

NIGERIA

Patent Rules

under section 30, L.N. 96 of 1971

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FIRST SCHEDULE Rule 1

SECOND SCHEDULE (omitted)

1. FEES

The fees to be paid in relation to patents shall be those prescribed in the First Schedule. Such fees shall be paid to the Registrar who shall pay all fees received by him pursuant to these Rules into the Consolidated Revenue Fund of the Federation.

2. FORMS

(1) The forms herein referred to are those contained in the Second Schedule (that is to say, Patent forms 1 to 7) and such forms shall be used in all cases to which they are applicable and may be modified as directed by the Registrar to meet other cases.

(2) Any other forms mentioned in these Rules shall be prescribed by the Minister.

3. DOCUMENTS

Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers or other documents authorised or required by the Act or these Rules to be made, left with or sent to the Registrar shall be upon foolscap paper and, except where otherwise required, on one side only, of a size of approximately fifteen centimetres by nine centimetres and shall have on the left hand part thereof a margin of not less than two centimetres.

4.

(1) A document lodged on behalf of joint applicants shall contain the names of all the joint owners in full and shall be signed by all the owners or by any other person who satisfies the Registrar that he is authorised to sign the document.

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document.

5.

Any notice, application, or other document lodged by post shall be deemed to have been lodged at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put in the post and addressed to the Registrar of Patents and Designs,

Patents Branch, Federal Ministry of Trade. Federal Capital Territory, Abuja, Nigeria.

6. AGENT

An agent shall be authorised to lodge an application on Form 2.

7. APPLICATION FOR REGISTRATION

An application for the grant of a patent shall be signed by the applicant for registration or by his agent.

8.

(1) An application for the grant of a patent shall be on Form 1 and shall relate to only one invention, but may include in connection with that invention-

(a) claims-

(i) for any number of products,

(ii) for any number of manufacturing processes for those products, and

(iii) for any number of applications of those products; and

(b) claims-

(i) for any number of processes,

(ii) for the means of working those processes, for the resulting product or products and for the application of those products.

(2) Every applicant claiming priority under section 27 of the Act by reason of an application for the grant of a patent made or deemed to have been made in a convention country as defined in section 27(1) of this Act which country shall be named, shall append to his application a written declaration showing the date and number of the earlier application, the country in which the application was made, the name of the person who made the earlier application, and shall furnish within three months thereafter, a copy of the earlier application certified correct by the Industrial Property Office (or its equivalent) in the country where the earlier application was made. Where an application is in a language other than English, a translation together with the name of the language shall be signed by the applicant or his agent and attached to the certified application.

(3) If the applicant fails to supply the certified copy as required by this rule, the Registrar shall disregard any claim for foreign priority.

9.

(1) In the case of an application for the grant of a patent in respect of more than one invention, the Registrar shall invite the applicant to restrict the application so that it relates to one invention only and notify the applicant that he may within three months file in respect of the other inventions dealt with in the original application subsidiary applications.

(2) If the applicant does not comply with the invitation mentioned in paragraph (1) of this rule, the Registrar shall reject the application.

10. ADDRESS FOR APPLICATION

All applications for the grant of patents shall be made, addressed and sent to the Registrar of Patents and Designs, Federal Ministry of Trade, Commercial Law Division, Federal Capital Territory, Abuja.

11. THE APPLICATION

An application for the grant of a patent shall be made to the Registrar and shall consist of-

- (a) a petition or request for a patent with the applicant's full name and address;
- (b) a specification, including a claim or claims in duplicate;
- (c) plans and drawings, if any, in duplicate;
- (d) a declaration as required by section 3 of the Act;
- (e) a signed power of attorney or authorisation of agent if the application is made by an agent;
- (f) an address for service in Nigeria if the applicant's address is outside Nigeria;
- (g) the prescribed fee; and
- (h) such other matter as may be prescribed from time to time by the Registrar.

12. THE SPECIFICATION

(1) The specification shall describe the relevant invention in a manner sufficiently clear and complete for the invention to be put into effect by a person skilled in the art or field of knowledge to which the invention relates.

(2) The claim or claims shall define the protection sought and shall not go beyond the limits of the said description.

13. EXAMINATION AND GRANT OF PATENT

If on examination of an application, it is discovered that the formal requirements of rule 11 of these Rules have not been complied with, the Registrar shall reject the application.

14.

Where the examination shows that the application satisfies the requirements of rules 8 and 11 of these Rules, the Registrar shall grant the patent.

15.

Upon the grant of a patent, the Registrar shall issue to the applicant a document in Form 4 which shall bear the relevant number, the name and domicile of the patentee or his successor or assign if any, the dates of the patent application and the grant, the title of the invention and the period of its validity, with reservations as to the rights of third parties, the number and date of the application on which a claim of foreign priority is based and the name of the foreign country concerned and where appropriate the name and address of the true inventor; a copy of the specification and a copy of the relevant drawings and plans, if any, shall be annexed to it.

16. REGISTRATION AND PUBLICATION

As soon as may be, after the grant of a patent, the Registrar shall-

- (a) enter the particulars of the grant in the Register and this shall consist of the particulars named in rule 15 of these Rules; and
- (b) cause to be published in the Federal Gazette a notification of the grant containing the details mentioned in rule 15 of these Rules (except the description and the plans and drawings, if any) or a summary thereof if a summary form of notification is prescribed.

17. DURATION OF PATENTS

Subject to regular payment of the annual fees due, patents shall be valid for twenty years from the date of the filing of the relevant patent application.

18. FEES

(1) Patents Form No.5 together with the prescribed fee shall be lodged in the Patent Office not later than the due date, otherwise the patent will cease. Only one half of such prescribed fees is payable if, and so long as, the Patent is endorsed " Licences of Right "-this reduction takes effect in relation to the annual fees first payable after the date of

the entry. If the form with the fee is not lodged in the Patent Office until after that date it cannot be accepted unless application for an extension of time is made on Patents Form No. 6 accompanied by the prescribed surcharge fee for this purpose; extension beyond six months cannot be obtained.

(2) No reduction of extension fees shall be made in the case of a patent endorsed " Licences of Right " .

(3) Patents fees shall be paid direct to the Patent Office by means of money orders, postal orders, banker's draft and banker's cheques, (adhesive stamps shall not be accepted in payment of fees), the prescribed fee must be submitted together with the appropriate completed Patents Form; in addition each form or batch of forms shall be accompanied by a fee sheet showing details of the form and the amount of the fee. Money orders, etc. shall be made payable to "The Registrar of Patents, Federal Ministry of Trade, Federal Capital Territory, Abuja", and crossed. Patents forms together with the fees and fee sheets may be delivered to the Patent Office in Abuja either by hand or by registered post.

19. ASSIGNMENTS

(1) An application for the registration of the title of any person becoming entitled by assignment, transmission or operation of law to a patent or to a patent application or becoming entitled as mortgagee, licensee or otherwise to any interest in a patent shall be made to the Registrar on Form 8.

(2) Application may be made on Form 9 for entry in the Register of notification of any other document purporting to affect the proprietorship of a patent.

20.

(1) An official or certified copy of any instrument or other document which is referred to in an application under rule 19 and is a matter of record in the Federation shall be produced to the Registrar with the application.

(2) Any other document so referred to shall, unless the Registrar otherwise directs, be produced to him with the application and a certified copy of any such document shall be filed.

21.

An application under rule 19(1) of these Rules shall contain the name, address and nationality of the person claiming or stated to be entitled together with full particulars of the instrument, if any, under which title is claimed or given.

22.

Where the name of a person is entered in the Register as mortgagee or licensee, such person may on making an application for the purpose on Form 10 have a note entered in the register, that he no-longer claims to be mortgagee or licensee, as the case may be.

23.

(1) An application by a patentee for the alteration of a name, nationality, or address or address for service entered on the register in respect of his invention shall be made on Form 11.

(2) Before acting on a request to alter a name or nationality the Registrar may require such proof of the alteration as he thinks fit.

(3) If the Registrar is satisfied that the request should be allowed, he shall cause the Register to be altered accordingly.

24. CORRECTION OF ERRORS

Where an applicant for the grant of a patent or a patentee desires to correct any error, he shall make the application on Form 12.

25. CANCELLATION AND SURRENDER OF PATENT

(1) Where a patentee desires to cancel his grant, he shall make the application in a written declaration accompanied by the patent.

(2) Where the application relates to some of the claims only made by the patent the written declaration shall not be accompanied by the patent; and the Registrar shall register the cancellation of the particular claims only and notify the applicant accordingly.

(3) Where the applicant relates to a patent as to which a contractual licence or licence of right is registered, the written consent of the licensee shall be attached to the written declaration, otherwise, the application for surrender shall not be registered.

26. DEATH OF APPLICANT

In case of the death of an applicant or joint owner for the grant of a patent after the date of his application, and before the grant of a patent has been effected, the Registrar may, on being satisfied of the applicant's or joint owner's death, enter in the Register, in place of the name, address and nationality of such deceased applicant or joint owner the name, address and nationality of the successors in title or personal representative of the applicant or joint owner on such succession being proved to the satisfaction of the Registrar.

27. DISCRETIONARY POWER

Except as otherwise provided in these Rules, before exercising any discretionary power given to him by the Act or these Rules adversely to any applicant for the grant of a patent, the Registrar shall give at least ten days notice to the applicant of the time when he may be heard.

28. AMENDMENTS

If the Registrar thinks fit, any document or drawing relating to an invention may be amended, and any irregularity in procedure may be rectified, on such terms as the Registrar may direct.

29.

Where a certificate is required for the purpose of obtaining a patent abroad, or for any legal proceedings, or other special purpose, as to any entry, matter or thing which the Registrar is authorised by the Act or these Rules to make or do, the Registrar may, on the lodging of a request on Form 14 give such certificate which shall also specify on the face of it the purpose for which it has been issued as aforesaid.

30. COPY OF PATENT

An application for a copy of a patent shall be made on Form 15 and shall be accompanied by evidence setting out in full and verifying the circumstances in which the original patent was lost or destroyed or cannot be produced.

31. EVIDENCE BEFORE REGISTRAR

Where under these Rules, evidence is required to be filed, it shall be by statutory declaration or affidavit, unless otherwise expressly provided in these Rules.

32.

(1) The statutory declaration and affidavits required by these Rules, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate, and shall be divided into paragraphs consecutively numbered, and each paragraph shall, so far as possible, be confined to one subject.

(2) Every statutory declaration or affidavit shall state the description and true place of abode of the person making the same, and shall be typed, lithographed or printed.

33.

The statutory declaration or affidavit shall be made and subscribed as follows, that is-

- (a) in the Federation, before any justice of the peace, or any Commissioner for oaths or other officer authorised by law in any part of the Federation to administer an oath for the purposes of any legal proceedings; and
- (b) in a foreign country, before any diplomatic or consular officer of Nigeria authorised to administer oaths, or before any officer having an official seal and authorised to administer oaths in the foreign country in which the applicant may be.

34.

Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised by the last foregoing rule to take a declaration in testimony that the declaration was made and subscribed before him, may be admitted by the Registrar without proof of the genuineness of the seal or signature, or of the official character of the person or his authority to take the declaration.

35.

At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may require shall be lodged, and may fix the period for the lodging thereof.

36. APPLICATION FOR COMPULSORY LICENCES

An application for the grant of a compulsory licence under Part I of the First Schedule to the Act shall be made on Form 7. Such application shall be accompanied by an unstamped copy thereof and a statement in duplicate setting out fully the nature of the applicant's interest and the facts upon which he bases his case. Copies of the application and the statement

of the case shall be transmitted by the Registrar to the patentee.

37.

If the patentee desires to oppose the application, he shall within such time as the Registrar may allow, lodge a statement fully setting out the grounds on which the application is to be opposed and shall deliver to the applicant a copy thereof.

38.

The applicant shall, within such time as the Registrar may allow, lodge evidence in support of his case and shall deliver to the patentee a copy thereof.

39.

Within such time as the Registrar may allow, the patentee may lodge evidence in answer and shall deliver to the applicant a copy thereof; and within such time as the Registrar may allow, the applicant may lodge evidence confined to matters strictly in reply and shall deliver to the patentee a copy thereof.

40.

No further evidence shall be lodged by either party' except by leave or on direction of the Registrar.

41.

On completion of the evidence or at such other time as he may see fit, the Registrar shall inform the applicant thereof in writing and thereafter the case shall be deemed to stand for the determination of the court.

42.

(1) Where a case stands for the determination of the court pursuant to rule 41 of these Rules, the Registrar shall require the applicant within two months, or such further time as the Registrar shall allow, to make a written application to the court for an order granting a compulsory licence to the applicant on any of the grounds enumerated in Part I of the First Schedule.

(2) The applicant shall thereupon make his application or take such other proceedings as aforesaid within the period of two months above named or such further time as the Registrar may allow, and shall also within the like period give notice thereof to the Registrar.

(3) If the applicant shall fail to make such application or to take such other proceedings, of which failure, or the non-receipt by the Registrar of the said notice shall be sufficient proof, the applicant shall be deemed to have abandoned his application.

43.

On the grant, cancellation or variation of the terms of a compulsory licence by the court the proper officer of the court shall transmit the necessary order to the Registrar who shall register the grant, cancellation or variation without fee.

44. CONTRACTUAL LICENCES

(1) On the grant of a contractual licence the licensee shall apply on Form 16 for the registration thereof and the original and an attested copy of the relevant documents shall be filed along with the said Form; the original shall be returned to the applicant after the registration of the licence.

(2) No contractual licence shall have effect against third parties unless the provision of paragraph (1) of this rule is complied with.

(3) The Registrar shall on receipt of the application register the said licence and return to the applicant the original documents evidencing the grant.

45. SUPPLEMENTARY

In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say-

"agent" means an agent duly authorised to the satisfaction of the Registrar;

"convention application" means an application in Nigeria under section 27 of the Act;

"Act" means the Patents and Designs Act;

"the Journal" means the Patents and Designs Journal published under section 28(6) of the Act;

"the office" means the Patents Branch of the Federal Ministry of Trade, Federal Capital Territory, Abuja;

"specification" means the description of the relevant invention in a manner sufficiently clear and complete for the invention to be put into effect by a person skilled in the art or field of knowledge to which the invention

relates, including claim or claims and with any appropriate plans and drawings.

46.

These Rules may be cited as the Patents Rules.

FIRST SCHEDULE Rule 1

Description of Form		Fee		Form Number
		₹	k	
1.	Application for Grant of Patent	4		Patents Form 1(a) and 1(b)
2.	Authorisation of Agent	-		Patents Form 2
3.	Complete Specification	37	80	Patents Form 3
4.	Certificate of Grant of Patent	10		Patents Form 4
5.	Application for Annual Renewal of a Registered Patent	30		Patents Form 5
6.	Application for Extension of time to pay renewal fee (In Duplicate)	4		Patents Form 6
7.	Application for Grant of a compulsory licence	50		Patents Form 7
8.	Application for Registration of Title	10		Patents Form 8
9.	Application for Entry in the Register	10		Patents Form 9
10.	Removal of Name of Mortgagee or Licensee	10		Patents Form 10
11.	Application for alteration in the Register	10		Patents Form 11
12.	Application for Correction of clerical error or amendment of documents	10		Patents Form 12
13.	Application for extension of time to complete application	10		Patents Form 13
14.	Application for certificate for obtaining registration abroad or for legal proceedings	52		Patents Form 14
15.	Application for certified copy of Patent certificate	10		Patents Form 15
16.	Application for registration of contractual licence	10		Patents Form 16
17.	Application for cancellation of contractual licence	10		By Letter
18.	Fee Sheet	-		Form FS 1

SECOND SCHEDULE PATENT FORM(omitted)