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PATENTS ACT (CHAPTER 221)

PATENTS (PATENT AGENTS) RULES 2001

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In exercise of the powers conferred by section 104 of the Patents Act, the Minister for Law hereby makes the following Rules:

PART I

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Patents (Patent Agents) Rules 2001 and shall come into operation on 2nd January 2002.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires —

“certificate of registration” means a certificate of registration issued under rule 7(4);

“Court” means the High Court;

“Disciplinary Committee” means the Disciplinary Committee appointed under rule 16;

“foreign patent agency work” means any of the types of work referred to in section 105A(4)(a), (b) and (c) of the Act;

[S 80/2014 wef 14/02/2014]

“foreign patent agent certificate” means a foreign patent agent certificate issued under rule 10B(4) or 10C(5);

[S 80/2014 wef 14/02/2014]

“patent agency work” means any of the types of work referred to in section 105(4)(a), (b) and (c) of the Act, and includes, for the avoidance of doubt, any foreign patent agency work;

[S 80/2014 wef 14/02/2014]

“practice year” means the period from 1st April in a calendar year to 31st March in the next calendar year;

“practising certificate” means a practising certificate issued under rule 9;

[Deleted by S 80/2014 wef 14/02/2014]

“register of foreign patent agents” means the register of foreign patent agents maintained under rule 5(1A);

[S 80/2014 wef 14/02/2014]

“register of patent agents” means the register of patent agents maintained under rule 5(1).

[S 80/2014 wef 14/02/2014]

(2) For the purposes of these Rules, an individual is resident in Singapore if —

(a) the individual has his place of residence in Singapore;

- (b) Singapore is the country of his permanent abode even though he is temporarily absent from Singapore; or
- (c) the individual has a valid pass issued to him under the Immigration Act (Cap. 133) to enter and remain in Singapore for any purpose other than a temporary purpose.

Fees

3.—(1) The fees to be paid in respect of matters arising under these Rules shall be those specified in the First Schedule.

(2) A fee specified in the First Schedule shall be paid at the same time as the filing of the matter in question.

(3) Subject to paragraph (4), fees paid under these Rules shall not be refundable.

(4) The fee referred to in rule 17(2)(f)(ii), for making a complaint or giving information against a registered patent agent or a registered foreign patent agent, shall be refundable at the end of an inquiry by the Disciplinary Committee into the complaint or information, unless —

- (a) the Disciplinary Committee determines under rule 18(5) that the complaint or information is frivolous or vexatious; or
- (b) the complaint or information is withdrawn by the person who made the complaint or gave the information.

[S 566/2009 wef 15/12/2009]

[S 80/2014 wef 14/02/2014]

Forms

4.—(1) The Registrar shall publish in the journal —

(a) the forms to be used for any purpose relating to —

- (i) the registration of a patent agent or a foreign patent agent;

[S 80/2014 wef 14/02/2014]

- (ii) any proceedings under Part XIX of the Act or these Rules; or
- (iii) any other matter under Part XIX of the Act or these Rules;

(b) the Registrar's directions relating to the use of any form referred to in sub-paragraph (a); and

(c) any amendment or modification of any such form or direction.

(2) Any form referred to in paragraph (1)(a) may be modified on the direction of the Registrar for use in a case other than the case for which it is intended.

(3) Any reference in these Rules to any form shall be construed as a reference to the current version of that form which is —

(a) described in the Second Schedule; and

(b) published in the journal.

[S 92/2007 wef 01/04/2007]

PART II

REGISTRATION OF PATENT AGENTS AND FOREIGN PATENT AGENTS

Register of patent agents and register of foreign patent agents

5.—(1) The Registrar shall keep and maintain a register of patent agents which shall contain —

(a) the names and practice addresses in Singapore of all individuals registered as patent agents under these Rules;

(b) the dates of their registration;

(c) the terms of practising certificates issued to them (if any); and

(d) such of their other particulars as the Registrar may determine.

(1A) The Registrar shall keep and maintain a register of foreign patent agents which shall contain —

(a) the names and practice addresses in Singapore of all individuals registered as foreign patent agents under these Rules;

(b) the dates of their registration;

(c) the terms of foreign patent agent certificates issued to them;
and

(d) such of their other particulars as the Registrar may determine.

[S 80/2014 wef 14/02/2014]

(2) The register of patent agents and the register of foreign patent agents need not be kept in documentary form.

[S 80/2014 wef 14/02/2014]

Entitlement to registration as patent agent

6. Subject to rules 7 and 8, an individual is entitled to be registered as a patent agent if he —

(a) is resident in Singapore;

(b) holds a university degree or equivalent qualification approved by the Registrar;

(c) has passed the course specified in Part I of the Third Schedule;

(d) has passed the examination specified in Part II of the Third Schedule; and

(e) has completed internship in patent agency work under the supervision of a registered patent agent, or an individual registered as a patent agent or its equivalent in a country or territory, or by a patent office, specified in the Fourth Schedule, for —

(i) a continuous period of at least 12 months; or

(ii) a total period of at least 12 months within a continuous period of 24 months.

Application for registration as patent agent

7.—(1) An application for registration as a patent agent shall be made to the Registrar in Form A, and shall be accompanied by —

(a) the applicable fee in the First Schedule;

(b) the necessary documentary proof of the applicant's entitlement to be registered; and

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- (c) 2 certificates of good character of the applicant in Form B by 2 responsible individuals —
- (i) who are not immediately related to the applicant;
 - (ii) who have known the applicant for at least 12 months and have had opportunities to judge his character; and
 - (iii) at least one of whom is resident in Singapore.

[S 80/2014 wef 14/02/2014]

[S 80/2014 wef 14/02/2014]

(2) The Registrar may require the applicant to furnish, within a specified period, such further evidence or information as he considers necessary to determine if the applicant is entitled to be registered as a patent agent.

[S 80/2014 wef 14/02/2014]

(3) The Registrar may accept in place of, or require in addition to, either or both of the certificates of good character such other evidence of good character of the applicant as the Registrar considers necessary.

(4) Subject to rule 8, the Registrar shall, if satisfied that the applicant is entitled to be registered as a patent agent and is of good character, register the applicant as a patent agent by issuing to him a certificate of registration and entering his name and particulars in the register of patent agents.

[S 80/2014 wef 14/02/2014]

(5) The Registrar may, before registering the applicant as a patent agent, require him to satisfy, within a specified period, such conditions as the Registrar considers appropriate.

[S 80/2014 wef 14/02/2014]

(6) The Registrar may subject the registration of the applicant as a patent agent to such conditions as the Registrar considers appropriate.

[S 80/2014 wef 14/02/2014]

(7) Subject to rule 8, an application for registration as a patent agent shall be refused if it is not made in accordance with this rule.

[S 80/2014 wef 14/02/2014]

Exemptions

8.—(1) The Registrar may, upon the written request of an applicant for registration as a patent agent, register the applicant as a patent agent —

- (a) notwithstanding rule 6(c) if he is satisfied that the applicant is sufficiently proficient in the law of intellectual property;
- (b) notwithstanding rule 6(d) if he is satisfied that the applicant is sufficiently proficient in the law of patents and has the necessary knowledge and practical experience to carry out patent agency work; and
- (c) notwithstanding rule 6(e) if he is satisfied that the applicant has the necessary knowledge and practical experience to carry out patent agency work, gained from carrying out such work under the supervision of a registered patent agent, or an individual registered as a patent agent or its equivalent in a country or territory, or by a patent office, specified in the Fourth Schedule.

[S 80/2014 wef 14/02/2014]

(2) The Registrar may require the applicant to furnish, within a specified period, such further evidence or information as he considers necessary for the purposes of his determination under paragraph (1).

Application for practising certificate

9.—(1) A registered patent agent who wishes to obtain a practising certificate for any practice year shall, before making an application for the certificate, ensure that professional indemnity insurance has been obtained against any liability incurred by him when carrying out patent agency work in that practice year, where the amount of insurance cover is at least \$1 million for each claim.

(2) Paragraph (1) shall not apply to a registered patent agent —

- (a) if —
 - (i) his employer does not carry on a business, practise or act as a patent agent; and

- (ii) he intends to carry out patent agency work for his employer, and for no other person, in his capacity as employee of his employer, and in no other capacity, during the practice year; or

(b) if —

- (i) his employer is a member of a related company group;
- (ii) his employer does not carry on a business, practise or act as a patent agent;
- (iii) any other member of the related company group does not carry on a business, practise or act as a patent agent; and
- (iv) he intends to carry out patent agency work for his employer or for that other member of the related company group, and for no other person, in his capacity as employee of his employer, and in no other capacity, during the practice year.

[S 92/2007 wef 01/04/2007]

(3) An application for a practising certificate shall not be made earlier than 2 months before the commencement of the practice year in question.

(4) The application shall be made to the Registrar in Form C, and shall be accompanied by —

- (a) the applicable fee in the First Schedule which shall be the same amount irrespective of the term of the practising certificate;
- (b) a declaration in writing stating —
 - (i) the applicant's name in full;
 - (ii) the name under which he intends to practise or the name of his employer;
 - (iii) his practice address in Singapore;
 - (iv) that he is resident in Singapore;
 - (v) that he has not been convicted of an offence under the Act and has not been convicted or guilty of any of the

matters referred to in rule 17(1)(a) to (g) for which he has not already been dealt with under Part III;

- (vi) that he continues to meet the requirements of these Rules by virtue of which he was registered as a patent agent; and

[S 80/2014 wef 14/02/2014]

- (vii) in a case where paragraph (1) applies, that he has ensured that the professional indemnity insurance referred to in that paragraph has been obtained; and

[S 566/2009 wef 15/12/2009]

(c) either of the following:

- (i) in a case where paragraph (1) applies, a written undertaking by the applicant that —

(A) he will ensure that the professional indemnity insurance that has been obtained will be maintained in force at all times during the practice year in question; and

[S 566/2009 wef 15/12/2009]

(B) where the insurance that has been obtained is due to expire before the end of the practice year, he will ensure that the insurance is renewed before such expiry;

[S 566/2009 wef 15/12/2009]

- (ii) in a case where paragraph (2) applies, a written undertaking by the applicant that he will, if he is to carry out patent agency work at any time during that practice year other than in his capacity as employee of his employer for —

(A) where paragraph (2)(a) applies, his employer; or

(B) where paragraph (2)(b) applies, his employer or the other member of the related company group referred to in that paragraph,

ensure that the professional indemnity insurance referred to in paragraph (1) has been obtained, before he does so.

[S 92/2007 wef 01/04/2007]

(5) The Registrar may require the registered patent agent to furnish, within a specified period, such other evidence or information as the Registrar considers necessary for the purposes of the application.

[S 80/2014 wef 14/02/2014]

(6) The Registrar shall, if satisfied that the application is made in accordance with this rule, issue the practising certificate.

(7) The issue of a practising certificate may be subject to such conditions as the Registrar may specify.

(8) In this rule, “related company group” means a group of 2 or more corporations within the meaning of the Companies Act (Cap. 50) which are related to each other in accordance with section 6 of that Act.

Term of practising certificate

10.—(1) A practising certificate issued to a registered patent agent under rule 9 —

(a) shall be in force from —

(i) the date of its issue; or

(ii) if it is applied for before the beginning of the practice year in question, the first day of the practice year; and

(b) shall cease to be in force —

(i) when the registered patent agent ceases to practise or to be employed as a registered patent agent;

(ii) upon the occurrence of any of the following events:

(A) the registered patent agent ceases to be resident in Singapore;

(B) the registered patent agent has been convicted of an offence under the Act;

(C) the registered patent agent has been convicted, whether in Singapore or elsewhere, of a criminal offence implying a defect of character which makes him unfit for his profession;

[S 80/2014 wef 14/02/2014]

- (D) the registered patent agent ceases to meet any requirement of these Rules by virtue of which he was registered; or
 - (E) in a case where rule 9(1) applies to the registered patent agent, the professional indemnity insurance referred to therein has not been obtained or has expired; or
- (iii) when the Registrar subsequently issues another practising certificate to the registered patent agent.

[S 566/2009 wef 15/12/2009]

(2) Where the registration of a patent agent has been cancelled or suspended under rule 20, any practising certificate issued to him shall be treated as cancelled and he shall immediately surrender the certificate to the Registrar.

(3) Any person who without lawful excuse contravenes paragraph (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

Eligibility to apply for registration as foreign patent agent

10A. An individual is eligible to apply for registration as a foreign patent agent if —

- (a) he is resident in Singapore; and
- (b) he is registered as a patent agent or patent attorney with —
 - (i) any patent office (other than the Registry); or
 - (ii) any professional accreditation or regulatory body for patent agents or patent attorneys in any country or jurisdiction other than Singapore.

[S 80/2014 wef 14/02/2014]

Application for registration as foreign patent agent

10B.—(1) An application for registration as a foreign patent agent shall be made to the Registrar in Form H, and shall be accompanied by —

- (a) the applicable fee in the First Schedule;

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- (b) documentary proof of the applicant's eligibility to apply for registration as a foreign patent agent;
 - (c) a certificate of good standing issued by the patent office (other than the Registry), or the professional accreditation or regulatory body for patent agents or patent attorneys, with which the applicant is registered as a patent agent or patent attorney;
 - (d) 2 certificates of good character relating to the applicant in Form B, from 2 responsible individuals —
 - (i) who are not immediately related to the applicant;
 - (ii) who have known the applicant for at least 12 months and have had opportunities to judge his character; and
 - (iii) at least one of whom is resident in the country or jurisdiction in which the applicant is registered as a patent agent or patent attorney; and
 - (e) documentary proof that the applicant has obtained professional indemnity insurance against any liability incurred by him when carrying out foreign patent agency work in the practice year during which his application for registration as a foreign patent agent is made, where the amount of insurance cover is at least \$1 million for each claim.
- (2) The Registrar may require the applicant to furnish, within a specified period, such further evidence or information as the Registrar considers necessary to determine whether the applicant —
- (a) is eligible to apply for registration as a foreign patent agent; or
 - (b) meets the additional requirements referred to in paragraph (4)(b).
- (3) The Registrar may accept in place of, or require in addition to, either or both of the certificates of good character such other evidence of good character of the applicant as the Registrar considers necessary.
- (4) The Registrar may register the applicant as a foreign patent agent by issuing to him a foreign patent agent certificate and entering his

name and particulars in the register of foreign patent agents, if the Registrar is satisfied that the applicant —

- (a) is eligible to apply for registration as a foreign patent agent;
- (b) meets such additional requirements for registration as a foreign patent agent as the Registrar may specify; and
- (c) is of good character.

(5) An application for registration as a foreign patent agent shall be refused if it is not made in accordance with this rule.

[S 80/2014 wef 14/02/2014]

Application for renewal of registration as foreign patent agent

10C.—(1) A registered foreign patent agent who wishes to renew his registration as a foreign patent agent for any practice year shall, before making an application for the renewal of the registration, ensure that professional indemnity insurance has been obtained against any liability incurred by him when carrying out foreign patent agency work in that practice year, where the amount of insurance cover is at least \$1 million for each claim.

(2) An application to renew the registration of a foreign patent agent shall not be made earlier than 2 months before the commencement of the practice year in question.

(3) The application shall be made to the Registrar in Form H, and shall be accompanied by —

- (a) the applicable fee in the First Schedule, which shall be the same amount irrespective of the term of the foreign patent agent certificate;
- (b) a declaration in writing by the applicant stating —
 - (i) his name in full;
 - (ii) the name under which he intends to practise or the name of his employer;
 - (iii) his practice address in Singapore;
 - (iv) that he is resident in Singapore;

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- (v) that he has not been convicted of an offence under the Act and has not been convicted or guilty of any of the matters referred to in rule 17(1)(a) to (g) for which he has not already been dealt with under Part III;
 - (vi) that he continues to meet the requirements of these Rules, and the additional requirements referred to in rule 10B(4)(b), by virtue of which he was registered as a foreign patent agent; and
 - (vii) that he has ensured that the professional indemnity insurance referred to in paragraph (1) has been obtained; and
- (c) a written undertaking by the applicant that —
- (i) he will ensure that the professional indemnity insurance that has been obtained will be maintained in force at all times during the practice year in question; and
 - (ii) where the insurance that has been obtained is due to expire before the end of the practice year, he will ensure that the insurance is renewed before such expiry.

(4) The Registrar may require the registered foreign patent agent to furnish, within a specified period, such other evidence or information as the Registrar considers necessary for the purposes of the application.

(5) The Registrar may renew the registration of the foreign patent agent and issue to him a new foreign patent agent certificate, if the Registrar is satisfied that —

- (a) the application is made in accordance with this rule; and
- (b) the applicant continues to meet the requirements of these Rules, and the additional requirements referred to in rule 10B(4)(b), by virtue of which he was registered as a foreign patent agent.

(6) The renewal of the registration of a foreign patent agent may be subject to such conditions as the Registrar may specify.

[S 80/2014 wef 14/02/2014]

Term of foreign patent agent certificate

10D.—(1) A foreign patent agent certificate issued to a registered foreign patent agent under rule 10B(4) or 10C(5) —

- (a) shall be in force from —
 - (i) the date of its issue; or
 - (ii) if it is issued pursuant to an application for the renewal of the registration of the foreign patent agent made before the beginning of the practice year in question, the first day of the practice year; and
- (b) shall cease to be in force upon the occurrence of any of the following events:
 - (i) the registered foreign patent agent ceases to practise as a registered foreign patent agent;
 - (ii) the registered foreign patent agent ceases to be resident in Singapore;
 - (iii) the registered foreign patent agent has been convicted of an offence under the Act;
 - (iv) the registered foreign patent agent has been convicted, whether in Singapore or elsewhere, of a criminal offence implying a defect of character which makes him unfit for his profession;
 - (v) the registered foreign patent agent ceases to meet any requirement of these Rules, or any additional requirement referred to in rule 10B(4)(b), by virtue of which he was eligible to apply for registration as a foreign patent agent;
 - (vi) the professional indemnity insurance referred to in rule 10B(1)(e) or 10C(1), as the case may be, has not been obtained or has expired;

(vii) the Registrar subsequently issues another foreign patent agent certificate to the registered foreign patent agent.

(2) A foreign patent agent certificate issued in the month of April, pursuant to an application for the renewal of the registration of a foreign patent agent, shall be deemed to have been in force from the first day of that month.

(3) Where the registration of a foreign patent agent has been cancelled or suspended under rule 20, any foreign patent agent certificate issued to him under rule 10B(4) or 10C(5) shall be treated as cancelled, and he shall immediately surrender the certificate to the Registrar.

(4) Any person who without lawful excuse contravenes paragraph (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

[S 80/2014 wef 14/02/2014]

Removal of particulars of foreign patent agent from register of foreign patent agents

10E.—(1) Subject to paragraph (3), the Registrar shall remove, from the register of foreign patent agents, the name and other particulars of any foreign patent agent —

- (a) who has ceased to practise as a registered foreign patent agent;
- (b) who has failed to renew his registration as a foreign patent agent;
- (c) who applies for his registration as a foreign patent agent to be cancelled; or
- (d) whose registration as a foreign patent agent has been cancelled under Part III.

(2) A foreign patent agent who has ceased to practise as a registered foreign patent agent shall, within 7 days after his last day of practice as a registered foreign patent agent, notify the Registrar in writing of that cessation.

(3) The Registrar shall not remove, from the register of foreign patent agents, under paragraph (1)(c) the name and other particulars of a foreign patent agent, if —

- (a) any complaint has been made against the foreign patent agent, or any information has been provided in respect of the foreign patent agent, to the Disciplinary Committee under rule 17; or
- (b) any disciplinary proceedings under Part III are pending against the foreign patent agent.

[S 80/2014 wef 14/02/2014]

Correction of errors in documents filed

11.—(1) A request to correct a clerical error or mistake in any document filed with the Registrar under these Rules shall be made by filing with him Form D and by paying the applicable fee specified in the First Schedule.

(2) The Registrar may require the person making the request to furnish, within a specified period, such other evidence or information as the Registrar considers necessary to determine if the correction should be made.

Correction of errors in register of patent agents or register of foreign patent agents

12. The Registrar may, whether or not on his own initiative, if satisfied that any entry in the register of patent agents, or in the register of foreign patent agents, has been made in error or that any entry is incorrect, delete or correct the same.

[S 80/2014 wef 14/02/2014]

Update of particulars

13.—(1) A registered patent agent or registered foreign patent agent shall, within one week of any change in his name or practice address, give notice to the Registrar of the change by filing with the Registrar Form D and paying the fee specified in the First Schedule.

[S 80/2014 wef 14/02/2014]

(2) Upon receipt of the matters referred to in paragraph (1), the Registrar shall update the entry in the register of patent agents or the register of foreign patent agents, as the case may be, accordingly.

[S 80/2014 wef 14/02/2014]

Inspection of register of patent agents or register of foreign patent agents

14. Any person may, subject to such conditions as the Registrar may specify, inspect, search or retrieve information from the register of patent agents or the register of foreign patent agents.

[S 80/2014 wef 14/02/2014]

Duplicate certificates

15.—(1) If a certificate of registration, practising certificate or foreign patent agent certificate has been lost, destroyed or defaced or becomes obliterated so that any information on such certificate is illegible, the holder thereof shall immediately notify the Registrar by filing Form E and by paying the applicable fee in the First Schedule.

[S 80/2014 wef 14/02/2014]

(2) Subject to paragraphs (3) and (4), the Registrar may issue a duplicate of such certificate to the holder.

(3) In the case of a certificate of registration, practising certificate or foreign patent agent certificate that has been defaced or become obliterated, no duplicate of such certificate shall be issued unless the original is first returned to the Registrar.

[S 80/2014 wef 14/02/2014]

(4) In the case of a certificate of registration, practising certificate or foreign patent agent certificate that has been lost or destroyed, no duplicate of such certificate shall be issued unless the holder has made a statutory declaration of the loss or destruction and forwarded the statutory declaration to the Registrar.

[S 80/2014 wef 14/02/2014]

PART IIA

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE

[S 566/2009 wef 15/12/2009]

Code of conduct

15A.—(1) Every registered patent agent who has in force a practising certificate, and every registered foreign patent agent who has in force a foreign patent agent certificate, shall comply with the Code of Conduct set out in the Fifth Schedule.

[S 80/2014 wef 14/02/2014]

(2) Disciplinary proceedings may be taken against any registered patent agent or registered foreign patent agent referred to in paragraph (1) who contravenes any provision of the Code of Conduct.

[S 80/2014 wef 14/02/2014]

PART III**DISCIPLINARY PROCEEDINGS****Appointment of Disciplinary Committee**

16.—(1) The Minister may in writing appoint a Disciplinary Committee which shall consist of —

(a) a registered patent agent or registered foreign patent agent;

[S 80/2014 wef 14/02/2014]

(b) an advocate and solicitor; and

(c) a lay person.

(2) The Minister shall appoint one member of the Disciplinary Committee as the president.

(3) The members of the Disciplinary Committee shall hold office for such term as may be determined by the Minister and shall be eligible for reappointment.

(4) Notice of the appointment of the Disciplinary Committee shall be published in the Patents Journal.

(5) Any member of the Disciplinary Committee may resign at any time by giving notice in writing to the Minister.

(6) If any member of the Disciplinary Committee is, by reason of illness, absence or other cause, for the time being unable to perform the duties of his office, the Minister may appoint another person to discharge the duties of that member for such term as the Minister may

determine, and a person so appointed shall, during that term, have the same powers and functions as the person in whose place he is appointed.

(7) All members must be present to constitute a quorum for a meeting of the Disciplinary Committee.

(8) Any question arising at a meeting of the Disciplinary Committee shall be determined by a majority of votes.

Complaint against registered patent agent or registered foreign patent agent

17.—(1) The Registrar or any person (referred to in this Part as the complainant) may make a complaint or provide information to the Disciplinary Committee that a registered patent agent or registered foreign patent agent (referred to in this Part as the affected person) —

(a) has been convicted, whether in Singapore or elsewhere, of a criminal offence implying a defect of character which makes him unfit for his profession;

[S 80/2014 wef 14/02/2014]

(b) has been guilty of fraudulent or grossly improper conduct in carrying out his professional duties;

(c) has been adjudicated bankrupt and has been guilty of any of the acts mentioned in section 124(5)(a), (b), (c), (d), (e), (f), (h), (i), (k), (l) or (m) of the Bankruptcy Act (Cap. 20);

(d) has allowed any person who is not a registered patent agent to carry out any patent agency work in his name (if the affected person is a registered patent agent), or has allowed any person who is not a registered patent agent or registered foreign patent agent to carry out any foreign patent agency work in his name (if the affected person is a registered foreign patent agent), where that other person was not under his direct and immediate control and supervision when carrying out the work;

[S 80/2014 wef 14/02/2014]

(e) has obtained registration as a patent agent or foreign patent agent, or a practising certificate or foreign patent agent certificate, by fraud or misrepresentation;

[S 80/2014 wef 14/02/2014]

(f) has breached any condition to which his registration as a patent agent or foreign patent agent, or the issue of his practising certificate or foreign patent agent certificate, is subject, or has breached any undertaking made to the Registrar; or

[S 80/2014 wef 14/02/2014]

(g) has been guilty of conduct unbecoming a member of his profession.

[S 80/2014 wef 14/02/2014]

(2) Any complaint or information made or given by any person other than the Registrar shall be forwarded to the Registrar and shall —

(a) be in Form F;

(b) state the name of the affected person and his address, if known;

(c) state the nature of the complaint;

(d) state the name and address of the complainant;

(e) be signed by the complainant; and

(f) be accompanied by —

(i) a statutory declaration verifying the facts on which the complainant relies in support of his complaint or information; and

(ii) the applicable fee in the First Schedule.

(3) The Registrar shall forward the matters received under paragraph (2) to the Disciplinary Committee.

(4) The Disciplinary Committee may require the complainant to provide such further information or document as it may consider necessary for its inquiry and may, if he fails without lawful excuse to do so, dismiss the complaint or matter.

(5) Where the complainant withdraws the complaint made or information given by him before the Registrar has referred the complaint or information to the Disciplinary Committee or before the conclusion of the inquiry by the Disciplinary Committee into the complaint or information —

- (a) the Registrar may, notwithstanding such withdrawal, refer the complaint or information to the Disciplinary Committee or direct the Disciplinary Committee to continue the inquiry, as the case may be;
- (b) the Disciplinary Committee shall comply with the direction; and
- (c) all future proceedings on the complaint or information shall be taken as if the complaint had been made, or the information had been given, by the Registrar.

[S 566/2009 wef 15/12/2009]

Inquiry by Disciplinary Committee

18.—(1) If the Disciplinary Committee is of the opinion that the affected person should be called upon to answer any allegation made against him, the Committee shall serve on him —

- (a) a copy of the complaint or information and any statutory declaration made in support of it; and
- (b) a notice inviting him, within the period specified in the notice (not being less than one month from the date of the notice), to —
 - (i) submit to the Disciplinary Committee any written representations he may wish to make; and
 - (ii) advise the Disciplinary Committee if he wishes to make oral representations.

(2) The Disciplinary Committee shall serve on the complainant a copy of the notice referred to in paragraph (1)(b) and a copy of any written representations made by the affected person.

(3) If the affected person has advised the Disciplinary Committee that he wishes to make oral representations, the Committee shall give him not less than one month's notice, or such shorter period as the

affected person may request or consent to accept, of the date, time and place at which his representations will be heard.

(4) The Disciplinary Committee shall inform the complainant of the date, time and place appointed for the hearing; and the complainant shall be entitled to appear at the hearing and make submissions touching on the matters in issue.

(5) Where the Disciplinary Committee determines that any complaint made or information given is frivolous or vexatious, the Committee shall dismiss the complaint or matter and any fee paid under rule 17(2)(f)(ii) shall not be refunded to the complainant.

Hearing of representations

19.—(1) The Disciplinary Committee may determine the procedure to be followed at the hearing and need not apply the rules of evidence.

(2) The Disciplinary Committee may at the hearing take evidence on oath or affirmation; and for that purpose may administer oaths and affirmations.

(3) At the hearing, the affected person and complainant may each appear in person or be represented by an advocate and solicitor who has in force a practising certificate issued under section 25 of the Legal Profession Act (Cap. 161).

(4) The affected person or complainant, or his representative, may request the Disciplinary Committee to summon a witness to give evidence or produce any document or article relating to any matter in issue.

(5) Any person who, without lawful excuse, refuses or fails —

(a) to appear in obedience to the summons; or

(b) to be sworn or to make an affirmation, to give evidence relating to any matter in issue, or to produce any document or article specified in the summons, at the hearing,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

(6) The hearing may be adjourned at the discretion of the Disciplinary Committee and, if adjourned, it shall give the affected person and complainant reasonable notice of the date, time and place at which the hearing is to be resumed.

Powers of Disciplinary Committee upon inquiry

20.—(1) Where, upon due inquiry into the complaint or matter, the Disciplinary Committee is satisfied that the affected person has been convicted or guilty of any of the matters referred to in rule 17(1)(a) to (g), it shall —

- (a) reprimand the affected person;
- (b) order that his registration as a patent agent, or as a foreign patent agent, be suspended for a period not exceeding 12 months;

[S 80/2014 wef 14/02/2014]

- (c) order that his registration as a patent agent, or as a foreign patent agent, be cancelled; or

[S 80/2014 wef 14/02/2014]

- (d) make such other order as it considers appropriate.

(2) The Disciplinary Committee may, in addition to the facts of the complaint or matter, take into account any past conduct of the affected person in order to determine what order should be made.

(3) Where, upon due inquiry into the complaint or matter, the Disciplinary Committee is not satisfied that the affected person has been convicted or guilty of any of the matters referred to in rule 17(1)(a) to (g), it shall dismiss the complaint or matter.

(4) The Disciplinary Committee shall serve on the Registrar, the affected person and the complainant (if he is not the Registrar) a report of its decision, including —

- (a) a record of the proceedings before it; and
- (b) the grounds for its decision.

[S 566/2009 wef 15/12/2009]

(5) If the Disciplinary Committee orders that the registration of the affected person be suspended, the Registrar shall enter the order and

the period of suspension in the register of patent agents or the register of foreign patent agents, as the case may be.

[S 80/2014 wef 14/02/2014]

(6) If the Disciplinary Committee orders that the registration of the affected person be cancelled, the Registrar shall remove the name and other particulars of the affected person from the register of patent agents or the register of foreign patent agents, as the case may be.

[S 80/2014 wef 14/02/2014]

Completion of outstanding business

21.—(1) Where the registration of the affected person has been ordered by the Disciplinary Committee to be suspended or cancelled —

(a) in any case where the affected person is a registered patent agent, the Committee may, with the agreement of any other registered patent agent, appoint that other registered patent agent to carry on the practice of the affected person for such period as the Committee may specify; or

(b) in any case where the affected person is a registered foreign patent agent, the Committee may, with the agreement of any other registered foreign patent agent, appoint that other registered foreign patent agent to carry on the practice of the affected person for such period as the Committee may specify.

[S 80/2014 wef 14/02/2014]

(2) The registered patent agent or registered foreign patent agent so appointed may give notice to the affected person requiring him to make available to the registered patent agent or registered foreign patent agent —

(a) any information about the practice that the registered patent agent or registered foreign patent agent may reasonably require to carry on the practice;

[S 80/2014 wef 14/02/2014]

(b) any books, accounts or other documents concerning the practice that the registered patent agent or registered foreign patent agent may reasonably require to carry on the practice;

[S 80/2014 wef 14/02/2014]

- (c) any moneys held by the affected person —
- (i) on behalf of a client; or
 - (ii) that have been paid by a client in respect of services not yet performed for the client.

[S 80/2014 wef 14/02/2014]

(3) Any person given a notice under paragraph (2) who without lawful excuse fails or refuses to comply with a requirement in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Restoration of registration as patent agent or foreign patent agent

22.—(1) An individual whose registration as a patent agent or as a foreign patent agent has been cancelled may make an application to the Disciplinary Committee for his registration to be restored.

[S 80/2014 wef 14/02/2014]

- (2) The application shall —
- (a) be made in Form G;
 - (b) be made through the Registrar; and
 - (c) be accompanied by the applicable fee in the First Schedule.

(3) The Disciplinary Committee may, after considering all relevant circumstances and upon the furnishing by the applicant of such information or document as it may require within the specified period and compliance by the applicant of all conditions imposed by it, if any, restore his registration.

(4) The Disciplinary Committee shall inform both the individual and the Registrar of its decision; and the Registrar shall, if the decision is to restore the registration of the individual, re-enter the individual's name and other particulars in the register of patent agents or register of foreign patent agents, as the case may be.

[S 80/2014 wef 14/02/2014]

(5) No application for the restoration of a registration shall be made to the Disciplinary Committee before the expiration of 2 years from the date of the cancellation.

PART IV
TRANSITIONAL MATTERS

Transitional provision as to registration of patent agents

23.—(1) Notwithstanding rule 6, an individual is entitled to be registered as a patent agent if —

- (a) he is resident in Singapore;
- (b) immediately before 2nd January 2002, he was either —
 - (i) registered as a patent agent or its equivalent in any country or territory, or by a patent office, specified in the Fourth Schedule;
 - (ii) an advocate and solicitor; or
 - (iii) the holder of a university degree or equivalent qualification that is approved by the Registrar; and
- (c) he had carried out patent agency work, in Singapore —
 - (i) for a continuous period of 12 months immediately before 2nd January 2002;
 - (ii) for a total period of 12 months at any time between 2nd January 2000 and 2nd January 2002; or
 - (iii) for such other period as the Registrar may allow,and had been resident in Singapore during that period.

(2) An application for registration of an individual referred to in paragraph (1) shall be made —

- (a) no later than 9 months from 2nd January 2002; and
- (b) in accordance with rule 7.

(3) The Registrar may require the applicant to provide, within a specified period, such other supporting evidence as the Registrar considers necessary.

(4) If the Registrar is satisfied that the applicant —

- (a) is entitled to be registered in accordance with paragraph (1);

(b) is sufficiently proficient in the law of patents and has the necessary knowledge and practical experience to carry out patent agency work; and

(c) is of good character,

he shall register the applicant as a patent agent by issuing to him a certificate of registration and entering his name and other particulars in the register of patent agents.

[S 80/2014 wef 14/02/2014]

(5) The Registrar may, before registering the applicant, require him to satisfy, within a specified period, such conditions as the Registrar considers appropriate.

(6) The Registrar may subject the registration of the applicant to such conditions as the Registrar considers appropriate.

(7) An application that is not made in accordance with this rule shall be refused.

Transitional provision as to practising certificates

24.—(1) Notwithstanding rule 9(3), an application for a practising certificate for the practice year ending 31st March 2002 may be made at any time before that date.

(2) Notwithstanding rule 10, a practising certificate referred to in paragraph (1) shall be taken to be in force from the date of its issue.

Transitional provision as to practice as patent agent

25.—(1) Any person who, immediately before 2nd January 2002 —

(a) has been carrying on a business, practising or acting as a patent agent within the meaning of section 105(4) of the Act;

(b) has been carrying on a business under any name or other description which contains the words “patent agent”, “patent attorney” or other like expression; or

(c) in the course of a business, has been describing himself, holding himself out or permitting himself to be described or held out as a patent agent, patent attorney or other like expression,

may continue to do so as if section 105 of the Act had not been enacted for a period of one year from that date.

FIRST SCHEDULE

<i>Matter or Proceeding</i>	Rules 3, 7(1), 9(4), 10B(1), 10C(3), 11(1), 13(1), 15(1), 17(2) and 22(2)	
	<i>Form</i>	<i>Amount (\$)</i>
1. Application for registration as a patent agent under rule 7 or 23	A	150
2. Application for practising certificate under rule 9 —	C	
(a) for the practice year ending on 31st March 2002		50 irrespective of term of certificate
(b) for any other practice year		150 irrespective of term of certificate
3. Request to correct an error in a filed document under rule 11 or to update a change in name or practice address under rule 13	D	20
4. Request for a duplicate copy of certificate of registration, practising certificate or foreign patent agent certificate under rule 15	E	150
5. Making a complaint against a registered patent agent or registered foreign patent agent under rule 17	F	500
6. Application for restoration of registration as a patent agent or foreign patent agent	G	150
7. Application for registration as a foreign patent agent under rule 10B or for renewal of registration as a foreign patent agent under rule 10C	H	\$300

[S 80/2014 wef 14/02/2014]

SECOND SCHEDULE

Rule 4(3)

DESCRIPTIONS OF FORMS

<i>Form</i>	<i>Description of Form</i>
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SECOND SCHEDULE — *continued*

- A Application for Registration as a Patent Agent under rule 7(1)
- B Certificate of Good Character under rule 7(1)(c) or 10B(1)(d)
- C Application for a Practising Certificate under rule 9
- D Request to Correct an Error under rule 11/Notice of Change of Particulars under rule 13
- E Request for a Duplicate Copy of the Certificate of Registration, Practising Certificate or Foreign Patent Agent Certificate under rule 15
- F Complaint against a Registered Patent Agent or Registered Foreign Patent Agent under rule 17
- G Application for the Registration of Patent Agent or Foreign Patent Agent to be Restored under rule 22
- H Application for Registration as a Foreign Patent Agent under rule 10B or for Renewal of Registration as a Foreign Patent Agent under rule 10C

[S 80/2014 wef 14/02/2014]

[S 92/2007 wef 01/04/2007]

THIRD SCHEDULE

Rule 6

PART I

APPROVED COURSE

Graduate Certificate in Intellectual Property Law course conducted by the Faculty of Law, National University of Singapore.

PART II

APPROVED EXAMINATION

Patent Agents Qualifying Examinations conducted by the Registrar comprising Papers A to D.

FOURTH SCHEDULE

Rules 6, 8(1) and 23(1)

List of countries and territories for the purposes of rules 6(e), 8(1)(c) and 23(1)(b)(i).

FOURTH SCHEDULE — *continued*

Australia

Canada

New Zealand

United Kingdom

United States of America

List of patent offices for the purposes of rules 6(e), 8(1)(c) and 23(1)(b)(i).

European Patent Office

FIFTH SCHEDULE

Rule 15A(1)

CODE OF CONDUCT

Application

1. This Code of Conduct shall only apply to any relevant patent agent.

[S 80/2014 wef 14/02/2014]

Definitions

1A. In this Code of Conduct, unless the context otherwise requires —

“client”, in relation to a relevant patent agent —

(a) means a person —

(i) on whose behalf the relevant patent agent acts as an agent; or

(ii) for whom the relevant patent agent undertakes any work; and

(b) includes —

(i) a person for whom the relevant patent agent provides an address for service for any matter under the Patents Act (Cap. 221); and

(ii) an intermediary through whom the relevant patent agent receives instructions;

“relevant patent agent” means —

(a) a registered patent agent who has in force a practising certificate; or

(b) a registered foreign patent agent who has in force a foreign patent agent certificate.

[S 80/2014 wef 14/02/2014]

FIFTH SCHEDULE — *continued*

Undertaking of work

2.—(1) A relevant patent agent shall, when undertaking any work, apply the standard of skill, care and diligence that may reasonably be expected of a relevant patent agent.

(2) A relevant patent agent shall ensure that the appropriate expertise (including technical expertise) is applied when any work is undertaken for his client.

(3) A relevant patent agent shall not represent that he is able to represent his client before the court, if he is not entitled to do so.

[S 80/2014 wef 14/02/2014]

Responsibility for work, act or omission of other person

3.—(1) A relevant patent agent shall be responsible for any work done by, and any act or omission of, another person, if the work, act or omission is expressly or impliedly sanctioned by the relevant patent agent.

(2) A relevant patent agent shall exercise proper supervision over his employees and other staff.

(3) If any employee or other staff of a relevant patent agent (such employee or staff not being a relevant patent agent) deals with a client of the relevant patent agent, the relevant patent agent shall ensure that the client is informed that the employee or staff is not a relevant patent agent.

[S 80/2014 wef 14/02/2014]

Referral to other person

4.—(1) A relevant patent agent who engages any other person, whether in Singapore or elsewhere, to act on behalf of a client in a matter shall ensure that the other person has the appropriate qualifications and the requisite expertise to deal with the matter.

(2) A relevant patent agent shall not engage any other person, whether in Singapore or elsewhere, to act on behalf of a client in a matter, unless the relevant patent agent has obtained the client's consent to do so.

[S 80/2014 wef 14/02/2014]

Maintenance of professional standards

5.—(1) A relevant patent agent shall at all times maintain the standards of his profession, and be courteous and ethical.

[S 80/2014 wef 14/02/2014]

(2) A relevant patent agent shall ensure that he understands, and is aware of any changes to —

FIFTH SCHEDULE — *continued*

(a) the Patents Act (Cap. 221) and all subsidiary legislation made under that Act; and

(b) the practices of the Registry and the Office which relate to his practice in Singapore.

[S 80/2014 wef 14/02/2014]

[S 80/2014 wef 14/02/2014]

(3) A relevant patent agent shall not be fraudulent or deceitful.

[S 80/2014 wef 14/02/2014]

(4) A relevant patent agent shall ensure that his client is made aware of the implications, in terms of procedures, costs and timing, of any course of action recommended by him.

[S 80/2014 wef 14/02/2014]

(5) A relevant patent agent shall —

(a) at the request of his client, provide a detailed estimate of the costs of acting for the client in a matter; and

(b) if it appears that those costs will exceed the estimate by a material amount, ensure that the client is informed before those costs exceed the estimate.

[S 80/2014 wef 14/02/2014]

(6) A relevant patent agent shall not undertake any work in such a manner as to unnecessarily or improperly escalate any costs that may be payable to him.

[S 80/2014 wef 14/02/2014]

(7) A relevant patent agent shall not overcharge his client.

[S 80/2014 wef 14/02/2014]

(8) A relevant patent agent who withdraws his services or ceases to act for a client shall, before doing so, inform the client of any actions necessary to protect or maintain the client's rights and interests in any patent or application for a patent.

[S 80/2014 wef 14/02/2014]

Touting

6. A relevant patent agent shall not —

(a) tout for business; or

(b) do any thing which will reasonably lead to the inference that the thing is done for the purpose of touting.

[S 80/2014 wef 14/02/2014]

FIFTH SCHEDULE — *continued*

Referral by other person

7. Where a client is referred to a relevant patent agent by any other person (referred to in this paragraph as the referrer), the relevant patent agent —

- (a) shall maintain his professional independence and integrity, and shall not permit his professional independence and integrity to be undermined by the referrer;
- (b) shall not pay the referrer any commission or other consideration, or otherwise reward the referrer;
- (c) shall not allow the referral, his relationship with the referrer, or any desire to avoid offending the referrer, to affect his advice to the client in any way;
- (d) shall advise the client impartially and independently;
- (e) shall ensure that any decision made by him in relation to the nature, style and extent of his practice are not, in any way, influenced by the referrer; and
- (f) shall, while engaged by the client, communicate directly with the client when obtaining or confirming any instructions or giving any advice.

[S 80/2014 wef 14/02/2014]

Clients' moneys

8.—(1) A relevant patent agent shall deal with his clients' moneys in accordance with the applicable accounting standards.

[S 80/2014 wef 14/02/2014]

(2) A relevant patent agent shall not use any moneys paid by a client for any purpose other than the purpose for which the client paid the moneys.

[S 80/2014 wef 14/02/2014]

Acting in client's interests

9.—(1) A relevant patent agent shall at all times act in accordance with the law and in the interests of his client.

[S 80/2014 wef 14/02/2014]

(2) A relevant patent agent shall —

- (a) act promptly on his client's instructions; or
- (b) promptly inform his client, if he is unable to do so.

[S 80/2014 wef 14/02/2014]

(3) A relevant patent agent shall not take advantage, for his own benefit or the benefit of any other person, of —

FIFTH SCHEDULE — *continued*

- (a) any information given to him by his client; or
- (b) any circumstances arising from his professional relationship with his client.

[S 80/2014 wef 14/02/2014]

(3A) A relevant patent agent shall keep his client informed of each development in each matter that he is handling for the client.

[S 80/2014 wef 14/02/2014]

(4) A relevant patent agent shall —

- (a) give his client a reasonable opportunity to view the drafts of his client's specification, before his client's application for a patent is filed; or
- (b) inform his client, if there is insufficient time to do so.

[S 80/2014 wef 14/02/2014]

(5) A relevant patent agent shall make available or forward to his client, on his client's request, all documents, samples and other materials that belong to the client, subject to any lien which the relevant patent agent may have on those documents, samples or materials under any written law.

[S 80/2014 wef 14/02/2014]

Confidentiality

10.—(1) Except with the consent of a client or as required by law or any order of any court of competent jurisdiction, a relevant patent agent shall not disclose (directly or indirectly) or use, and shall take reasonable care to prevent his employees and other staff, and any other person engaged by him to act on behalf of the client, from disclosing (directly or indirectly) or using —

- (a) any confidential information which he receives as a result of the retainer by the client; or
- (b) the contents of any papers containing any instructions from the client.

[S 80/2014 wef 14/02/2014]

(2) Notwithstanding sub-paragraph (1), a relevant patent agent may utilise any confidential information referred to in sub-paragraph (1)(a) and any contents referred to in sub-paragraph (1)(b) to respond to or defend, whether before any court of competent jurisdiction or any Disciplinary Committee —

- (a) any charge or complaint relating to his professional conduct; and
- (b) any complaint made or information given against him under rule 17.

[S 80/2014 wef 14/02/2014]

FIFTH SCHEDULE — *continued*

Conflict of interests

11.—(1) A relevant patent agent shall take all reasonable steps to avoid being placed in a situation where there is a conflict between —

- (a) his interests and the interests of one or more of his clients; or
- (b) the interests of 2 or more of his clients.

[S 80/2014 wef 14/02/2014]

(2) Where there is any actual or potential conflict of interests referred to in sub-paragraph (1), a relevant patent agent shall —

- (a) take immediate steps to resolve the actual or potential conflict of interests; and
- (b) ensure that none of his clients are adversely affected by the actual or potential conflict of interests.

[S 80/2014 wef 14/02/2014]

Misleading or deceptive conduct or practice

12.—(1) A relevant patent agent shall not engage in any conduct or practice that is misleading or deceptive, or that is likely to mislead or deceive, in his dealings with the Registrar, the Registry, the Office or any other person.

[S 80/2014 wef 14/02/2014]

(2) Without prejudice to the generality of sub-paragraph (1), if any advertising or promotional activities are conducted by or on behalf of a relevant patent agent, he shall ensure that —

- (a) all statements made in the course of those activities —
 - (i) are honest and accurate; and
 - (ii) are not misleading, deceptive or likely to mislead or deceive; and
- (b) if any such statements contain comparisons or are of a comparative nature —
 - (i) those statements are supported by facts; and
 - (ii) the comparisons are not misleading or likely to mislead.

[S 80/2014 wef 14/02/2014]

(3) In this paragraph, “mislead” includes —

- (a) lie;
- (b) lead to a wrong conclusion;
- (c) create a false impression;

FIFTH SCHEDULE — *continued*

(d) omit or conceal relevant information; and
(e) make false or inaccurate claims,
and “misleading” shall be construed accordingly.

[S 566/2009 wef 15/12/2009]

Made this 18th day of December 2001.

LIEW HENG SAN
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW/06/011/012 Vol. 12; TM C003/80 Vol. 7; AG/LEG/SL/221/
1997/1 Vol. 2]