term of Trade-Marks**

The title of the person in whose name a trade-mark has been registered under Section 18 shall remain valid for a period of seven years from the date of registration thereof, except when it is renewed under Section 23B.

**19. Punishment for Illegal Use of Trade-Marks**

In case anyone who, violates Sub-Section (2) of Section 16, or brings into use a trademark which has been cancelled under Sub-section (3) of Section 18, or violates Section 18B, may be punished with a fine not exceeding One Hundred Thousand Rupees and articles and goods connected with such offense confiscated on the orders of the Department as per the gravity of offense.

## **Chapter 5 Miscellaneous**

### **20. Right to appoint Attorney**

A person may appoint an attorney or legal practitioner for to take any Action so required under this Act, and all Actions taken by such attorney or legal practitioner shall be deemed to have been taken by him / herself.

### **21. (Deleted)**

#### **21A. Publication of Registered Designs and Trade-Marks**

(1) The Department shall publish the designs registered under Section 14 and the trade-marks registered under Section 18, as well as particulars of their renewal or cancellation, for the information of the public.

(2) Any one who has any objection to the particulars published under Sub-Section (1) may file a complaint to the department within a period of 35 days from the date of such publication. The Department shall take necessary Actions after holding inquiries into such complaints.

#### **21B. Title Not to be valid Unless Registered in Nepal**

The title to any patent, design or trade-mark registered in a foreign country shall not be valid in Nepal unless it is registered in Nepal by the concerned person.

#### **21C. Registration of Foreign patents, Designs and Trade-Marks**

The Department may register patents, designs and trade-marks registered in foreign countries without conducting any enquiries if an application is filed for their registration along with certificates of its registration in a foreign country <sup>™</sup> and the Department shall provide the facility of pursuant to the Paris Convention for the Protection of Industrial Property 1883 to the registration holder.

#### **21D. Transfer of ownership or approval for use of patent, Design or Trade-Marks**

(1) The owner of the patent, Design or Trademark may transfer the ownership or provide approval in writing for its use.

(2) In case it is so intended to transfer the ownership or to provide or receive the approval for the use of patent, Design or Trademark

pursuant to Sub-Section (1), both the persons shall file a joint application, stating the facts accordingly before the Department accompanied by the prescribed fees.

(3) If an application pursuant to Sub-section (2) is received, the Department may transfer the ownership or provide approval of use for such patent, design or trademark.

(4) As per the subsection (3), if the Department grants the approval to transfer it is required to assign such patent, design and trademarks in the name of transferee.

(5) If the approval for use is provided pursuant to Sub-section (2) the Department shall maintain the register-book and certificate laying in the office accordingly and also issue a note for the same to the receiver.

## **22. Maintain Register by the Department**

The Department shall maintain separate register of patents, designs and trade-marks, indicating therein registration or cancellation thereof under this Act.

## **23. (Deleted)**

### **23A. (Deleted)**

### **23B. Procedure Relating to Renewal of Patents, Designs and Trade-Marks**

(1) A patent, design or trade-marks holder shall renew the patent, design or trade-mark within a period of 35 days from the date of expiry of the term for which he is entitled to use the patent, design or trade-mark under Section 8, Section 14A or Section 18D by submitting an application in a format mentioned in Schedule 2 (d), 2(e) and 2(f) respectively and paying the fee motioned in Schedule 3.

(2) Renewal may be made by paying a fine of One Thousand Rupees within six months after the expiry of the time-limit for the same pursuant Sub-Section (1). In case it is not so renewed registration of the patent, design and trade-mark shall automatically cancelled.

(3) Notwithstanding anything contained in Sub-Section (1) and (2), a patent may be renewed not more than Twice for a period of Seven years

at a time, a design not more than twice for a period of five years at a time, and a trade-mark any number of times for a period of seven years at a time.

#### **24. Copy of Certificate**

In case the certificate of registration of any patent, design or trade-mark is lost, a copy thereof may be obtained from the Department on payment of a fee as prescribed.

#### **25. Compensation**

In case a person whose patent, design or trademark has been registered under this Act, suffers any losses as a result of violation of the provisions of this Act by any others person in respect to the patent, design or trade-mark, the Department may order to ===== amount actually by the title holder from such offender in the form of compensation.

#### **26. Deemed to be registered under this Act**

The patents, designs and trademarks registered prior to the commencement of this Act under the patent, design and trademarks law enacted in 1936, shall be deemed to have been registered under this Act, with effect from the date of its commencement.

#### **26A. Power to Alter the Rates of Fees**

Government of Nepal may make alterations in the amount of fees prescribed in Schedule 3 by a notification in the Nepal Gazette.

#### **27. May Appeal**

Any person not satisfied with the order issued by the Department under this Act may file an appeal with the Appellate Court within 35 days.

#### **28. Repeal**

The Patent, Design and Trademark law of 1936 has been repealed.

Schedule1 Format (Omitted)

Schedule2 Format (Omitted)

**Schedule3 Application Registration and Renewal Fees In Respect to patents, Designs and Trademarks**

s.n.	Details of fees	Patent	Design	Trade-Mark
1.	Application of Registration fees for the patents, Designs and Trade-marks	Rs 2000/-	Rs 1000/-	Rs 2000/
2.	Application Amendment fee	Rs 500/-	Rs 500/-	Rs 500/
3.	Registration fee	Rs 10000.-	Rs 7000/-	Rs 5000/
4.	Transfer fee	Rs 5000/-	Rs 3000/-	Rs 2000/
5.	Endorsement fees for Amendment on record and Certification except transfer	Rs 2000/-	Rs 1000/-	Rs 1000/
6.	Fees for the information of registration details	Rs 750	Rs750	Rs 500/
7.	Fees for complain and objection	Rs 1000/-	Rs 1000/-	Rs 1000/
8.	Fees for the copy of the registration certificate	Rs 1000/-	Rs 1000/-	Rs 1000/
9.	Renewal Fees			
	(a) Annual rate for the first time	Rs 5000/-	Rs 1000/	-
	(b) Annual rate for the second time	-Rs 7500/-	Rs 2000/	-
	(c) Annual rate for the Trademark each time	-	-	Rs 500/