

SLD #: 499**From: 2005-04-08 To: 0000-00-00****Pakistan Intellectual Property Rights Organization Ordinance, 2005**

PAKISTAN INTELLECTUAL PROPERTY RIGHTS ORGANIZATION ORDINANCE, 2005

ORDINANCE NO. V OF 2005

April 08 2005

An Ordinance to

WHEREAS it is expedient to establish the Pakistan Intellectual Property Rights Organization to provide for the protection of Intellectual Property Rights in Pakistan and for matters connected therewith or incidental thereto:

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate steps.

NOW, THEREFORE, in exercise of the powers conferred upon him by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance-

1. Short title, extent and commencement.-(1) This Ordinance may be called the Pakistan Intellectual Property Rights Organization Ordinance, 2005.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "Board" means the Policy Board constituted under section 4,

(b) "Director General" means the Director General appointed under section 8;

(c) "Federal Government" means the Cabinet Division;

(d) "Intellectual Property" includes a patent industrial design, layout-design of integrated circuits, copyright, trade mark, trade name, trade secrets, technical know-how and ideas for new products and market including the commercial information about customer or any combination thereof;

(e) "member" means a member of the Board;

(f) "Organization" means the Pakistan Intellectual Property Rights Organization established under section 3;

(g) "prescribed" means prescribed by rules;

(h) "rules" means the rules made under this Ordinance; and

(i) "Schedule" means a schedule to this Ordinance.

3. Establishment of the Organization.-(1) There shall be established an organization to be known as Pakistan Intellectual Property Rights Organization to carry out the purposes of this Ordinance.

(2) The Organization shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Ordinance, to hold and dispose of the property both movable and immovable and shall by the said name sue and be sued.

(3) The Federal Government may setup regional offices of the Organization at such places as and when required.

4. Policy Board.-(1) The Federal Government shall, by notification in the official Gazette, constitute a Policy Board consisting of the Chairman, Vice-Chairman and such other members as it may deem fit.

(2) Notwithstanding the composition of the Board constituted under subsection (1), the Federal Government may increase or decrease the number of members and prescribe the qualifications and manner

of their appointment.

(3) The Director General shall act as ex officio Secretary of the Board.

5. Functions and powers of the Board.-(1) The Board shall be responsible for policy guidelines and setting of objectives as it may deem necessary for the smooth functioning of the Organization.

(2) In particular and without prejudice to the generality of the foregoing powers, the Board shall,-

(a) promote a modern system for the protection of Intellectual Property Rights in Pakistan;

(b) approve policies, plans and programmes of the Organization; and

(c) formulate procedures and necessary framework for utilization of funds generated or acquired through services, donations or grants, etc.

6. Delegation of Powers. The Board may, by general or special order in writing subject to such limitations, restrictions or conditions, delegate all or any of its powers and functions to the Director General or any committee of the Board, as may be constituted for the purpose, as it may deem appropriate.

7. Meetings of the Board.-(1) Save as hereinafter provided, the Board shall regulate the procedure for its meetings.

(2) The Federal Government may convene the meeting of the Board at any time on any urgent matter requiring decision by the Board.

(3) The meeting of the Board shall be held at least twice a year.

(4) A simple majority of the total membership shall constitute the quorum for a meeting of the Board.

(5) The decision of the Board shall be adopted by simple majority of the members present and voting.

8. Director General.-(1) There shall be a Director General of the Organization who shall be appointed by the Federal Government on terms and conditions as may be prescribed.

(2) The Director General shall be the Chief Executive Officer of the Organization and shall discharge such duties and perform such functions as are assigned to him by or under this Ordinance.

(3) The Director General shall comply with such directions that the Federal Government or the Board may give from time to time.

9. The powers and functions of the Organization. The powers and functions of the Organization shall be to:-

(a) administer and coordinate all Government systems for the protection of Intellectual Property Rights under the laws specified in the Schedule and the rules and regulations made thereunder;

(b) prescribe, regulate or implement measures and standards on any matter related to or connected with intellectual property,

(c) accredit or certify and regulate any person as intellectual property Agent;

(d) appoint such employees, consultants and experts as deemed necessary on terms and conditions prescribed by the Federal Government;

(e) levy such charges or fees as may be reasonable for services and facilities provided by the Organization and its constituent offices;

(f) carry out such other works or activities as may appear to the Organization to be necessary, with a view to making the best use of the assets of the Organization.

(g) engage, in conjunction with other authorities, international agencies or Organizations, in any study or cooperation project related to intellectual property;

(h) enter into contracts for the supply of goods or materials or for the execution of works as may be necessary for the discharge of any of its duties and functions;

(i) supervise and coordinate the working of all intellectual property offices including the Patent Office, Trade Marks Registry and Copyright Office;

(j) maintain a system to provide access to public documents and information relating to any intellectual property kept or maintained by the office;

- (k) advise the Government of Pakistan on policy relating to intellectual property rights;
- (l) plan for future development and up-gradation of the intellectual property infrastructure and capacity in Pakistan;
- (m) initiate research in the field of intellectual property;
- (n) advise the Federal Government regarding the international negotiations in the area of intellectual property;
- (o) engage in human resource development of staff of all intellectual property offices;
- (p) promote awareness about intellectual property issues in the public and private sector;
- (q) liaise with counterpart and related technical organizations in other countries;
- (r) propose and initiate intellectual property rights legislation for the protection of intellectual property rights in Pakistan;
- (s) monitor the enforcement and protection of intellectual property rights and collect related data;
- (t) develop working manuals, references, materials and procedures in order to assist in improving the protection of intellectual property rights;
- (u) coordinate the implementation of foreign-aided technical assistance projects on intellectual property; and
- (v) perform any other function relating to intellectual property assigned by the Federal Government.

10. Authentication of orders and other instruments of the Organization. All orders, decisions and all other instruments issued by the Organization shall be authenticated only by the signatures of such officer or officers who are authorized by the Organization in this behalf.

11. Prohibition of improper use of mark of the Organization. No person shall use in relation to any article, product or process or in the title of any patent or in any trade marks or design the mark of the Organization except under a licence or certificate issued under this Ordinance.

12. Prohibition of use of certain names, etc. No person shall without the previous permission of the Organization and subject to such conditions as may be prescribed, use-

- (a) any name which may resemble the name of the Organization contain the expression or any abbreviation of such expression; or
- (b) any mark or trade mark in relation to any article containing the expression "Pakistan Intellectual Property Rights Organization" or any abbreviation of such expression.

13. Exercise of powers of the Organization by other bodies. The Federal Government may, in consultation with the Organization, by notification in the official Gazette, direct that any power exercisable by the Organization under this Ordinance shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such body or such organization as may be specified in the notification.

14. Certain matters to be kept confidential. Any information coming into notice of the Organization or any of its officers in relation to any article or process, subject to the provision of this Ordinance or any other law for the time being in force shall be treated as confidential and shall not be communicated or revealed to any person:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Ordinance.

15. Appointment of officers, etc., by the Organization.-(1) The Organization may, with the prior approval of the Board, create posts and appoint such officers, employees, experts and consultants, as it may consider necessary for the performance of its functions.

(2) The Organization, with the approval of the Board, shall devise procedures for the appointment of its officers, employees experts and consultants.

(3) The Organization, with the approval of the Board, shall determine the terms and conditions of service of its officers, employees, experts and consultants and shall also be competent to take disciplinary action against them.

(4) The civil servants working in the Organization shall be governed by the Civil Servants Act, 1973 (LXXI of 1973), and rules made thereunder unless absorbed in the Organization.

16. Members and officer, etc., to be public servants. The Director General, members, officers, employees, experts and consultants of the Organization shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

17. Pakistan Intellectual Property Rights Organization Fund.-(1) There shall be created a fund to be known as the Pakistan Intellectual Property Rights Organization Fund which shall vest in the Organization and shall be utilized by the Organization to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Director-General, officers, employees, experts and consultants of the Organization.

(2) The Pakistan Intellectual Property Rights Organization Fund shall be financed from the following sources, namely:-

- (a) grants and loans made by the Federal Government;
- (b) loans, aid and donations from the national or international agencies; and
- (c) revenue earned from the levy of various fees by the Organization.

18. Budget. The Organization shall, in respect of each financial year submit for approval of the Federal Government, on such date as may be prescribed, a statement of the estimated receipts and expenditure, including requirements of foreign exchange for the next financial year.

19. Audit and Accounts.-(1) The accounts of the Organization shall be maintained in the manner prescribed by the Controller General of Accounts:

(2) The Auditor-General of Pakistan shall conduct audit of the accounts of the Organization.

(3) A copy of the audit report shall be sent to the Federal Government along with the comments of the Organization.

(4) The Federal Government may issue directions to the Organization for the rectification of any item objected to by the Auditor-General of Pakistan and the Organization shall comply with such directions.

20. Power to amend the Schedule. The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therefrom.

21. Mode of recovery. Any sum payable to the Organization under this Ordinance shall be recoverable as an arrears of land revenue.

22. Submission of yearly reports and returns.-(1) Within three months of the conclusion of each financial year, the Board shall submit an Annual Report to the Federal Government in respect of the activities of the Board including the, status of its existing programmes, projects and further plans formulated in furtherance of its aims and objectives.

(2) The Federal Government may require the Organization to furnish it with,-

- (a) any return, statement, estimate, statistics or other information regarding any matter, under the control of the Organization;
- (b) a report on any subject with which the Organization is concerned; and
- (c) a copy of any document in the charge of the Organization.

23. Protection of action taken under the Ordinance. No suit, prosecution or other legal proceeding shall lie against the Federal Government or the Organization or any person acting under the Federal Government or the Organization for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or regulation made thereunder.

24. Exemption from any provision of this Ordinance. The Federal Government may, by notification in the official Gazette, exempt any article or class of articles from the operation of all or any of the provisions of this Ordinance.

25. Policy directives. The Federal Government may, as and when it considers necessary, issue policy directives to the Board in respect of its activities and the compliance of such directives shall be binding on the Board.

26. Power to make rules. The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

27. Power to make regulations. The Organization may, with the previous approval of the Board, by notification in the official Gazette, make regulations not inconsistent with this Ordinance or the rules made thereunder to carry out the purposes of this Ordinance.

28. Integration of the Trade Marks Registry, Copyright Office and Patent Office.-(1) Upon the commencement of this Ordinance, the Trade Marks Registry, Copyright Office and Patent Office hereinafter referred to as the said offices shall become part of the Organization, and,-

(a) all assets rights, powers, authorities and privileges and all properties, movable and immovable, cash and bank balance, reserve funds, investment and all other interest and rights in, or arising out of such properties and all debts, liabilities and obligations of whatever kind of the said offices subsisting immediately before their integration shall stand transferred to and vest in the Organization;

(b) all officers and other employees of the said offices shall, notwithstanding anything contained in any law or in any agreement, deed, document or other instrument, stand absorbed and transferred to the Organization and shall be deemed to have been appointed or engaged by the Organization in accordance with the terms and conditions which shall not be less favourable than in the said offices; and no officer or other employees whose services are so absorbed and transferred shall be entitled to any compensation because of such absorption or transfer;

(c) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the said offices before their integration, shall be deemed to have been incurred, entered into, acquired or engaged to be done by or for, the Organization; and

(d) all suits and other legal proceedings instituted by or against the said offices before their integration shall be deemed to be suits and proceedings by or against the Organization and may be proceeded or otherwise dealt with accordingly.

29. Removal of difficulties. The Federal Government may, for the purpose of removing any difficulty, in relation to the absorption and transfer and other matters specified in section 28, make such order as it considers expedient and any such order shall be deemed to be, and given effect to, as a part of the provisions of this Ordinance:

Provided that no such power shall be exercised after expiry of three years from the commencement of this Ordinance.

THE SCHEDULE

[See section 9(a)]

1. The Trade Marks Ordinance, 2001 (XIX of 2001).
2. The Copyrights Ordinance, 1962 (XXXIV of 1962).
3. The Patents Ordinance, 2000 (LXI of 2000).
4. The Registered Designs Ordinance, 2000 (XLV of 2000).
5. The Registered Layout-Designs of Integrated Circuits Ordinance, 2000 (XLIX of 2000).