

# **PATENT, DESIGN, AND TRADE-MARK ACT, 1965 OF NEPAL**

## **History**

August 30, 1965 First Promulgated. Nepal Rajapatra, Vol. 15, No. 14A (E), Bhadra 14, 2022

October 18, 1987 First Amendment. Nepal Rajapatra, Vol. 37, No. 35 (E), Kartik 1, 2044

Law for amendment of some of the laws relating to Export import and Intellectual property 2063, Nepal Rajapatra Vol. 56 No. 46 Part II, Mangsir 8, 2063

## **Preamble:**

Whereas it is necessary to make timely legal arrangements in respect to patents, designs and trade-marks for the convenience and economic benefit of the general Public, Now therefore, His Majesty King Mahendra Bir Bikram Shah Dev has enacted this law on the advice and with the approval of the National Panchayat.

## **Chapter 1**

### **Preliminary**

#### **1. Short Title Extent and Commencement**

- (1) This law may be called the patent, Design and Trade Mark Act, 1965,
- (2) It shall be applicable throughout the Kingdom of Nepal.
- (3) It shall come into force at once.

#### **2. Definition**

In this law, unless otherwise meant with reference to the subject or context:

- (a) 'Patent' means any useful invention relating to a new method or process of manufacture, operation or publicity of any material or a combination of materials, or that made on the basis of a new theory or formula.
- (b) 'Design' means the form or shape of any material manufactured in any manner.
- (c) 'Trade-mark' means words, symbols, or pictures or a combination thereof to be used by any firm, company or individual in its products or services to distinguish them the produces or services or others.
- (d) 'Department' means the department prescribed by His Majesty's Government by notification in the Nepal Rajapatra, and the Department of Industry unless so prescribed.
- (e) 'Schedules' means the schedule to this act.

- (f) 'Prescribed' or 'as prescribed' means prescribed or in the manner prescribed in the rules framed or orders issued under this act.

## **Chapter 2**

### **Patent**

#### **3. ACQUISITION OF PATENT RIGHTS**

- (1) Any person desirous of obtaining right over any patent shall have such patents registered in his name under this act.
- (2)<sup>1</sup> No one should copy and use, the registered patent in the name of any person under this Act, in his own name or in the name of others, without assignment in his own name as per section 21(D) or without obtaining written permission to use.
- (3)<sup>2</sup> .....

#### **4. APPLICATION FOR ACQUIRING RIGHT OVER PATENT**

- (1) A person desirous of having any patent registered in his name shall submit to the Department an application according to the specimen form specified in Schedules 1(a), containing the particulars mentioned below, along with all available evidence in his possession:-
- (a) Namely address and occupation of the parson inventing the patent.
- (b) If the applicant himself is not the inventors, how and in what manner he acquired title thereto from the inventor.
- (c) Process of manufacturing, operating or using the patent.
- (d) The theory or formula if any on which the patent is based.
- (2) Along with the application mentioned in Sub-Section (1), e applicant shall also submit mans and drawings along with particulars, of the patent, as well as the fee specified in Schedule 3.

#### **5. INVESTIGATION BY DEPARTMENT**

- (1) On receipt of application submitted under Section 4, Department shall, on the advice also of experts if so considered necessary, conduct investigation or studies to ascertain

---

<sup>1</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063

<sup>2</sup> Repealed by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

whether the patent investigations in the application is a new invention or not, and whether it is useful to the general public or not, and thereafter decide whether or not to register such patent.

- (2) In case the Department feels that any patent should not be registered in the circumstances mentioned in Section 6, it shall give a notice to the applicant to the effect that the patent cannot be registered according to his application.
- (3)<sup>3</sup>

## **6. CIRCUMSTANCES IN WHICH PATENTS CANNOT BE REGISTERED**

- (1) The Department shall not register any patent under this act in the following circumstances:-
  - (a) In case the patent is already registered in the name of any other person, or
  - (b) In case the applicant himself is not the inventor of the patent sought to be registered by him, nor has he acquired rights over it from the original inventor, or
  - (c) In case the patent sought to be registered is likely to adversely effect the public health, conduct or morality or the national interest, or
  - (d) In case (the registration of the patent) will constitute a contravention of existing Nepal law.

Provided that nothing contained in Clause (a) shall be deemed to have prejudiced the transfer of the registration of any patent under the provisions of Section 9.

- (2) In the circumstances mentioned in Sub-Section (1), the department may cancel the registration of any patent which had been registered.

Provided that:-

The department shall, before cancelling the registration of any patent, provide an opportunity to the patentee to show cause, if any, why the registration of this patent should not be cancelled.

## **7. REGISTRATION OF PATENT**

- (1) On receipt of applications filed under Section 4 for registration of any patents, the department shall, after completing necessary investigations under Section 5 issue a registration certificate according to the specimen form indicated in Schedule 2 (a) to the applicant, except in the circumstances mentioned in Section 6.

---

<sup>3</sup> Repealed by first amendment on October 18, 1987.

- (2) For obtaining the certificate mentioned in Sub-Section (1), the applicant shall pay the registration fees specified in schedule 3 (1) (b) to the department.

#### **7A. Registered patents to be published.**

- (1) Patents registered under this act, other than those which must be kept secret in the national interest, shall be published by the department in the Nepal Rajapatra for the information of the public.
- 2) In case anybody desires to see or copy the particulars, maps, or drawings of a patent published under Sub-Section (1), he may be allowed to do so after paying the fees prescribed by the department.
- (3) In case anyone has any objection to such a patent, he may file a complaint with the department within a period of 35 days from the date of seeing or copying the patent under Sub-Section 92).
- (4) In case any complaint is received under Sub-Section (3), the department shall take necessary action after conducting inquiries.

#### **8. TERM OF PATENT**

- (1) The title of the patentee to the patent shall be valid for a period of seven years from the date of registration thereof under Section 7, except when it is renewed under Section 23 B.
- (2) Notwithstanding, anything contained in Sub-Section 91), in the case of patents registered before the commencement of this Section, the term fixed according to the provision in force at the time of registration thereof shall be valid, and after the expiry of that term, the patent must be renewed under Section 23B.

**9.<sup>4</sup> ...**

#### **10. SUBMISSION OF DESIGN OR MODEL OF PATENT TO GOVERNMENT ARCHIVES**

The patentee shall submit to the National Archive also a copy of the design or model of the article manufactured according to the patent registered under this act.

#### **11.<sup>5</sup> PUNISHMENT FOR VIOLATION OF SECTION 3**

---

<sup>4</sup> Repealed by law of amendment of some of the laws relating to Export import and Intellectual property 2063

<sup>5</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

In case any person commits the following, he shall be liable for following fine as per extent/ratio of such offence as well as confiscation of articles and goods connected with such offense, on the order of the department.

- A) A fine not exceeding Rs 5,00,000 if any commitment mentioned under Section 3(2).
- B) A fine not exceeding Rs. 2,00,000 if any attempts to commit or abet the commitment mentioned under Section 3(2).

### **Chapter 3**

#### **Design**

#### **12. ACQUISITION OF TITLE TO DESIGN**

- (1) Any person may acquire under this act title to the design of any article manufactured or caused to be manufactured by him after getting it registered under Section 14.
- (2)<sup>6</sup> No one should copy or use the registered Design in the name of any person under this Act, in his own name or in the name of others, without assignment in his own name as per section 21(D) or without obtaining written permission to use.

#### **13. APPLICATION FOR REGISTRATION OF DESIGN**

- (1) Any person desirous of having the design of any article manufactured or caused to be manufactured by him registered under Section 14 shall submit to the Department an application according to the specimen form indicated in Schedule 1 (b), together with four copies of such design and maps, and drawings and particulars thereof.
- (2) The person submitting an application under Sub-Section (1) shall pay, along with the application, the application fee specified in Schedule 3 (2) (a), to the department.

#### **14. REGISTRATION OF DESIGN**

- (1) On receipt of the application filed by any person under Section 13, the department shall register the design in the name of the applicant and then issue to him a certificate as mentioned in Schedule 2(b).

Provided that in case such design hurts the prestige of any individual or institution or adversely affects the public conduct or morality, or undermines the national interest, or in case such design has already been registered in the name of any other person, it shall not be registered under this-Section.

---

<sup>6</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

- (2) For obtaining the certificate mentioned in Sub-Section (1), the applicant shall pay a design registration fee as prescribed in Schedule 3 (2) (b), to the department.
- (3) In case the department is satisfied that there exists any circumstance as mentioned in the restrictive clause of Sub-Section (1), it may cancel the registration of any design.

Provided that:-

The department shall, before cancelling the registration of such design, provide reasonable opportunity to the design- holder to show cancel if any, why the registration of his design should not be cancelled.

#### **14A. Term of Design**

The title of the person in whose name a design has been registered under Section 14 shall remain valid for a period of five years from the date of registration thereof, except when it is renewed under Section 23B.

### **15. PUNISHMENT FOR CONTRAVENTION OF SECTION 12**

In case any person contravenes the provisions of Sub-Section (2) of Section 12, or operates a design which has been canceled by the department as per Sub-Section (3) of Section 14, he may be punished with a fine not exceeding Rs 50,000<sup>7</sup> as per extent/ratio of such offence as well as confiscation of all articles and goods connected with such offense, on the order of the department.

## **Chapter 4**

### **Trade-Marks**

#### **16. ACQUISITION OF TITLE TO TRADE MARKS**

- (1) Any person any acquire, under this act, title to the trade-mark of his business, after having it registered in the department under Section 18.
- (2)<sup>8</sup> No one should copy or use the registered Trademark in the name of any person under this Act, in his own name or in the name of others, without assignment in his own name as per section 21(D) or without obtaining written permission to use.

#### **17. APPLICATION FOR REGISTRATION OF TRADEMARK**

---

<sup>7</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

<sup>8</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

- (1) Any person wishing to have the trademark of his business registered under Section 18 shall submit to the department an application according to the specimen form indicated in Schedule 1(c), along with four of such trade-mark.
- (2) The person submitting applications under Sub-Section (1), shall pay an application as specified in Schedule 3(3) (a) to the department.

## **18. REGISTRATION OF TRADEMARK**

- (1) In case any person files an application under Section 17 for registration of trademark, the department shall register such trademark in the name of the applicant the specimen form indicated in Schedule 2 (c),  
Provided that in case it is felt that such trade-mark may hurt the prestige of any individual or institution or adversely affect the public conduct or morality or undermine the national interest or the reputation of the trade-mark of any other person, or in case such trade-mark found to have already been registered in the name of another person, it shall not be registered.
- (2) For obtain a certificate as mentioned in Sub-Section (1), the applicant shall pay registration fees as specified in Schedule 3 (3) (b) to the department
- (3) The department may cancel the registration of any trade-mark, if it is satisfied that any of the circumstance indicated in the restrictive clause of Sub- Section (1) exist.  
Provided that the department shall, before cancelling the registration of any trademark in this name, provide a reasonable opportunity to the holder of the trademark to show cause if any, why his trademark should not be cancelled.

### **18A. Classification of Goods and Services For the Person of Trade-Mark Registration**

- (1) For the purpose of registering trade-marks related to any goods or services, His Majesty's Government may classify such goods or services by notification in the Nepal Rajapatra.
- (2) Separate applications must be submitted to register trade-marks of goods or services placed in different categories.
- (3) The trade-mark registered for goods or services in one category/under Sub- Section (1) may be registered for goods or services under another category.

### **18B. Prohibition to Use Trade-marks**

No trade-mark may be used as a registered trade-mark without registering it at the department.

### **18C. Time Limit for Use of Trade-marks**

In case a trade-mark registered at the department is not brought into use within one year from the date of registration thereof, the department shall conduct necessary inquiries and cancel such registration.

#### **18D. Term of Trade-Marks**

The title of the person in whose name a trade-mark has been registered under Section 18 shall remain valid for a period of seven years from the date of registration thereof, except when it is renewed under Section 23(B).

#### **19. PUNISHMENT FOR ILLEGAL USE OF TRADE-MARKS**

In case any one violates Sub-Section (2) of Section 16, or brings into use a trademark which has been cancelled under Sub-Section (3) of Section 18, or violates Section 18B, no one may be punished with a fine not exceeding 1,00,000<sup>9</sup> as per extent/ratio of such offence as well as confiscation of all articles and goods connected with such offence on the order of the department.

### **Chapter 5**

#### **Miscellaneous**

#### **20. RIGHT TO APPOINT AGENT**

Any person may appoint an agent or legal practitioner for the purpose of taking any action which he is required to take under this Act, and all actions taken by such agent or legal practitioner shall be deemed to have been taken by him personally.

#### **21.<sup>10</sup>**

#### **21A. Publication of Registered Designs and Trade-Marks**

- (1) The Department shall publish the designs registered under Section 14 and the trade-marks registered under Section 18, as well as particulars of their renewal or cancellation, for information of the public.
- (2) Any one who has any objection to the particulars published under Sub-Section (1) may file a complaint to the department within a period of 35 days from the date of publication of such particulars. The department shall take necessary actions after holding inquiries into such complaints.

---

<sup>9</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

<sup>10</sup> Repealed by first amendment on October 18, 1987



### **21B. Title Not to be valid Unless Registered in Nepal**

The title to any patent, design or trade-mark registered in a foreign country shall not be valid in Nepal unless it is registered in Nepal by the concerned person.

### **21C. Registration of Foreign patents, Designs and Trade-Marks.**

The department may register patents, designs and trade- marks registered in foreign countries without conducting any enquiries if an application is filed for their registration along with certificates of their registration in foreign countries. Department shall provided to those applicants the facility of priority claim accordance with Paris Convention held on 1883 for the protection of Industrial Property.<sup>11</sup>

### **21D. Use of Designs and Trade-Marks May be Permitted**

- (1) In case any one wishes to allow others to make use of a design or trade-mark registered in his name at the department, both parties must submit a joint application to the department clearly mentioned the matter, along with the prescribed fees.
- (2) In case an application is received under Sub-Section (1), the department may grant approval for the use of such design or trade-mark by the other person.
- 3) In case the department grants permission for the use of design on trade-mark under Sub-Section (2), the title to the concerned design or trade-mark shall be transferred to the person who has been permitted to make use of such design or trade-mark.

## **22. DEPARTMENT MAINTAIN REGISTER**

The department shall maintain separate registers of patents, designs and trade-marks, indicating therein registration or cancellation thereof effected under this act.

**23.**<sup>12</sup> .....

**23A.**<sup>13</sup> .....

### **23B. Procedure Relating to Renewal of Patents, Designs and Trade-Marks**

- (1) A patent, design or trade-mar holder must renew his patent, design or trademark within a period of 35 days from the date of expiry of the turn for which he is entitled to use the

---

<sup>11</sup> Add by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

<sup>12</sup> Repealed by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

<sup>13</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

patent, design or trade-mark under Section 8, Section 14A or Section 18D by submitting an application in the form mentioned in Schedule 2 (d), 2(e) and 2(f) respectively and paying the fee motioned in Schedule 3.

- (2) A patent, design or trade-mark may be renewed by paying a fine of Rs 1000<sup>14</sup> within six months after the expiry of the time-limit for renewal according to Sub- Section (1). Patent, design and trademark shall deregister *ipso facto* in case not renewed within time frame.
- (3) Notwithstanding anything contained in Sub-Section (1) and (2), a patent may be renewed not more than two times for a period of seven years at a time, a design not more than two times for a period of five years at a time, and a trademark any number of times for a period of seven years at a time.

#### **24. COPY OF CERTIFICATE**

In case the certificate of registration of any patent, design or trade-mark is lost, a copy thereof may be obtained from the department on payment of a fee the prescribed amount.

#### **25. COMPENSATION**

In case any person, whose patent, design or trademark is registered under this act, actually suffers any losses as a result of any other person contravening the provisions of this act in respect to such patent, design or trade-mark, the department may have the appropriate amount of such losses recovered from such offender in the form of compensation.

#### **26. REGISTRATION UNDER THIS ACT.**

The patents, designs and trade-marks registered prior to the commencement of this act under the patent, design and trademarks law enacted in 1936, shall be deemed to have been registered under this act, with effect from the date of its commencement.

#### **26A. Power to have Alterations in Rates of Fees**

His Majesty's Government may make alterations in the amount of fees prescribed in Schedule 3 by notification in the Nepal Rajapatra.

#### **27. APPEAL.**

---

<sup>14</sup> Amend by law of amendment of some of the laws relating to Export import and Intellectual property 2063.

Any person who is not satisfied with the order issued by the department under this Act may file an appeal with the Appellate Court within 35 days.

**28. REPEAL**

The patent, design and trademark law of 1936 has been repealed.

Schedule 1(A)

Specimen Form of Application For Registration of Patent

To, .....

.....

Since I am/We are the inventor/s of ..... I/we hereby apply, attaching herewith the principle/formula/and maps and drawings containing all particulars, as well as the application fee, for the registration of its patent. I/we hereby request you to register the patent in my name/our names and issue to me/us a certificate thereof.

Witnesses:

1. ....

2. ....

Signature of the Applicant

Address

Date

Schedule 1(B)

Specimen Form of Application For Registration of Design

To, ....

.....

Since I/we have manufactured am/are arranging for the manufacture of ..... according to the design attached hereto, I/We hereby submit an application, along with the maps and drawings containing full particulars thereof, four pieces of samples, and the application fee, requesting the registration of the design. I/We hereby request you to register the design in my name/our names and then issue to me/us a certificate thereof.

Witnesses:

1. ....

2. ....

Signature of the Applicant

Address:

Date:

Schedule 1(C)

Spacing Form of Application For Registration of Trade-Mark

To, .....

.....

Since I/we intend to affix/have been affixing the trade-mark attached here to on...., I/we hereby apply for the registration of that trade-mark along with four samples thereof and the application fee. I/we hereby request you to register the trade- mark in my name/our names and issue a certificate thereof to me/us.

Witnesses:

Signature of the Applicant

1. ....

2. ....

Address

Date:

Schedule 2(A)

Specimen Form of certificate of Registration of Patent

His Majesty's Government

..... Ministry

.....Department

Certificate No.

Date:

Certificate of Registration of Patent

The patent of ..... which has been invented by ..... has been registered under Section 7 of the 1965 patent, Design and Trade-Mark act, and this certificate has been issued according

.....

Director-General

Date of Renewal	Renewal Expiration Date	Renewing Authority's Signature and Seal

Schedule 2(B)

Specimen Form of Certificate of Registration of Design

His Majesty's Government

..... Ministry

..... Department

Certificate No.

Date

Certificate of Registration of Design

The design of .... manufactured/or arranged for the manufacture thereof by... has been registered under Section 14 of the 1965 patent, Design and Trade-Mark Act, and this certificate has been issued accordingly.

.....

Director General

Date of Renewal	Renewal Expiration Date	Renewing Authority's Signature and Seal

Schedule 2(C)

Specimen form of Certificate of Registration Trade-Mark

His Majesty's Government

.....Ministry

.....Department

Certificate No.

Date:

Certificate of Registration of Trade-Mark

The trade-mark affixed/to be affixed in .... by.... has been registered under Section 18 of the 1965 patent, Design, and Trade-Mark Act, and this certificate has been issued accordingly.

.....

Director-General.

Date of Renewal	Renewal Expiration Date	Renewing Authority's Signature and Seal

Schedule 2(D)

Specimen Form of Application For the Renewal of Patent

To, .....

.....

Since the duration of the registration of the patent of ..... registered by me/us on... has expired, I/we hereby request you for the renewal thereof. The renewal fee is enclosed.

Signature of the Applicant.

.....

Address:

Date:

Schedule 2(E)

Specimen Form of Application For Renewal of Design

To, .....

.....

Since the duration of the registration of the design of ..... registered by me/us on.. has expired, I/We hereby request you for the renewal thereof. The renewal fee is enclosed.

Signature of the Applicant

.....

Address:

Date:

Schedule 2(F)

Specimen Form of application for Renewal of Trade-Mark

To, .....

.....

Since the duration of the registration of the trade-mark being affixed by us in ... by registering it on... has expired, I/We hereby request you for the renewal thereof. The renewal fee is enclosed.

Signature of the Applicant

.....

Address:

Date:

Application Registration, and Renewal Fees in Respect to Patents, Designs and  
Trade-marks

S.N.	Details of Fees	Patent	Design	Trademark
1.	Application filing fees for Patent, Design and Trademark	2000	1000	1000
2.	Amendment of application	500	500	500
3.	Registration fees	10000	7000	5000
4.	Assignment fees	5000	3000	2000
5.	Recordal of change of name/address except assignment	2000	1000	1000
6.	Search fees	750	750	500
7.	Opposition/ Revocation	1000	1000	1000
8.	Duplicate copy of registration certificate	1000	1000	2000
9.	Renewal fees Rs. 200 per year* 7 Years			
	a. First renewal annual fees	5000	1000	
	b. Second renewal annual fees	7500	2000	
	c. Trademark annual fees for unlimited period			500

<sup>15</sup> Amend on 2062/05/13 (17<sup>th</sup> September, 2005) Nepal Rajapatra, Vol. 55, No. 20 Part III