
Regulations on *Inter Partes* Proceedings¹

Effective October 05, 1998

RULE 1 **DEFINITION OF TERMS**

Section 1. *Definition of Terms.* — Unless otherwise indicated, the following terms shall be understood as follows:

- (a) “Bureau” means the Bureau of Legal Affairs of the Intellectual Property Office;
- (b) “Court” means a court of general jurisdiction such as Regional Trial Court;
- (c) “Director” means the Director of the Bureau of Legal Affairs;
- (d) “Director General” means the head of the Intellectual Property Office;
- (e) “Hearing Officer” or “Adjudication Officer” refers to a lawyer in the Bureau who is assigned to hear the case;
- (f) “IP Code” means Republic Act No. 8293 otherwise known as the Intellectual Property Code of the Philippines;
- (g) “Office” means the Intellectual Property Office;
- (h) “Regulations” means this set of rules and regulations and such Regulations as may be formulated by the Director of the Bureau of Legal Affairs and approved by the Director General. [*as amended by Office Order No. 99 (2011)*]

RULE 2 **GENERAL PROVISIONS; PROCEEDINGS**

[*as amended by Office Orders Nos. 79 (2005) and 99 (2011)*]

Section 1. *What are the Inter Partes Cases.* — The following are the *Inter Partes* cases:

- (a) Oppositions to applications for the registration of trademark or service mark;
- (b) Petitions to cancel the registrations of trademarks or service marks;
- (c) Petitions to cancel invention patents, utility model registrations, industrial design registrations, or any claim or parts of a claim, and registrations of topography or layout design of integrated circuits based on Rule 402, paragraphs (a) and (b) of the Layout Design (Topography) of Integrated Circuits Regulations (Office Order No. 19, s. 2002), and
- (d) Petitions for Compulsory Licensing.

Section 2. *Parties in Inter Partes proceedings.* — The opposer or the petitioner shall be deemed to be in the position of plaintiff while the patentee, registrant or applicant shall be in the position of defendant.

Section 3. *Original jurisdiction over Inter Partes proceedings.* — The Bureau shall have original jurisdiction over *Inter Partes* proceedings. The Director, the Assistant Director, and/or the Hearing/Adjudication Officers shall issue and sign orders and other processes. However, all decisions and final orders shall be issued and signed by the Director, or by the Committee of Three in petitions to cancel patents as the case may be.

¹ as amended by Office Orders Nos. 18 (1998), 79 (2005), 99 (2011), and 68 (2014), and Memorandum Circular No. 7 (2016)

Section 4. Right of foreign corporation to sue in Inter Partes Cases. — Any foreign national or juridical person whether or not engaged in business in the Philippines may bring a petition for opposition, cancellation or compulsory licensing: *Provided*, that the country of which he or it is a national, or domiciled, or has a real and effective industrial establishment is a party to any convention, treaty or agreement relating to intellectual property rights or the repression of unfair competition, to which the Philippines is also a party, or extends reciprocal rights to nationals of the Philippines by law.

Section 5. Modes of Service; Applicability of the Rules of Court. —

- (a) Copies of decisions, resolutions, final and interlocutory orders, notices, summons and other processes shall be delivered to the parties via personal service, registered mail, courier service and other similar means as the Director General may deem appropriate. For this purpose, the delivery or service shall be made:
 - (i) to the address of a party's legal counsel of record; or
 - (ii) to the address of a party's representative of record, if such party has no legal counsel; or
 - (iii) if a party has no legal counsel or representative on record, to the address of a party as appearing in its pleadings or as indicated in other relevant record of the Bureau or the IOPPHL, such as intellectual property rights certificate of registration or applications.
- (b) In the absence of any applicable rules, the Rules of Court may be applied in suppletory manner. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 6. Authority of the Hearing/Adjudication Officers. — The Hearing/Adjudication Officers are authorized to administer oaths and affirmation, issue summons, subpoena *duces tecum* and *ad testificandum*, interlocutory orders and preliminary rulings on questions raised, to conduct preliminary and clarificatory hearings, to issue and sign decisions and final orders, and perform other functions as may be provided in these Rules. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 7. Filing Requirements for Opposition and Petition. —

- (a) The opposition or petition must be in writing, verified and accompanied by a certification of non-forum shopping, and in due form as prescribed by these Rules. The opposer or petitioner shall file only the original of the opposition or petition, with proof of service to the respondent or representative/agent on record. The periods to file the opposition or petition are provided in the succeeding rules.

The petition or opposition must indicate the following:

- (1) names and addresses of the petitioner or opposer and the other parties, including the respondent;
 - (2) the assigned application number and the filing date of the trademark application opposed, or of the registration number, the name of the registrant, and the date of the registration of the trademark, patent, utility model, industrial design or layout design sought to be cancelled; and
 - (3) the ultimate facts constituting the opposer's or petitioner's cause or causes of action and the relief sought.
- (b) The opposer or petitioner shall attach to the opposition or petition the affidavits of witnesses, documentary or object evidence, which must be duly-marked starting from Exhibit "A", and other supporting documents mentioned in the notice of opposition or petition together with the translation in English, if not in the English language. The verification and certification of non-forum shopping as well as the documents showing the authority of the signatory or signatories thereto, affidavits and other supporting documents, if executed and notarized abroad, must have been authenticated by the appropriate Philippine diplomatic or consular office. The execution and authentication of these documents must have been done before the filing of the case. For purposes of filing an opposition, however, the authentication may be secured after the filing of the case provided that the execution of the documents aforementioned are done prior to such filing and provided further, that the authentication must be submitted before the issuance of the order

of default or conduct of the preliminary conference under Section 14 of this Rule. *[as amended by Memorandum Circular No. 7 (2016)]*

- (c) For the purpose of the filing of the opposition, the opposer may attach, in lieu of the originals or certified copies, photocopies of the documents mentioned in the immediately preceding paragraph, as well as photographs of the object evidence, subject to the presentation or submission of the originals and/or certified true copies thereof under Sections 14 and 15 of this Rule. *[as amended by Office Order No. 68 (2014)]*

Section 8. Action on the Notice of Opposition or Motion for Extension to File Notice of Opposition, and Petition. —

- (a) A case is deemed to have commenced upon the filing of a notice of opposition, or a motion for extension of time to file a notice of opposition, or a petition for cancellation or compulsory licensing.
- (b) The notice of opposition or petition may be dismissed outright and/or *motu proprio* for having been filed out of time, due to lack of jurisdiction, and/or failure to state a cause of action. Likewise, a motion for extension of time to file notice of opposition shall be denied outright if the opposer fails to state meritorious grounds.
- (c) The opposer, including those who file a motion for extension of time to file notice of opposition, or the petitioner shall be given a period of five (5) days from receipt of the order to complete or to cure any of the following defects:
 - (1) Non-payment in full or in part of the filing fees and other applicable fees;
 - (2) Failure to attach any of the following documents:
 - (i) Verification;
 - (ii) Certification of non-forum shopping;
 - (3) Special Power of Attorney of representative(s) who signed the pleadings, the verification, and the certification of non-forum shopping; and the proof of authority to issue or execute the Special Power of Attorney; and
 - (4) Proof of authentication by the appropriate Philippine diplomatic or consular office, of the foregoing documents, if executed abroad.

Provided, that if what are attached to the opposition or petition are mere photocopies of the abovementioned documents, the opposer or petitioner shall be required to submit the originals within 10 days from receipt of the order.

The 10-day period to complete or cure the defects in the filing may be extended for another 5 days upon motion by the opposer or petitioner based on meritorious grounds which shall be explicitly stated in the motion, and upon payment of the applicable fees. A second 5-day extension may be granted based on the aforementioned condition.

No further extension shall be allowed.

Failure to complete or cure the defect shall cause the dismissal of the case. The Director or Assistant Director shall issue the final order of dismissal. *[as amended by Office Order No. 68 (2014) and Memorandum Circular No. 7 (2016)]*

- (d) If the opposition or petition is determined to be compliant with the requirements. or. upon compliance with the order provided in par. (c), the Bureau shall immediately issue a Notice to Answer, addressed to and served upon the respondent or representative/agent on record. *[as amended by Office Order No. 68 (2014)]*

Section 9. Answer. —

- (a) The respondent must file a verified answer within 30 days from receipt of a copy of the Notice to Answer, with proof of service thereof to the opposer or petitioner. The respondent shall attach to the answer the affidavits of witnesses and other documentary or object evidence, which must be duly-marked starting from Exhibit "1". The verification and the document showing the authority of the signatory thereto, the affidavits and other pertinent documents, if executed and notarized

abroad, must be authenticated by the appropriate Philippine diplomatic or consular office. The execution and authentication of these documents must have been done before the filing of the answer.

- (b) Upon proper motion founded on meritorious grounds, and the payment of the applicable fees, the Bureau may grant an additional period of 30 days within which to file the answer. A second motion for extension of 30 days may be granted also on meritorious grounds and upon payment of the applicable fees. A third motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; *Provided*, that in no instance shall the filing of the answer exceed one hundred twenty (120) days from the date of the receipt of the copy of the Notice to answer; *Provided, further*, that if the last day for filing of the answer or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day.
- (c) For the purpose of the filing of the answer, the respondent may attach, in lieu of the originals or certified copies, photocopies of the affidavits of its witnesses and other documentary evidence, and photographs of object evidence subject to the presentation or submission of the originals and/or certified true copies thereof under Section 14 of this Rule.
- (d) The respondent shall be given a period of five (5) days from receipt of the order to complete or to cure the following defects:
 - (1) Non-payment in full or in part of the applicable fees, for motions for extensions to file answer;
 - (2) Failure to attach the originals of the following documents:
 - (i) Verification;
 - (ii) Special Power of Attorney of representative(s) who signed the pleadings, the verification, and the certification of non-forum shopping; the proof of authority to issue or execute the Special Power of Attorney; and
 - (iii) Proof of authentication by the appropriate Philippine diplomatic or consular office, for the foregoing documents executed abroad.

No further extension shall be allowed. *[as amended by Office Order No. 68 (2014) and Memorandum Circular No. 7 (2016)]*

Section 10. Prohibited pleadings. — No motion to dismiss shall be entertained. Instead, all grounds for dismissal shall be pleaded as affirmative defenses, the resolution of which shall be made in the decision on the merits. Neither shall a motion for bill of particulars, motion for reconsideration of interlocutory orders, and all other pleadings subsequent to the filing of an Answer, shall be allowed. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 11. Referral to Alternative Dispute Resolution. — If the Answer is filed on time and/or the defects are completed or cured, the case shall be referred to the Alternative Dispute Resolution ("ADR") in accordance with the existing applicable IPOP HL rules. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 12. Effect of Failure to file Answer or to Complete the Requirements. — The respondent shall be declared in default if it fails to file an Answer or complete the requirements on time. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 13. Delay in the Filing of Pleading/Compliance. — In resolving issues involving delays in the parties' filing of pleadings and compliance to orders, the Bureau shall take into account allegations of fraud, accident, mistake and excusable negligence. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 14. Raffle of Cases; Preliminary Conference. —

- (a) If the respondent is in default, or if the case is not resolved or dismissed through ADR, the Director/Assistant Director shall raffle the case to the Hearing/Adjudication Officers.
- (b) If the respondent is in default, the Hearing/Adjudication Officer shall, immediately after receiving the records of the case, issue the order of default and shall require in the said order the opposer

or petitioner to submit or present within ten (10) days from receipt thereof the originals and/or certified copies of the affidavits, documentary evidence and object evidence, if necessary. The case shall be decided on the basis of the petition or opposition, the affidavits of the witnesses and the documentary or object evidence submitted by the petitioner or opposer.

- (c) If the case was referred to but was not resolved or dismissed through ADR, the Hearing/Adjudication Officer shall, immediately after receiving the records of the case, issue an order setting the conduct of the preliminary conference for the purpose of facilitating the resolution of the case through stipulations, clarifications and simplification of issues, and the submission and/or presentation of the original or certified true copies of affidavits, documents, and other evidence if necessary. The parties themselves are required to appear during the preliminary conference. The presence, however, of a party during the preliminary conference may be dispensed with if said party is represented by counsel who must present and submit duly executed and appropriate power of attorney and other documents or proof of authority to represent a party and make admissions and/or to accept compromise proposals.

Upon the termination of the preliminary conference, the Hearing/Adjudication Officer shall issue an order in open court, requiring the parties to submit their respective position papers within 10 days from the issuance of the order in open court. The order shall be included in the minutes of the preliminary conference and shall form part of the records of the case. The position papers shall take up only those matters and issues covered or alleged in the petition or opposition and the Answer, the supporting evidence, and those determined during the preliminary conference. No new matters or issues shall be raised or included in the position papers.

A party who fails to attend the preliminary conference or represented by a counselor any other person without the necessary power of attorney or appropriate corporate authorization shall be deemed to have waived the right to submit position papers. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 15. Introduction of evidence forming part of the records of other cases. — A party, through an appropriate motion and payment of applicable fees, may submit as documentary evidence those which already form part of the records of other cases, including those filed in the BLA, the regular courts, and/or other tribunals. For this purpose, documentary evidence and affidavits of witnesses in lieu of the originals must be secured from and certified by the appropriate official or personnel of the BLA, the court or tribunal in possession of the records. In case of object evidence in possession of the BLA, the court or other tribunal which forms part of the records of a case, photographs, video or faithful representations thereof in other media may be submitted, if accompanied by an appropriate certification and attestation from the appropriate official or personnel of the BLA, court or tribunal.

Section 16. Submission for Decision. —

(a) After the lapse of the reglementary period within which to file the position paper, and with or without the parties having submitted the same, the case is deemed submitted for decision. The Hearing/Adjudication Officers shall issue the decisions or final orders within 60 days from date the case is deemed submitted for decision. *[as amended by Memorandum Circular No. 7 (2016)]*

Section 17. Quantum of evidence required. — *Inter Partes Proceedings* is essentially an administrative proceedings. Hence, the quantum of evidence required is substantial evidence. The Bureau shall decide the case on the basis of the pleadings, the records and the evidence submitted, and if appropriate, on matters which may be taken up by judicial notice.

RULE 3
CANCELLATION OF PATENTS
[as amended by Office Order No. 99 (2011)]

Section 1. Cancellation of Patents; Grounds. —

- (a) Any interested party may, upon payment of the required fee, petition to cancel the patent or any claim thereof, or parts of the claim, on any of the following:
 - (i) that what is claimed as the invention is not patentable;
 - (ii) that the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by any person skilled in the art;
 - (iii) that the patent is contrary to public order or morality;
 - (iv) that the patent includes matters outside the scope of the disclosure contained in the application as filed.
- (b) Cancellation by person having right to the patent. A person declared by final court order or decision as having the right to the patent may, within three (3) months after the decision has become final, seek cancellation of the patent, if one has already been issued.
- (c) Interested Party. — A party interested in the patent shall include any person including a person declared by final court order or decision to be the true and actual inventor.

Section 2. Partial Cancellation. — Where the grounds for the cancellation relate to some of the claims or parts of the claim, cancellation may be effected to such extent only in which case, the Office shall reissue the amended patent.

Section 3. Notice of Filing of Petition — The Bureau shall serve notice of the filing of the petition upon the patentee and all persons having grants or licenses, or any other right, title or interest in and to the patent and the invention covered thereby, as appears of record in the Office, and of notice of the date of hearing thereon on such persons and the petitioner. Notice of the filing of the petition shall be published in the IPO Gazette. [as amended by Office Order No. 79 (2005)]

Section 4. —

- (a) **The Committee of Three.** — In cases involving highly technical issues, on motion of any party, the Director may order that the petition be heard and decided by a committee composed of the Director as chairman and two (2) members who have the experience or expertise in the field of technology to which the patent sought to be cancelled relates.
- (b) **Cancellation of the Patent by the Committee.** — If the Committee finds that a case for cancellation has been proved, it shall order the patent or any specified claim or claims thereof cancelled.
- (c) **Amendment made by the Patentee during the Cancellation proceedings.** — If the Committee finds that, taking into consideration the amendment made by the patentee during the cancellation proceedings, the patent and the invention to which it relates meet the requirement of the IP Code, it may decide to maintain the patent as amended: Provided, that the fee for printing of a new patent is paid within one (1) month from the date of the decision of the committee. If the fee for the printing of the new patent is not paid in due time, the patent shall be revoked at the expiration of the period for payment.
- (d) **Publication of the amended patent.** — If the patent is amended per decision of the committee, the Bureau shall, at the same time as it publishes the mention of the cancellation decision, publish the abstract, representative claims and drawings indicating clearly what the amendments consist of.

Section 5. Effect of Cancellation of Patent or Claim. — The rights conferred by the patent or any specified claim or claims cancelled shall terminate. Notice of the cancellation shall be published in the IPO Gazette.

Section 6. Patent Found Invalid May be Cancelled. — If, in an action for infringement filed before the court, the court finds the patent or any claim to be invalid, it shall cancel the same. Such order of cancellation shall be forwarded to the Director who shall cause the recording and publication of notice of such order in the IPO Gazette upon receipt of the final judgment of cancellation by the court. Such recording shall be made in the appropriate register of the Office.

RULE 4
CANCELLATION OF UTILITY MODEL REGISTRATION

Section 1. Grounds for cancellation of utility model registration. — At any time during the term of the utility model registration, any person, upon payment of the required fee, may petition the Director to cancel the utility model registration on any of the following grounds:

- (a) That the claimed invention does not qualify for registration as a utility model and does not meet the requirements of registrability, in particular:
 - (1) if it is not new as provided in Sections 23 and 24 of the IP Code;
 - (2) if it is not industrially applicable as provided in Section 27 of the IP Code; or
 - (3) if it is excluded from patent protection as provided in Section 22 of the IP Code.
- (b) That the description and the claims do not comply with the prescribed requirements;
- (c) That any drawing which is necessary for the understanding of the invention has not been furnished;
- (d) That the owner of the utility model registration is not the inventor or his successor in title; or
- (e) That the utility model registration extends beyond the content of the application as originally filed.

Section 2. Procedure for the cancellation of utility model. — The procedure for the cancellation of patent shall apply *mutatis mutandis* to the cancellation of utility model.

Section 3. Effect of Cancellation of Utility Model Registration. — The rights conferred by the registration of the utility model shall terminate upon the cancellation of such registration.

RULE 5
CANCELLATION OF DESIGN REGISTRATION

Section 1. Grounds for the Cancellation of Design Registration. — At any time during the term of the industrial design registration, any person upon payment of the required fee, may petition the Director to cancel the industrial design on any of the following grounds:

- (a) that the industrial design does not give a special appearance to and can not serve as pattern for an industrial product or handicraft;
- (b) that the industrial design is not new or original;
- (c) that the industrial design is dictated essentially by technical or functional consideration to obtain a technical result;
- (d) that the industrial design is contrary to public order, health or morals; or
- (e) that the subject matter of the industrial design extends beyond the content of the application as originally filed.

Section 2. Partial Cancellation. — Where the grounds for cancellation relate to a part of the industrial design, cancellation may be affected to such extent only. The restriction may be effected in the form of an alteration of the effected features of the design. *[as amended by Office Order No. 18 (1998)]*

Section 3. Procedure. — The procedure prescribed by these Regulations in the cancellation of patent and utility model registration shall be applied *mutatis mutandis* in the cancellation of design registration.

Section 4. Effect of Cancellation. — The rights conferred by the registration of a design shall terminate upon the cancellation of such registration.

RULE 6
PETITION FOR COMPULSORY LICENSING
[as amended by Office Order No. 99 (2011)]

Section 1. Adoption of Rule 12 of Department of Health-IPO Administrative Order No. 2008-01. — All petitions for compulsory licensing shall be governed by the rules of proceeding set forth in Rule 12 of [DOH-IPO Joint Administrative Order No. 2008-01](#), which implements the provisions of Republic Act No. 9502.

RULE 7
OPPOSITION TO APPLICATION FOR REGISTRATION OF MARKS
[as amended by Office Order No. 99 (2011)]

Section 1. Who may oppose. — Any natural or juridical person, who believes that he/she or it would be damaged by the registration of a mark, may file a written notice of opposition to a trademark application.

Section 2. Period to file opposition. — The verified notice of opposition must be filed within 30 days from the date of the publication of the trademark application in the IPOPHL "Gazette". Upon proper motion anchored on meritorious grounds which must be expressly indicated in the motion, and the payment of the filing fee for opposition and other applicable fees, the Bureau may grant an additional period of 30 days within which to file the opposition. A second motion for extension of 30 days may also be granted on meritorious grounds and upon payment of the applicable fees. A third and last motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; *Provided*, that in no case will the filing of the opposition exceed one hundred and twenty (120) days from the date of the aforementioned publication; *Provided, further*, that if the last day for filing of the verified opposition or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day. *[as amended by Memorandum Circular No. 7 (2016)]*

RULE 8
CANCELLATION OF REGISTRATION OF MARKS
[as amended by Office Order No. 99 (2011)]

Section 1. Who may file a petition for cancellation. — Any person who believes that he is or will be damaged by the registration of a mark may file with the Bureau a petition to cancel such registration.

Section 2. When may a petition be filed. — The petition for cancellation of the registration of a mark may be filed:

- (a) Within five (5) years from the date of registration of the mark under the IP Code;
- (b) At any time, if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of the IP Code, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used. If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used. Evidence on purchaser motivation shall not be admitted;
- (c) At any time, if the registered owner of the mark without legitimate reason fails to use the mark within the Philippines, or to cause it to be used in the Philippines by virtue of a license during an uninterrupted period of at least three (3) years.

Section 3. Power of the Bureau to cancel the mark in the exercise of its power to hear and adjudicate any action to enforce the rights to a registered mark. — Notwithstanding the foregoing provisions, the court or the Bureau shall, in the exercise of its power to hear and adjudicate any action to enforce the rights to a registered mark, likewise determine whether the registration of said mark may be cancelled in accordance with the IP Code.

Section 4. Effect of filing of a suit before the Bureau or with the proper court. — The filing of a suit to enforce the registered mark with the proper court or Bureau shall exclude any other court or agency from assuming jurisdiction over a subsequently filed petition to cancel the same mark. On the other hand, the earlier filing of petition to cancel the mark with the Bureau shall not constitute a prejudicial question that must be resolved before an action to enforce the rights to same registered mark may be decided.

Section 5. Cancellation of Registration. — If the Bureau finds that a case for cancellation has been made out, it shall order the cancellation of the registration. When the order or judgment becomes final, any right conferred by such registration upon the registrant or any person in interest of record shall terminate. Notice of cancellation shall be published in the IPO Gazette.

RULE 9

DECISIONS; APPEAL

[as amended by Office Order No. 99 (2011) and Memorandum Circular No. 7 (2016)]

Section 1. Decisions and Final Orders. — A decision or final order shall be duly signed by the appropriate authority, in writing, stating clearly and distinctly the facts, evidence, records, the provisions of law, rules and regulations, as well as principles and doctrines if applicable, on which it is based. The approval of a compromise agreement shall be deemed decision on the merits and shall be treated and enforced accordingly.

Section 2. Appeal to the Director. —

- (a) Within ten (10) days after receipt of the decision or final order, a Party may file an appeal to the Director together with the payment of the applicable fees. The appeal shall be immediately denied if it is filed out of time and/or is not accompanied by the payment of the applicable fee. After receipt of the appeal, the Director shall issue an order for the adverse party to file comment within a non-extendible period of ten (10) days from receipt of the order. The Director shall decide on the appeal within thirty (30) days from the lapse of the period for the filing of a comment. Within thirty (30) days after receipt of the decision by the Director, a party may file an appeal to the Director General.
- (b) If a party, counsel of record or representative of record refuses to receive a copy of the decision, final order or resolution promulgated by the Hearing/Adjudication Officer, or Assistant Director or Director; or has moved out of the address said party, counsel of record or representative of record indicated in the pleadings or other records in the Bureau and/or IPOPHL, the Bureau shall post the decision, final order or resolution in the IPOPHL website.

Within ten (10) days after posting the decision or final order in the IPOPHL website, the party concerned may file together with the payment of the applicable fees, the appropriate appeal.

Section 3. Entry of Judgments (Decisions) and Final Orders. — If no appeal is filed on time, the decisions or final order becomes final and executory. The "Entry of Judgment" shall be immediately issued by the officer who signed the decision or final order.

FINAL PROVISIONS

Section 1. Coverage. — These rules and regulations shall apply to all *inter partes* cases pending with the Bureau of Patents, Trademarks and Technology Transfer upon the effectivity of the IP Code on January 1, 1998, including interference proceedings declared prior to the effectivity of these Regulations and all *inter partes* cases filed with the Office on and after the effectivity of the IP Code.

Section 1.1. Trademark applications pending on effective date of the IP Code; Opposition; Interference. — The following procedure shall apply to interfering applications for registration in the principal register of marks under Republic Act No. 166, as amended, pending on the effective date of the IP Code on January 1, 1998:

- (a) In all cases where interference may be declared under Republic Act No. 166, and its implementing rules and regulations, as amended, the application which first meets the requirements for registration shall be allowed and published for opposition in the IPO Gazette by the Director of the Bureau of Trademarks in accordance with the Rules and Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers dated 30 September 1998.
- (b) The Director of Trademarks shall notify the other applicant or applicants of the fact of allowance and publication with the advice that said other applicant or applicants have the right to file with the Bureau of Trademarks a notice of opposition, without need of paying the filing fee, to determine whether or not any of the applicant/s and or (*sic*) oppositor/s has the right to the registration of the mark including all other issues such as the registrability of the mark.
- (c) Within five (5) days from receipt of a notice of opposition from the other applicant or any of them if there be more than one other applicant, the Director of Trademarks shall endorse all the files of the allowed applicant or applicants to the Bureau of Legal Affairs for prosecution in accordance with the provisions of these Regulations governing oppositions.
- (d) All other oppositors, if any, shall file their notice of opposition with the Bureau of Legal Affairs in accordance with these Regulations.

Section 2. Implementation. — In the interest of the service and to ensure the continued hearing and disposition of all the cases before the Office, until the organization of the Bureau of Legal Affairs is completed, the functions necessary to implement these regulations shall be performed by the personnel of the former Bureau of Patents, Trademarks and Technology Transfer as may be designated by the Director General upon recommendation of the Chief of the Hearing Division of the Bureau of Patents, Trademarks and Technology Transfer who was heretofore designated as Officer-in-Charge or Caretaker of the Bureau of Legal Affairs.

Section 3. Separability. — If any provision in these Regulations or application of such provision to any circumstance is held invalid, the remainder of these Regulations shall not be affected thereby.

Section 4. Effectivity. — These rules and regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.