

AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

**Regulations Under the Agreement Revising the Bangui Agreement
of March 2, 1977, on the Creation of
an African Intellectual Property Organization*
(of February 24, 1999)**

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Chapter I General Provisions

Rule 1 Abbreviated Expressions

For the purposes of these Regulations,

(a) “Agreement” means the Bangui Agreement of February 24, 1999, constituting a revision of the Bangui Agreement of March 2, 1977, relating to the creation of an African Intellectual Property Organization;

(b) “Organization” means the African Intellectual Property Organization created under Article 1 of the Agreement;

(c) “Annex I” means the annex to the Bangui Agreement on patents and certificates of addition;

(d) “Annex II” means the annex to the Bangui Agreement on utility models;

(e) “Annex III” means the annex to the Bangui Agreement on trademarks and service marks;

(f) “Annex IV” means the annex to the Bangui Agreement on industrial designs;

(g) “Annex V” means the annex to the Bangui Agreement on trade names;

(h) “Annex VI” means the annex to the Bangui Agreement on geographical indications;

(i) “Annex IX” means the annex to the Bangui Agreement on layout designs (topographies) of integrated circuits;

(j) “Annex X” means the annex to the Bangui Agreement on new varieties of plants;

(k) “Regulations” means the Regulations under the Bangui Agreement, of February 24, 1999;

(l) “Administrative Council” means the Administrative Council referred to in Article 28 of the Agreement;

(m) “Director General” means the Director General of the African Intellectual Property Organization;

(n) “Administrative Instructions” means the instructions issued by the Director General under Rule 3 of the general provisions of these Regulations.

Rule 2
Public Policy and Morality

(1) The public policy mentioned in the annexes is understood to mean the principles underpinning community life within a society.

(2) Morality is understood to mean the moral customs and practices generally recognized by a group or society.

Rule 3
Administrative Instructions

(1) The Director General shall issue the administrative instructions which shall govern the implementation of the procedures provided for in the annexes and concern, in particular, the following:

(a) the formalities concerning patent applications, utility model applications, trademark registration applications, industrial design filings, trade name and geographical indication registration applications, and also new varieties of plants and integrated circuits;

(b) entries in the special registers and publications;

(c) any matter in relation to which a provision of an annex refers to the Regulations.

(2) Any internal note or circular issued by the Director General in the implementation of the procedures relating to the annexes and to the Regulations shall have the status of an administrative instruction. Such documents shall be published.

Rule 4
Agent

(1) The agent referred to in Article 6 of the Bangui Agreement shall be a natural person or legal entity acting on behalf of an applicant or the holder of a protection title as part of an industrial property undertaking.

(2) Where an applicant or owner is represented by an agent, any communication addressed by the Organization to the agent shall have the same effect as if it had been addressed to the applicant or owner.

(3) Any communication addressed to the Organization by the agent shall have the same effect as if it had been issued by the applicant or owner.

(4) Entries in the special registers, filings, requests, applications, declarations or any other document for which the signature of the applicant or owner is required in a procedure before the Organization may be signed by the agent, with the exception of the withdrawal of the application for a protection title, renunciation of a protection title, or the appointment or dismissal of an agent.

Rule 5
Transmittal of Appeal Petitions

(1) Matters shall be referred to the High Commission of Appeal established by Article 33 of the Bangui Agreement, by means of a petition addressed to the President of the said Commission. Petitions shall be sent to the Secretariat of the Commission, which operates at the Organization's headquarters.

(2) The Organization shall be responsible for the transmittal of requests to the President of the High Commission of Appeal.

Rule 6
Registration and Publication of Judicial Rulings

(1) Where absolute invalidity or forfeiture of an industrial property title has been pronounced by a judicial decision that has become *res judicata*, the most diligent party shall convey the decision to the Organization, which shall enter it in the appropriate special register and shall publish it.

(2) The costs of registration and publication referred to in paragraph (1) shall be borne by the party specified by the court or, failing that, by the most diligent party.

Rule 7
Language

The language used in the procedures provided for in the annexes shall be French or English, unless otherwise decided by the Administrative Council. It shall be the language used in written or oral communications, in particular in restoration, opposition and appeal proceedings before the High Commission of Appeal.

Rule 8
Authority of the Director General in Relation to Classification

In view of international arrangements in force and the relevant provisions of the annexes, the Director General shall determine the manner of the Organization's application of the patent classification, the classification of goods and services, and the classification of industrial designs.

Rule 9
Payment of Fees

In accordance with the provisions of Article 2(2) to (4) of the Bangui Agreement, any fee payable in connection with the procedures provided for in the annexes to the said Agreement shall be payable solely to OAPI.

Chapter II

Provisions on Patents and Certificates of Addition

Sole Rule

Right to the Patent

(a) In accordance with the requirements of Article 11(1), where a person other than the principal or employer wishes to exercise the right to the patent, that person shall provide the Organization with all written documents attesting that right.

(b) Where an inventor wishes to avail himself of the provisions of Article 11(5) of Annex I, that person shall provide the Organization with a certificate signed by the employer according to which the latter has renounced the patent rights.

Chapter III

Provisions on Utility Models

Sole Rule

Right to the Utility Model

In accordance with the provisions of Article 8(1), where a person other than the principal or the employer wishes to exercise the right to the registration of the utility model, that person shall provide the Organization with all written documents attesting that right.

Chapter IV

Provisions on Trademarks or Service Marks

Rule 1

Signs Excluded from Registration as Marks

In accordance with Article 2(1) of Annex III, signs of smell and sound shall not be regarded as marks.

Rule 2

Rules for Collective Marks

(1) The word “rules” referred to in Article 2(2) of Annex III should be taken to mean a text adopted by the owner of the mark (corporate group under public law) and approved by the competent national authority.

(2) The rules shall determine the methods of use of the mark and also the penalties in the event of misuse.

(3) The registration of foreign collective marks shall be subject to the production of rules and proof of their registration in the country or countries of origin.

Chapter V

Provisions on Industrial Designs

Sole Rule

Right to the Industrial Design

Where a creator wishes to avail himself of the provisions of Article 6(5) of Annex IV, he shall provide the Organization with a certificate signed by his employer stating that the latter has renounced his right to the industrial design.

Chapter VI

Provisions on Trade Names

Sole Rule

Conditions for the Registration of the Names of Political Parties as Trade Names

(1) The names of political parties and associations of a political nature may constitute trade names.

(2) The registration application shall be accompanied by rules or statutes laying down the methods of use of the trade name and also the penalties in the event of misuse.

Chapter VII

Provisions on Geographical Indications

Rule 1

Designation Recognized as a Geographical Indication

For the purposes of Article 1(a) of Annex VI, the territory, region or locality within that territory to which the geographical indication refers shall be clearly identified, in particular by the name of the country or by reference to administrative, geographical or other units (for example “territory demarcated by the province, communes or town of ...”).

Rule 2

Demarcation of the Geographical Area and Description of Goods

In accordance with Article 2 of Annex VI:

(a) the geographical area shall be clearly identified, in particular by reference to administrative or geographical units;

(b) where the demarcation of the geographical area has been the subject of an administrative or judicial decision, or a legislative or regulatory provision, the applicant shall state the title and date of that decision or provision;

(c) where the text of the decision or provision referred to in the previous paragraph describes the goods or defines the essential characteristic properties of those goods, the applicant shall enclose the text thereof with the registration application.

Rule 3
Registration of Foreign Geographical Indications

(1) Any geographical indication protected under an international convention to which the member States are party shall be registered by the Organization on the basis of the submission of the copy of the certificate of registration concerning that protection.

(2) The registration of the foreign geographical indications referred to in Article 4(2) of Annex VI shall be subject to the production of an administrative or judicial decision, or a legislative or regulatory text demarcating the geographical area or defining the essential characteristic properties.

Rule 4
Cancellation and Modification of the Geographical Indication

(1) Any application for cancellation or modification of a geographical indication brought before a court in a member State and referred to in Article 14(2) of Annex VI shall be notified to the applicant by an officer of the court and shall be published in a journal containing legal announcements in the geographical area of the geographical indication at issue.

(2) Notification of the applicant and publication in the journal containing legal announcements shall take place at the discretion of the claimant.

(3) The publication referred to in paragraph (1) above shall be in the form of a statement including the following information:

- (a) the number and date of the registration decision;
- (b) the serial number of the instrument of filing;
- (c) the subject matter of the cancellation or modification.

Chapter VIII
Provisions on Layout Designs
(Topographies) of Integrated Circuits

Sole Rule
Right to the Layout Design of Integrated Circuits

Where a creator wishes to avail himself of the provisions of Article 4(2) of Annex IX, he shall provide the Organization with a copy of the service or employment contract, or any other contractual rules, stating that the creations under the contract belong to him, or proof

that the principal or employer has expressly renounced his right to protection of the layout design of integrated circuits.

Chapter IX **Provisions on New Plant Variety Certificates**

Sole Rule *Right to the New Plant Variety Certificate*

Where a breeder wishes to avail himself of the provisions of Article 10(5) of Annex X, he shall provide the Organization with a certificate signed by his employer stating that the latter has renounced his right to the new plant variety certificate.

Chapter X **Transitional Provisions**

Sole Rule *Entry into Force*

These rules shall enter into force on the same dates as the Agreement of February 24, 1999, and its Annexes.

* *French title:* Règlement d'application de l'Accord portant révision de l'Accord de Bangui du 02 mars 1977 instituant une Organisation Africaine de la Propriété Intellectuelle.

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Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.