

OFFICE ORDER NO. 12, Series of 2009

Subject: Amendments to the IPO Uniform Rules on Appeal

In accord with the policy of the Intellectual Property Office of the Philippines to streamline its rules and procedures in resolving cases involving intellectual property rights and pursuant to the authority of the Director General under Sec. 7.1 of RA 8293, also known as the Intellectual Property Code of the Philippines, the following amendments to Office Order No. 12, s. 2002 entitled "IPO Uniform Rules on Appeal" are hereby promulgated, as follows:

Section 1. Section 1 is amended, as follows:

Section 1. Title and Coverage.- These Rules shall be known as the "Uniform Rules on Appeal." These Rules shall cover decisions or final orders rendered by the Director of the Documentation, Information and Technology Transfer Bureau (DITTB), the Director of the Bureau of Legal Affairs (BLA), the Director of the Bureau of Patents (BOP) and the Director of the Bureau of Trademarks (BOT). Interlocutory orders, however, shall not be appealable to the Director General.

Section 2. Section 2 is amended, as follows:

Section 2. Appeal to the Director General-The decisions or final orders of the Bureau Director shall become final and executory thirty (30) days after receipt of a copy thereof by the parties unless, within the same period, a motion for reconsideration is filed with the Bureau Director or an appeal to the Director General has been perfected; Provided, that only one (1) motion for reconsideration of the decision or order of the Bureau Director shall be allowed; and, in case the motion for reconsideration is denied, the appellant or appellants has/have the balance of the period prescribed above within which to file the appeal.

Upon proper motion citing meritorious reasons and the payment of the full amount of appeal fee and other applicable fees before the expiration of the reglementary period to perfect an appeal, the Office of the Director General may grant an additional period of fifteen (15) days within which to file the appeal. No further extension of the period to file the appeal, however, shall be allowed.

Section 3. Section 3 is amended, as follows:

Section 3. Appeal Memorandum.- The appeal shall be perfected by filing or submitting in the Office of the Director General the following:

- a) an appeal memorandum in two (2) legible copies;
- b) proof of service of a copy of the appeal memorandum on the appellee(s) and the Bureau Director concerned; and
- c) payment of the appeal fee and other applicable fees.

Section 4. Section 4 is amended, as follows:

Section 4. Contents of the Appeal Memorandum.-The appeal memorandum shall:

- a) State the full name or names, capacity and address or addresses of the parties;
- b) Indicate the material dates showing that it was filed on time;

- c) Set forth concisely a statement of the matters involved, the issues raised, the specification of errors allegedly committed by the Bureau Director and the reasons or arguments relied upon for the allowance of the appeal; and
- d) Be accompanied by legible copies of the decision or final order of the Bureau Director and of the material portions of the record as would support the allegations of the appeal.

Section 5. Section 5 is amended, as follows:

Section 5. Action on the Appeal Memorandum.-

- a) If the appeal memorandum is filed on time and complies with the jurisdictional and formal requirements under these rules, the Office of the Director General shall order the appellee(s) or the Bureau Director concerned to file comment to the appeal within 30 days from receipt of a copy of the order. The Bureau Director shall also be ordered within the same period to forward the records of the case to the Office of the Director General.
- b) The appeal shall be dismissed outright on any of the following grounds:
  - 1. the appeal is filed out of time;
  - 2. the subject of the appeal is an interlocutory order, or is not a decision or final order;
  - 3. the appeal fee and other applicable fees are not paid within the reglementary period.
- c) If the Appeal Memorandum appeal is filed and the appeal fee and other applicable fees have been paid on time, but is not accompanied by the requisite number of legible copies of the decision, and the proof of service of a copy of the appeal to the adverse party and the Bureau Director concerned, the Office of the Director General shall order the appellant(s) to submit or complete within five (5) days from receipt of the order the said requirements. Failure to comply with the order shall cause the dismissal of the appeal.

Section 6. Section 7 becomes Section 6 and vice-versa, and as amended, as follows:

Section 6. Submission of Memoranda.- After the appellee or the Bureau Director concerned has filed the comment to the appeal, the Office of the Director General shall order the parties to submit their respective memoranda within 15 days from receipt of a copy of the order.

Section 7. Clarificatory Hearing and Conferences. - At any time before the promulgation of the decision, the Office of the Director General *motu proprio* or upon proper motion by any party, may call the parties for a clarificatory hearing or conference to take up any matter pertinent to the resolution of the case including the possibility of amicable settlement or mediation.

Section 7. Section 10 is amended, as follows:

Section 10. Filing of Motions.-All motions filed by the parties shall require the payment of the applicable fees. Motions are deemed submitted for resolution once filed. Except for motion for extension to file appeal under Section 2, motions for extensions of periods within which to file any

pleading or to comply with Orders issued by the Office of the Director General shall be granted on meritorious reasons.

Section 8. All other rules and regulations, office orders, memoranda, circulars and parts thereof inconsistent with these Rules are also amended.

Section 9. If any provision in the amendments to the Uniform Rules on Appeal or application of such provision to any circumstance is held invalid, the remainder thereof shall not be affected thereby.

Section 10. The amendments to the Uniform Rules on Appeal shall take effect 15 days after publication in the IP Philippines website and in a newspaper of general publication. The amendments shall apply to appeals pending in the Office of the Director General as of date of the effectivity thereof.

Section 11. Three (3) certified copies of this Office Order shall be immediately filed in the University of the Philippines Law Center, while one (1) certified copy each shall be filed in the Department of Trade and Industry, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines and The National Library.

SGD ADRIAN S. CRISTOBAL JR.

DIRECTOR GENERAL