

DRAFT (second version)



**AN ACT TO ESTABLISH
THE LIBERIA INTELLECTUAL PROPERTY OFFICE,
2014**

AN ACT TO ESTABLISH THE LIBERIA INTELLECTUAL PROPERTY OFFICE, 2014

WHEREAS, Liberia has maintained a Patent, Copyright and Trademark Law as Title 24 of the Liberian Code of Laws Revised; and

WHEREAS, the Patent and Trademark portions of said Title along with other related areas were developed into the Industrial property Act of Liberia which came into effect on April 30, 2003; and

WHEREAS, the Copyright portion of said Title 24 was re-enacted as “An Act Adopting a New Copyright Law of the Republic of Liberia” which came into effect on July 30, 1997; and

WHEREAS, each of these Acts establish an office to regulate the specific aspect of Intellectual Property within the scope of each Act; and

WHEREAS, under this arrangement Liberia maintains an Industrial property office separate and distinct from of its Copyright Office; and

REALIZING that it is necessary to combine the Industrial Property Office and the Copyright Office to make them more capable and responsive, both organizationally and functionally and remove bureaucracies and disjointed operations in order to establish a single Intellectual Property regime for the Country;

ACKNOWLEDGING, that necessary and proper changes in the organizational and functional structures of the government and its agencies promote economic development, efficiency in deployment of resources and effectiveness in the delivery of public services;

NOW THEREFORE, it is enacted by the Senate and the House of Representative of the Republic of Liberia, in Legislature Assembled.

SECTION 1: *Short Title.* This Act may be cited as ”Liberia Intellectual Property Office Act”.

SECTION 2: *Repealer.* Chapter 1 and Chapter 2 of the Industrial Property Act of Liberia dated April 30, 2003 is hereby repealed and the organizational structure established thereunder. Section 2.44 through 2.47 of the Act Adopting a new Copyright Law of Liberia dated July 30, 1997 is hereby repealed and the organizational structure established thereunder. This Act to Establish the Liberia Intellectual Property Office, which combines the Industrial Property Office and the Copyright Office into the Liberia Intellectual Property Office, shall read as follows:

PART I

Preliminary Provisions

§ 1.1. Definitions

In this subchapter, unless the context otherwise requires;

“the Board” means the Board of Directors;

“Director General” means the Director General of the Liberia Intellectual Property Office;
and

“Minister” means the Minister of Commerce;

“Office” means the Liberia Intellectual Property Office.

§1.2 Establishment of Liberia Intellectual Property Office

There is hereby established an in the Executive Branch of Government a semi-autonomous agency to be known as “Liberia Intellectual Property Office”, hereinafter referred to as the “Office” under the policy direction of the Minister to administer all intellectual property matters. The Office’s headquarters shall be in Monrovia. The Office shall be a body corporate with perpetual succession and a common seal and shall be capable, in its corporate name, of:

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (e) entering into contracts; and
- (f) doing or performing all such other things or acts necessary for proper performance of its functions under this Act which may lawfully be done by a body corporate.

§1.3. Functions of the Office

The functions of the Office shall be to:

- (a) formulate policies;
- (b) make decisions regarding the management and administration of its operations and exercise independent control of its budget allocations and expenditures, personnel matters and processes, procurements, and other administrative and management functions in accordance with applicable laws of Liberia;
- (c) process applications for grant of patents and copyrights, and for registration of utility models, industrial designs, trademarks, geographical indication, and layout designs (topographies);

- (d) screen technology transfer agreements and licenses;
- (e) provide to the public, intellectual property information for technological and economic development;
- (f) conduct programs, studies, exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically; and
- (g) maintain registers for intellectual property and all recordings required under intellectual property acts;
- (h) promote inventiveness and innovativeness in Liberia;
- (i) establish and operate an intellectual property documentation center for the purpose of dissemination of information on intellectual property;
- (j) collaborate and coordinate with the Ministry of Commerce, the Ministry of Justice, The Revenue Authority and other relevant agencies of Government as relates to intellectual property as well as international authorities or bodies; and
- (k) perform such other functions as directly relate to the operations of the Office.

§1.4. Powers of the Office

The powers of the Office shall be to:

- (a) charge administrative fees for applications, registrations and other services rendered;
- (b) issue licenses including compulsory licenses, and certificates;
- (c) publish in the Official Gazette all publications required relating to intellectual property;
- (d) promulgate regulations governing intellectual property pursuant to intellectual property acts;
- (e) hold administrative hearings and render decisions and orders with respect to complaints in connection with intellectual property rights; and
- (f) govern the recognition and conduct of agents, attorneys or other persons representing applicants for patents; and
- (g) any other powers conferred by the Board of Directors.

§1.5. Immunities of the Office

An employee of the Office shall not, in his/her personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his/her functions under this subchapter.

PART II

Organization and Structure

§2.1. Appointment of Director General, Deputy Directors

(a) With the advise and consent of the Senate, the Director General and Deputy Directors General of the Office shall be appointed by the President of Liberia, giving due consideration to gender balance.

(b) The Director General, and Deputy Directors General may be removed from Office by the President upon recommendation of the Board for misconduct or non-satisfactory performance.

(c) The Director General shall possess the following minimum qualifications and experience:

- (i.) be a licensed Attorney-At-Law, practiced law in Liberia for at least three years, or has a bachelors degree relating to intellectual property, and has three years' managerial experience in intellectual property; or
- (ii.) be a licensed Counselor-At Law with at least three years managerial experience in intellectual property; or
- (iii.) has a master degree relating to intellectual property with at least three years senior managerial experience in intellectual property; and
- (iv.) has fulfilled the asset declaration requirement prescribed by the Government of Liberia within the timeline prescribed and no later than the day before reporting for confirmation by the Senate.

(c) The Deputy Director General for Industrial Property shall possess the following minimum qualifications and experience:

- (i.) Has a bachelors of science degree in any of the physical sciences, engineering, or other technology and a certificate of achievement or its equivalent in industrial property with a minimum of three years' experience in industrial property; and

- (ii.) Has fulfilled the asset declaration requirement prescribed by the Government of Liberia not later than the day before reporting for confirmation by the Senate.
- (d) The Director General for Copyright shall possess the following minimum qualifications and experience:
- (i.) has a bachelors degree in liberal arts, Management, Economics, Public Administration, Journalism, English or Sociology, and a certificate of achievement or its equivalent in Copyright with a minimum of three years' experience in Copyright; and
 - (ii.) has fulfilled the asset declaration requirement prescribed by the Government of Liberia not later than the day before reporting for confirmation by the Senate.

§2.1. Duties of the Director General

(a) The Director General shall be the Chief Executive Officer of the Office and shall perform the following duties:

- (i.) Be responsible for the day-to-day administration of the Office;
- (ii.) Issue regulations pertaining to intellectual property law with the approval of the Board;
- (iii.) Develop a national policy on intellectual property;
- (iv.) Coordinate all activities affecting bilateral and multilateral agreements relating to intellectual property;
- (v.) Establish a national public outreach and other programs within the Intellectual Property Office to enhance the protection of intellectual property rights and the development of intellectual property in Liberia, as well as cooperation with international competent authorities responsible for administration of intellectual property;
- (vi.) Appoint staff as deemed necessary to assist the Office in the performance of its functions;
- (vii.) Oversee recruitment, retirement, promotions, dismissal of personnel of the Office in keeping with human resources policies.
- (viii.) Supervise departments, and oversee divisions, sections and units of the Office in order to ensure effective and efficient performance of their respective functions and duties, and that they are in line with international best practices;

(ix.) Ensure implementation of administrative instructions relating to procedures under intellectual property acts;

(x.) Authorize the correction of any error of translation or transcription, clerical error or mistake in any application, document or recording filed with the Registrar, as well as the extension of time for doing any act or taking any proceeding provided by intellectual property acts or regulation;

(xi.) Perform such other functions relating to intellectual property as are incidental to the position of a director of intellectual property office.

(b) The Director General shall discharge his duties, when expedient, in collaboration with the Ministry of Justice, Ministry of Commerce, Ministry of Finance and Development Planning, the Liberia Revenue Authority and other relevant agencies of the Government.

(c) The Director General shall conduct administrative hearings regarding patents, trademarks and copyrights upon receipt of complaints by interested parties, render administrative decisions and issue orders appealable to circuit courts within two months of the date of a decision

§2.2 Duties of the Deputy Director for Industrial Property

The Deputy Director General for Industrial Property shall be the head of the Industrial Property Department of the Liberia Intellectual Property Office and in that capacity shall: Industrial property rights include protection of results of technical creative work (patents and utility models), protection of design (industrial designs), rights to mark (trademarks, geographical indications and appellations of origin) and topography of semiconductor products.

(a) Assist the Director General in the operation of the Office in matters relating to industrial Property;

(b) Recommend to the Director General the granting of patents, and registration of trademarks, utility models, industrial designs, geographical indication, and layout designs (topographies);

(c) Serve the interest of inventors and businesses with respect to their inventions and corporate products and service identification;

(d) Developing the Industrial Property electronic Registration, Recordation System

(e) Maintain search files of Liberian and foreign patents and registration of other industrial property;

(f) Advise and assist other agencies of government in matters involving industrial property;

(g) Develop regulations covering Industrial Property for approval by the Director General;

- (h) Perform such other functions relating to intellectual property as are incidental to the position of a director of industrial property office.

§2.3. Duties of the Deputy Director for Copyrights

The Deputy Director General for Copyright shall be the head of the Copyright Department of the Liberia Intellectual Property Office and in that capacity shall:

- (a) assist the Director General in the operation of the Intellectual property Office in matters relating to Copyright;
- (b) Developing the Copyright Office Electronic Registration, Recordation and Deposit System
- (c) develop regulations covering Copyright for approval by the Director General;
- (d) Acquiring and assuring the security of materials received through mandatory deposit
- (e) Perform such other functions relating to intellectual property as are incidental to the position of a director of industrial property office.
- (f) Secure legal protection of databases
- (g) Conduct studies and programs regarding copyright, other matters arising under this title
- (h) Engage in cooperation with local and international copyright organizations.

§2.4. Appointment of Registrar

The Registrar shall be appointed by the Board of Directors of the Office and shall possess the following minimum qualification and experience:

- (i.) have acquired at least a bachelors degree in Finance or Accounting or a certificate of achievement or its equivalent in intellectual property with a minimum of three years experience in intellectual property and financial management;
- (ii.) fulfill the asset declaration requirement prescribed by the Government of Liberia not later than the day before s/he reports for confirmation by the Senate;

§2.5. Duties of Registrar

The Registrar shall perform the following duties:

- (a) Maintain registers for intellectual property registered with the Office to record all matters required by intellectual property laws;

- (b) Perform specific duties imposed upon the Registrar by intellectual property acts and related regulations;
- (c) Arrange by periodical publication a Patent Journal;
- (d) Furnish information from registers on request and payment of prescribed fee by the public permitting the public's right of inspection and right to copy pursuant to regulations;
- (e) Perform such other functions as required by regulations of the Office.

§2.6. Organization

Those operations designed to grant and issue patents and those operations which are designed to facilitate the registration of trademarks shall be treated as separate operating units within the Office and established by the Director General with the approval of the Board. There shall also be established an Enforcement unit by the Director General with the approval of the Board.

PART III

Board of Directors

§3.1. Establishment of the Board

There is hereby established a Board of Directors ("the Board") of the Office which shall be the governing body of the Office. The Board, shall, in its actions, support the achievement of the overall functions of the Office.

§3.2. Composition of the Board

- (a) The Board shall be appointed by the President and report directly to him/her, shall comprise eleven members, as follows:
 - (i.) a representative from the Ministry of Education;
 - (ii.) a representative from the Ministry of Information and Cultural Affairs;
 - (iii.) a representative from the Ministry of Justice;
 - (iv.) The Director General of the Agency, who shall be a non-voting member and Secretary to the Board;
 - (v.) three persons selected in such a way so as to ensure equitable geographic, demographic, and gender representation of the country;
 - (vi.) three persons selected on the basis of their qualifications and experience in technology, performing arts, literary arts, or other innovations;

(vii.) one person selected to represent civic society, or the private sector.

(b) There shall be no alternate members.

§3.3. Tenure of Board Members

(a) A member of the Board shall hold office:

(i.) on such terms and conditions as may be the specified instrument of his/her appointment which shall, in the first instance, be for a period of three years; and

(ii.) shall be eligible for re-appointment only for a subsequent period of three years.

(b) In the event the tenure of service of a member expires, such member shall continue to serve until a replacement is appointed and ready to assume office.

(c) The President may terminate or suspend the appointment of a member, including the Chairperson:

(i.) for the member's physical or mental inability to perform the functions of his/her office;

(ii.) for gross misbehavior or incompetence; or

(iii.) if the member is convicted of a criminal offense.

§3.4. Powers and functions of the Board

The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular but without prejudice to the generality of the foregoing, the Board shall have powers to:

(a) control, supervise and administer the assets of the Institute in such manner as best promotes the purpose for which the Office is established;

(b) Determine the organizational structure of the Office and oversee the financial and budgetary system of the Office;

(c) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Office;

(d) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements therefrom;

(e) enter into association with other bodies or organizations within or outside Liberia as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;

- (f) open a banking account or banking accounts for the funds of the Institute; and

§3.5. Conduct of the business and Affairs of the Board

The conduct of the business and affairs of the Board shall be as provided in its By-Laws.

§3.6. Secretariat of the Board

The Office shall serve as Secretariat to the Board and shall prepare the Board's deliberations and coordinate the action of Board members. The Office shall ensure proper liaison with relevant international organizations, and facilitate the transmission of information and data to competent international bodies as required by Liberia's international commitments.

§3.7. Staff of the Office

The Board may approve such personnel vetted by the Office's Human Resource Department to be appointed by the Director General including assistant directors, the registrar, examiners and such officers or other staff of the Institute as are necessary for the proper discharge of its functions under this Act or regulation, upon such terms and conditions of service as the Board may determine.

§3.8. Financial year

The financial year of the Institute shall be the period of twelve months ending on thirtieth June in each year.

§3.9. Accounts and Audits

(a) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Office.

(b) At the end of each financial year, the Board shall submit to the Auditor-General pursuant to the Public Finance Management Law, the accounts of the Office together with:

- (i.) a statement of the income and expenditure of the Office during that year; and

- (ii.) a statement of the assets and liabilities of the Office on the last day of that year.

§3.10. Annual Report

In addition to periodic reports as may be required, the Chairman of the Board shall require the Director General to submit to the President and the National Legislature an Annual Report which shall include a detailed account of registered patents, trademarks, and

copyrights, statistics on intellectual property, income generated and such other relevant facts as it may deem proper.

PART IV

TRANSITIONAL PROVISIONS

§4.1. Transitional provisions

Upon the effective date of this Act, the following actions shall be considered automatically taken:

- (a) the person serving as Director General of the Industrial Property Office shall serve as Acting Director General of the Office;
- (b) the assets, personnel and remaining budget of the Copyright Office shall, in a holdover capacity, continue to perform their respective duties and responsibilities to and receive the corresponding salaries and benefits until the new position structure and staffing pattern of the Office shall be prescribed by the Director General of the Office and approved by the President.
- (c) Incumbents whose positions are not included in the orgnogram of the Office or who may not be re-appointed shall be deemed redundant. Redundant employees shall be paid severance benefits consistent with the laws of Liberia. In the case of employees who meet eligibility for retirement, they shall receive such retirement benefits as provided for under the laws of Liberia; and
- (d) All existing assets, liabilities and obligation of the two agencies shall be transferred to the Office.

SECTION 3: This Act shall take effect immediately upon publication in Handbills by the Ministry of Foreign Affairs.

ANY ACT TO THE CONTRARY NOTWITHSTANDING