

CYPRUS

EDITED BY



EUROPEAN PATENT ATTORNEYS
ATTORNEYS AT LAW
TRADE MARK ATTORNEYS

Rob Vernout
The Hague, Munich
E-mail: ipmanual@arnold-siedsma.com
Website: www.arnold-siedsma.com

IN COOPERATION WITH



Maria Kyriacou, Ramona Livera
Cyprus
E-mail: info@neocleous.com
Website: www.neocleous.com

PART 1 PATENTS

§1.01 SUMMARY

[A] Kinds of Patents

- National patent
- European patent

[B] Duration of Patents

- 20 years from the date of filing

[C] Patentable / Not Patentable

- To be patentable, an invention must be new, involve an inventive step and be applicable in industry.
- The exceptions of rule 39 PCT apply.
- Also not patentable are computer programs; processes for cloning human beings; processes

for modifying the germ line genetic identity of human beings; uses of human embryos for industrial or commercial purposes.

- Processes for modifying the genetic identity of animals, which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

[D] Novelty

- Absolute novelty is required.

[E] Requirements and Procedure

- Filing language: Any
- Language of translation: Greek
- Time limit for filing translation: 4 months from filing
- Patent applications are examined as to form only but not as to substance.

[F] Specific Aspects of Regional Patents

- Validation of European Patents in Cyprus is possible.

[G] Specific Aspects of International Patent Applications (PCT)

- The only way to extend a PCT international application to Cyprus is by way of a European Patent validated in Cyprus.

[H] Governmental Websites

- www.mcit.gov.cy/drcor

§1.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967 (Cyprus is bound by the Stockholm text of 1967 since 3 April 1984);
- Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, 1961, since 30 April 1973;
- Convention Establishing the World Intellectual Property Organization (hereinafter ‘WIPO Convention’), 1967, since 26 October 1984;
- Patent Cooperation Treaty (PCT), 1970, since 1 April 1998;
- European Patent Convention, 1973, since 1 April 1998;
- WTO TRIPS Agreement, since 30 July 1985;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
- EU Regulation No. 1768/92 EC of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products;
- EU Regulation No. 2100/94 EC of 27 July 1994 on Community plant variety rights;
- EU Regulation (EC) 1610/96 of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products;
- EU Directive 98/44/EC of 6 July 1998 on the legal protection of biotechnological inventions;
- EU Directive 2004/27/EC of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use;
- EU Directive 2004/48/EC of 29 April 2004 on the enforcement of intellectual property rights;
- EU Regulation (EC) No. 1901/2006 of 12 December 2006 on medicinal products for paediatric use;
- EU Regulation (EU) No. 1257/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection (not yet in force);
- EU Regulation (EU) No. 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements (not yet in force); and
- Agreement of 19 February 2013 on a Unified Patent Court (not yet in force).

[2] Laws

- Patents Law of 1998 (as amended);
- Patents Rules 1999 (as amended);
- Protection of New Plant Varieties Law No. 21(I)/2004, which took effect in Cyprus on 1 May 2004;
- The Legal Protection of Topographies of Semiconductor Products Law No. 5(I)/2002, as amended by The Legal Protection of Topographies of Semiconductor Products (Amendment) Law of 2006, 120(I)/2006; and
- Law No. 163(I)/2002, The Patents (Amendment) Law of 2002.

[B] Kinds of Patents

- National patents
- European patents.

Depending on ratification of the Agreement on a Unified Patent Court, a European patent granted after the entry into force may, at the applicant's choice, alternatively be registered as a European patent with unitary effect for the whole of the European Union except (as currently expected) Spain and Poland ('EU patent'). See for more details the chapters 'European Union' and 'European Patent System' in the section 'Patents' under 'Conventions and Legislation'.

[C] Duration of Patents

The duration of national patents is twenty years from the filing date of the patent, subject to the payment of annual fees.

[1] Supplementary protection certificate

The term of protection of an invention relating to a pharmaceutical covered by a patent may be extended in Cyprus (by the grant of a supplementary protection certificate) with a period equal to that lapsed between the date of filing the patent application and the date of grant of the first marketing authorization in Cyprus, less five years. The maximum duration of the supplementary protection certificate is five years.

If the first marketing authorization in Cyprus was granted within five years from the date of filing the patent application, no supplementary protection certificate can be obtained. If the first such authorization in Cyprus was granted between five and ten years from the date of filing the patent application, the duration of the certificate may be up to five years, depending on when that authorization was granted. If the first such authorization in Cyprus was granted between ten and twenty years from the date of filing the patent application, a certificate with a duration of five years may be obtained. The period of validity of the certificate runs from the expiration of the basic patent.

The possibility of extension applies both to national Cyprus patents and to European patents valid in Cyprus. Products protected by a patent in Cyprus which, before they may be brought on the market as a medicinal product, are subjected to an administrative authorization procedure in Cyprus, may be the subject of a supplementary protection certificate. Medicinal product in this context means any substance or combination of substances, presented for treating or preventing disease in human beings or animals, and any substance or combination of substances which may be administered to human beings or animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings or animals. Product in this context means the active ingredient or combination of active ingredients of a medicinal product. For obtaining a supplementary protection certificate, an application must be filed with the Registrar in Cyprus.

Such certificate may be obtained only provided that:

- (1) at the date the certificate is applied for the product concerned is protected by a basic patent still in force in Cyprus, which patent protects the product, a process to obtain the product, or an application of the product;
- (2) for bringing into the trade of the product concerned as a medicine a valid authorization has been granted in Cyprus;
- (3) no previous supplementary protection certificate has been obtained for the product; and
- (4) the authorization meant under (2) is the first authorization to put the product on the market in Cyprus as a medicinal product.

A supplementary protection certificate may be applied for by the owner of the basic patent or his or her legal successor or assignee. The certificate must be applied for within six months from the date on which the first marketing authorization for bringing the product concerned on the market as a medicinal product in Cyprus was granted. However, if that authorization

was granted before grant of the basic patent, the certificate must be applied for within six months from the date on which the patent is granted.

[D] Requirements for Renewal

The requirements for renewal are:

- (1) application for renewal;
- (2) power of attorney; and
- (3) payment of the required renewal fee.

To keep a pending application or a granted patent in force, annual renewal fees must be paid. The fees are to be paid in advance each year during the three months preceding the anniversary of the filing date by filing the applicable form with payment of the annual fee concerned. Payment may also still be made during a six-month grace period, with payment of the required surcharge (at present 10% of the amount due for each month or part thereof). Annual fees are due in respect of the third and following years from filing. If an annual fee has not been paid in due time nor, with the required surcharge, within the six-month grace period, the patent will lapse or the application will be deemed to have been withdrawn, as applicable. The Registrar in such case will publish a notification of the lapse of the patent. As to the possibility of restoring a lapsed patent (application), see, 'Restoration'. Annual fees must also be paid for European patents valid in Cyprus. The first year in respect of which an annual fee for such patent is due is the year following that in which the mention of the grant of the European patent was published in the European Patent Bulletin. The calculation of years for determining the amount of the annual fee due in such case will start from the filing date of the European patent application on which the patent was granted.

[E] Patentable / Not Patentable

To be patentable, an invention must be new, involve an inventive step and be applicable in industry. An invention will be deemed to involve an inventive step if, having regard to the prior art, it is not obvious to a person skilled in the art. An invention will be deemed applicable in industry if it can be made or used in any kind of industry, where industry is to be understood in the broadest sense and as including handicraft, agriculture, fishery and services.

The following are not deemed inventions and therefore cannot be patented:

- (1) discoveries, scientific theories and mathematical methods;
- (2) aesthetic creations;
- (3) schemes, rules and methods for performing mental acts, playing games or doing business;
- (4) computer programs;
- (5) presentations of information; and
- (6) animal varieties.

The following cannot be the subject of a patent:

- (1) processes for cloning human beings;
- (2) processes for modifying the germ line genetic identity of human beings;
- (3) uses of human embryos for industrial or commercial purposes; and
- (4) processes for modifying the genetic identity of animals, which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

The exceptions of Rule 39 PCT apply.

[1] *Chemical compositions*

Chemical compositions are patentable.

[2] *Pharmaceuticals*

Pharmaceuticals are patentable.

[3] *Second use*

No relevant legislation or jurisprudence in this jurisdiction.

[4] *Treatment of the human body*

Methods for treatment of the human body are not patentable.

[5] *Biological materials*

Subject to obligations of Cyprus deriving from international agreements and in particular from the TRIPS agreement, biological materials and microbiological processes may be the subject of a patent.

Furthermore, according to the EU Biotechnology Directive of 1998 microbiological or other technical processes or products obtained by means of such processes may be patentable.

An element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element. The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application.

The human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, cannot constitute patentable inventions.

The following are also not patentable (see under '*Immoral inventions or inventions contrary to public order*')

- (a) processes for cloning human beings;
- (b) processes for modifying the germ line genetic identity of human beings;
- (c) uses of human embryos for industrial or commercial purposes; and
- (d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

[6] *Plant varieties*

New plant varieties are not patentable, but may be protected under the Protection of New Plant Varieties Law No. 21(I)/2004, which took effect on 1 May 2004.

Plant variety rights for the European Union may be obtained under the Regulation No. 2100/94 EC of 27 July 1994.

According to the EU Biotechnology Directive of 1998 plant (and animal) varieties, as well as essentially biological processes for the production of plants or animals, may not be patented.

Inventions which concern plants or animals may however be patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety.

As plant variety is considered, any plant grouping within a single botanical tax on of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a plant variety right are fully met, can be:

- (1) defined by the expression of the characteristics that results from a given genotype or combination of genotypes;
- (2) distinguished from any plant grouping by the expression of at least one of the said characteristics;
- (3) considered as a unit with regard to its suitability for being propagated unchanged.

[7] Software-related inventions

Computer programs as such are not patentable but may be protected under copyright law.

In particular, computer programs as such may be protected as literary works under the Copyright Law No. 59/76 (as amended). Protection is obtained automatically by creation, no registration being required or even provided for.

[8] Business methods

Schemes, rules and methods for performing mental acts, playing games or doing business are not deemed inventions and therefore cannot be patented.

[9] Immoral inventions or inventions contrary to public order

Inventions the publication or exploitation of which would be contrary to public order or morality are not patentable. However, the exploitation of an invention will not be deemed contrary to public order or morality only because it is prohibited by law or regulation.

The following, in particular, shall be considered unpatentable:

- (a) processes for cloning human beings;
- (b) processes for modifying the germ line genetic identity of human beings;
- (c) uses of human embryos for industrial or commercial purposes; and
- (d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

[10] Semiconductors

Semiconductor products are not patentable but may be protected under The Legal Protection of Topographies of Semiconductor Products Law No. 5(I)/2002. This Law was enacted in order to align Cyprus legislation with Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products.

[F] Novelty

Absolute novelty applies.

An invention is new if it does not form part of the state of the art. The state of the art is deemed to comprise everything which, before the filing date or, where priority is claimed,

before the priority date of the application, has been made available to the public anywhere in the world in written or other graphic form, by oral description, by use or in any other way. This implies that absolute worldwide novelty is required in Cyprus.

Furthermore, part of the state of the art and a possible bar to novelty are the contents of the following:

- (1) National Cyprus patent applications having an earlier filing or priority date, insofar as such application or the patent granted thereon is published by the Office of the Registrar.
- (2) European patent applications in which a European patent valid in Cyprus is applied for and in respect of which the designation fee for Cyprus has been timely paid, insofar as such application or the patent granted thereon is published by said Office.
- (3) PCT international patent applications designating the European Patent Office (EPO) for a European patent extending to Cyprus, provided that the regional phase of such application is properly entered into, and insofar as such application or the patent granted thereon is published by or for the Office of the Registrar.

[1] Grace period

No protection is provided against publication of the invention before filing.

[G] Applicant

The inventor or his or her successor in title, for example, an assignee (natural person or legal entity) or the joint inventors (where applicable) are entitled to apply for patents. If two or more patent applications have been filed by different applicants which relate to the same invention, and the inventors made the invention independently of one another, the right to a patent will belong to the person whose application has the earliest filing date or (if priority is claimed) has the earliest priority date. Foreigners may apply for and obtain patents to the same extent as nationals of Cyprus.

If an invention is made in the execution of an employment contract or in the execution of a commission, the right to a patent belongs to the employer or to the person who commissioned the work respectively, except if there are contractual stipulations to the contrary. The employee will be entitled to an equitable remuneration to be established taking into consideration his or her salary, the economic value of the invention and any benefit derived from it by the employer. If the parties cannot agree upon the remuneration, it will be fixed by the Supreme Court.

Joint inventors shall, unless they agree otherwise, have equal rights.

[H] Assignment

If an assignee applies for the grant of a patent, the request for grant must be accompanied by a statement justifying the applicant's right to the patent.

Granted patents and applications for the grant of a patent may be assigned. Assignment should be recorded.

The requirements for recordal are:

- (1) request for recordal on prescribed form;
- (2) deed of assignment in Greek or with Greek translation, legalized by Notary Public, signed by the assignor and the assignee, mentioning at least the number and date of the patent or application, the title of the invention, and the names, addresses and nationalities of the assignor and the assignee;
- (3) power of attorney from the assignee; and

- (4) payment of the required fee.

[I] Requirements for Filing

[1] Obligation to file first with national office

Not applicable in this jurisdiction, however, unless priority from an earlier Cyprus patent application is claimed, applicants who are Cyprus nationals must file European patent applications (other than divisional applications) with the national Office of Cyprus and not directly with the EPO.

[2] Minimum requirements for obtaining filing date / Provisional applications

The filing date of an application will be considered as the date on which the Cyprus Office has received an application containing the following:

- (1) an express or implicit indication that the grant of a patent is sought;
- (2) indications which allow the applicant's identity to be established; and
- (3) a part which on the face of it appears to be a description of the invention for which the grant of a patent is applied for.

If the documentation is incomplete, the applicant will be asked to submit the missing documents.

If the description refers to drawings, but these were not filed, the Office will invite the applicant to furnish the missing drawings, in which case the filing date will be the date on which the drawings are received. If the drawings in such case are not filed, any reference to the drawings will be deemed not made, and the date of receipt of the application will be the filing date.

A filing fee must be paid on filing the application, failing which the application will be deemed not to have been filed.

[3] Request for grant

The request for grant must be on the prescribed form, in duplicate, signed by the applicant or his or her agent, and indicating the following information:

- (1) Full name, address and nationality of the applicant. In the case of a body corporate, the country and, where applicable, the State under whose laws it was constituted must be indicated.
- (2) If the applicant is the inventor, statement thereof, and otherwise full name, address and nationality of the inventor must be given, and the request be accompanied by a statement justifying the applicant's right to the patent.
- (3) Short and precise title of the invention indicating the matter to which the invention relates.
- (4) Full name, address and nationality of the agent.
- (5) If priority is to be claimed, indicating the date of filing and the country in which or for which the application whose priority is claimed was filed, and (if possible) the number of that application and the symbol of the International Patent Classification allocated to that application.
- (6) If a divisional application, indication of the number and date of filing of the parent application.

A filing fee must be paid on filing the application, failing which the application will be deemed not to have been filed.

The description, claims, abstract and (any text matter in) the drawings of the invention may first be filed in a language other than Greek. In such case, a Greek translation of the same must be filed within four months of the filing date, failing which the application will be deemed not filed.

The description, claims, drawings and abstract are to be made on separate sheets of pliable, strong, white, smooth, matt and durable paper of international size A4 (29.7 cm × 21 cm), to be used in vertical position, and to be used on one side only. The sheets of the drawings may also be used horizontally, if appropriate. The sheets must be free from cracks, creases and folds. They must be connected in such way that they can easily be turned over, separated and joined again. Each part of the application (request, description, claims and drawings) and the abstract and its accompanying drawing must begin on a new sheet.

For the sequential numbering of the sheets, the parts of the application must be placed in the following order:

- (1) the request;
- (2) the description;
- (3) the claims;
- (4) the abstract; and
- (5) the drawings.

The sheets must be numbered consecutively with Arabic numerals. These are to be placed at the top in the middle, but not in the top margin. On each sheet of the description and of the claims each fifth line must be numbered. The numbers are to be put on the left side, but not in the left side margin. The minimum margins to be observed for the description, claims and abstract are top 2.5 cm, left side 2.5 cm, right side and bottom 2 cm. The margins must be completely blank. The sheets of the drawings must be numbered consecutively as a separate series. This numbering also must be in Arabic numerals placed at the top of the sheet in the middle, but not in the top margin.

The request, description, claims and abstract must be typewritten or printed, at least one and one-half spaced, in dark, indelible colour, using letters the capitals of which must be at least 0.21 cm high. Only graphical symbols and signs and chemical and mathematical formulae may, if necessary, be handwritten or drawn in a dark indelible colour. The sheets must be free from erasures, corrections and insertions.

The request, description, claims and abstract may not contain any drawings. The description, claims and abstract may contain chemical or mathematical formulae. The description and abstract may contain tables. The claims may contain tables only if their subject matter makes the use of tables desirable. The Registrar may require the filing of a copy of a formula or symbol used in the description or claims prepared in the same manner as the drawings.

All documents must be presented in such way as to allow direct reproduction by photography, electrostatic processes, photo-offset and microfilming, in an unlimited number of copies.

Measures and weights must be according to the metric system. If a different system is used, they must also be expressed according to the metric system. Temperatures must be expressed in degrees Celsius. For the other physical values, the units recognized in international practice must be used, for mathematical formulae the symbols in general use, and for chemical formulae the symbols, atomic weights and molecular formulae in general use must be employed. In general, use must be made of technical terms, signs and symbols generally accepted in the field concerned. Terminology and signs must be uniform throughout the documents of the application.

The application may not contain expressions or drawings contrary to public order or morality, or statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of patent applications or patents of any such person, provided, however, that mere comparisons with the prior art will not be considered disparaging

per se. The application may furthermore not contain any statement or other matter which is obviously irrelevant or unnecessary under the circumstances.

[4] Appointment of Representative

Applicants must appoint an attorney at law licensed to practice in Cyprus as agent. The filing of applications and other actions, such as payment of the annual renewal fees, are to be made through such agent.

[5] Power of Attorney / Designation of inventor / Other documents

A power of attorney must be filed and signed by the applicant. The power of attorney must be filed on filing the application or within one month thereafter, failing which any procedural steps taken by the agent other than the filing of the application will be deemed not to have been taken. No legalization of the power of attorney is required.

The name and address of the inventor(s) must be mentioned in the application for the grant of a patent, and the inventor(s) will be mentioned as such in the patent unless they have requested specifically in writing not to be mentioned.

[6] Priority

Priority may be claimed from earlier national, regional or international patent applications filed in or for any country party to the Paris Convention. Priority should be claimed on filing, at least indicating the date on which and the country or countries in which or for which the application whose priority is claimed was filed and, in the case of a regional or international application, the office with which it was filed. If the number of the application whose priority is claimed is not yet known on filing, it may be furnished up to sixteen months after the earliest priority date claimed. Also, the symbol of the International Patent Classification allocated to the application whose priority is claimed must be given, and if this symbol has not yet been allocated at the time of filing the applicant must so state in the priority declaration, and must give this symbol as soon as it has been allocated.

According to the present Regulations, if an application could have claimed priority but the application on filing did not contain such claim, priority may still be claimed in a separate declaration made up to sixteen months from the filing date of the earlier application whose priority is claimed. The contents of the declaration of priority may be amended at any time until grant of the patent. Multiple and partial priorities are allowed.

The Registrar may require the filing of a copy of the application whose priority is claimed, certified as correct by the Office with which it was filed or in case of a PCT international application, by the International Bureau, and such copy must be filed within three months from the Registrar's request. If that earlier application is in a language other than Greek, the applicant must furnish a certified Greek translation thereof within six months from said request of the Registrar.

As to the possibility of restoring priority right, see 'Restoration'.

[7] Allowable language(s) upon filing / Language(s) of procedure

The description, claims, abstract and (any text matter in) the drawings of the invention may first be filed in a language other than Greek. In such case, a certified Greek translation must be filed within four months of the filing date, failing which the application will be deemed not to have been filed.

[8] Description

The description of the invention must be filed in duplicate and in the Greek language. The description must be sufficiently clear and complete so as to enable the invention to be executed by a person skilled in the art.

The description must begin with the title of the invention as indicated in the request for grant, and further contain the following:

- (1) a determination of the technical field to which the invention relates;
- (2) an indication of the state of the prior art which as far as known to the applicant can be considered useful for understanding the invention, preferably citing the documents reflecting the state of the prior art;
- (3) a determination of the invention as defined in the claims, by appropriate technical terms and in such manner that the technical problem concerned and its solution by the invention can be understood;
- (4) a presentation of the advantages of the invention (if any) in relation to the state of the prior art;
- (5) a brief description of the figures of the drawings (if any);
- (6) a detailed description of at least one way of carrying out the claimed invention, giving examples; and
- (7) an explicit clarification of the way in which the invention can be applied in industry, where this is not obvious from the description or the nature of the invention.

If the application relates to an invention which requires for its performance the use of a microorganism which is not available to the public at its filing date, the description will be considered as disclosing the invention in such manner as to allow a person skilled in the art to execute the same only:

- (1) if a culture of the organism concerned has been deposited with a recognized depositary institute before or on the filing or priority date;
- (2) the application as filed gives such relevant information as is available to the applicant on the characteristics of the microorganism; and
- (3) the name of the depositary institute with which the deposit was made, and the date of deposit and the accession number of the deposit is given in the description.

Deposits may be made with an institute having the status of International Depositary Authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 1977. The giving of the information referred to above will be considered as constituting the unreserved and irrevocable consent of the applicant for the issue of samples of the deposited culture to any person who on or after the date of publication validly requests this with the depositary institute with which the microorganism is deposited. Such request will be deemed validly made if accompanied by a certificate from the Cyprus Registrar authorizing the release of the sample to that person. An application for such certificate may be filed with the Registrar on the applicable form, together with an undertaking not to make the culture available to any other person until the patent application is refused or withdrawn or deemed to be withdrawn or, if a patent is granted, until the patent ceases to have effect without renewal or restoration being possible, and an undertaking to use the culture only for experimental purposes until the application is refused or (deemed) withdrawn or until the date of publication of the notice of grant of the patent in the Official Gazette.

[9] Claims

The claim or claims of the invention must be filed in the Greek language and in duplicate.

The claims must define the invention for which protection is sought, and the definition of the subject matter for which protection is sought must be in terms of the technical features of the invention. The claims must be clear and concise and be supported by the description. The claims must be numbered consecutively in Arabic numerals. They must be presented in the manner prescribed in the Cyprus Patent Regulations. Claims may be drafted in one part, or in two parts. If drafted in two parts, each claim must contain a first part consisting of a statement indicating those technical features of the invention which are necessary in connection with the definition of the claimed subject matter and which, in combination, belong to the prior art, and a characterizing part preceded by the words characterized in that, characterized by, wherein the improvement comprises, or by similar words, in which part the other characteristics of the invention are set forth for which, in combination with the characteristics meant under (1), protection is sought. If drafted in one part, a claim must consist of a single statement containing a recitation of a combination of several elements or steps, or a single element or step, which defines the matter for which protection is sought. Claims may not, as far as the technical characteristics of the invention are concerned, contain references to the description or the drawings, such as references like as described in part...of the description, or as shown in figure...of the drawings, except if such reference is absolutely necessary for the understanding of the claim or if it enhances the clarity or the conciseness of the claim. Claims may not contain any drawings or graphs. However, claims may contain tables and chemical or mathematical formulae. If the application is accompanied by drawings, the technical characteristics mentioned in the claims must be provided with their reference signs, if this could facilitate the understanding of the claim. Such signs are to be placed between parentheses or square brackets, and shall not be construed as limiting the claim.

Claims may be independent claims or dependent claims. In one application, two or more independent claims of the same category (product, process, apparatus) may be included if its subject matter cannot readily be covered by a single generic claim. A reasonable number of dependent claims may be included, claiming specific forms of the invention claimed in an independent claim. A dependent claim is a claim which includes all the features of one or more other claims of the same category. Multiple dependent claims are acceptable, that is, claims referring to more than one other claim for which there is no limit to the number of claims are allowed. A dependent claim should preferably first refer to the claim or claims on which it depends by indicating the serial number(s) of that (those) other claim(s), and then state those features claimed that are additional to those claimed in the other claim(s). Dependent claims or multiple dependent claims may also depend on dependent claims or multiple dependent claims. Multiple dependent claims may refer to the claims on which they depend in the alternative or in the cumulative. All dependent claims referring to the same other claim and all multiple dependent claims referring to the same other claims must be grouped together in the most practical way possible.

The scope of protection conferred by a patent is determined by the claims. The description and drawings may serve for the interpretation of the claims.

[10] Abstract

The abstract of the invention must be filed in the Greek language and in duplicate. The abstract will serve only the purpose of technical information, and it will, in particular, not be taken into consideration for the purpose of interpreting the claims. The abstract must be drafted in such manner that it constitutes an efficient instrument for the purpose of searching in a particular field and particularly by making it possible to decide whether it is necessary to consult the description of the invention itself.

The abstract should normally not contain more than 150 words. It must begin with the title of the invention, and must contain a summary of the matter contained in the description of the invention. The abstract must indicate the technical field to which the invention belongs, and must be so drafted as to allow a clear understanding of the technical problem concerned, the gist of the solution of that problem through the invention, and the principal use(s) of the

invention. If applicable, the abstract must contain the chemical formula, which, among the formulae contained in the application, best characterizes the invention. The abstract may not contain statements on the alleged merits or value of the invention or on its speculative application.

If the application contains any drawings, in the request for grant, the figure (or exceptionally the figures) of the drawings that the applicant suggests should accompany the abstract when published must be indicated. The Registrar may, however, decide to publish one or more other figures, if of the opinion that this or they best characterize(s) the invention.

[11] Drawings

Two sets of drawings of the invention referred to in the description or claims must be filed. The drawings must be on sheets of pliable, strong, white, smooth, matt and durable paper of international size A4 (29.7 cm × 21 cm). The used surface may not exceed 26.2 cm × 17 cm. The minimum margins to be observed are: top 2.5 cm, left side 2.5 cm, right side 1.5 cm, and bottom 1 cm. Frames around the used or usable surface are not allowed. The drawings must be made in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes which permit satisfactory reproduction, and without colourings. Cross-sections must be indicated by hatching, which may not impede the clear reading of the reference signs and the leading lines. The scale of the drawings and the distinctness of their graphical execution must be such that a photographic reproduction with a linear reduction in size to two-thirds will enable all details to be distinguished without difficulty. If exceptionally, the scale is given on a drawing, it must be represented graphically. All numbers, letters and reference signs appearing in the drawings must be simple and clear, and brackets, circles and inverted commas must not be used in association with numbers and letters. The size of the numerals and letters used in drawings must be at least 0.32 cm. For the letters in the drawings the Latin alphabet and, where customary, the Greek alphabet must be used. Elements of the same figure must be in proportion to each other, unless where a difference in proportion is indispensable for the clarity of the figure.

A sheet may contain more than one figure, provided that these are clearly separated from each other without wasting space. When figures on two or more sheets are intended to form together one complete figure, they must be drawn on the various sheets in such way that the complete figure can be composed without any part of the figures on the respective sheets being covered. The different figures of the drawings must be numbered consecutively in Arabic numerals, independently of the numbering of the sheets.

The sheets containing the drawings must be numbered consecutively as a separate series. The numbering must be in Arabic numerals placed at the top of the sheet in the middle, but not in the top margin. The drawings may not contain text matter, except, when required for understanding the drawings, a single word or words such as water, steam, open, closed, section on AA, and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords. Reference signs not mentioned in the description or claims may not appear in the drawings, and vice versa. The same figures, when denoted by reference signs, must be denoted by the same signs throughout the application.

Flow sheets and diagrams shall be considered drawings.

[12] Payment of fees

A filing fee must be paid on filing the application, failing which same will be deemed not filed.

[J] Procedure*[1] Filing Authority*

The patent authority in Cyprus is the Department of Registrar of Companies and Official Receiver (part of the Ministry of Energy, Commerce, Industry and Tourism) in Nicosia.

[2] Online filing

Not applicable in this jurisdiction.

[3] Formal examination

If the requirements for obtaining a filing date have been met and provided that the application is not withdrawn, it will be examined as to compliance with the other formal requirements. If any of these requirements is found not to be complied with, the applicant will be informed and given an opportunity to make observations or to amend the application within two months upon payment of the required fee in order to comply with the requirements. If no abstract was filed, the applicant may, instead of filing an abstract, request the Registrar upon payment of the required fee to prepare the abstract. If the applicant does not comply with the invitation to correct the deficiencies, or the corrections filed by the applicant are found insufficient, the Registrar will reject the application and notify the applicant of the rejection, stating the reasons. If the application is found to comply with all formal requirements, the applicant will be notified thereof.

[4] Search

If the application for a national patent is in compliance with the formalities set out by the Law and Regulations, the applicant is called upon by the Registrar of Patents to pay the search report fees directly to the EPO, within sixteen months from the filing date or, if priority was claimed, within sixteen months from the priority date. When the applicant has paid the fees, the Registrar forwards the patent to the EPO, which in turn will determine and inform the Registrar through a Search Report of any prior art in existence thus providing information in relation to the patentability of the patent in question.

[5] Obligation to submit corresponding foreign search results and/or application numbers

Not applicable in this jurisdiction.

[6] Substantive examination

Not applicable in this jurisdiction.

[7] Accelerated examination

Not applicable in this jurisdiction.

Also no patent prosecution highway agreements are applicable.

[8] Amendments and corrections

The applicant may, until the application is in order for grant, voluntarily amend or correct the application. Amendments going beyond the scope of the application as filed originally are not allowed.

[9] Third party observations

Not applicable in this jurisdiction.

[10] Grant

If the applicant has been notified that the application complies with all formal requirements, and a search report as required has been furnished within the prescribed period, a decision to grant the patent will be made. Within three months from notification of the decision to grant the patent, the required grant fee and publication fee must be paid, whereafter the patent will be granted. The patent will be granted irrespective of the contents of the search report.

As soon as possible after grant a notification of the grant will be published in the Official Gazette and the patent and the search report will be published in the prescribed manner. The patent will be deemed granted on the date on which the Registrar publishes the notification of the fact that the patent has been granted in the Official Gazette.

The publication of the notification of grant will include the following:

- (1) the number of the patent;
- (2) the name and address of the owner and of the inventor, unless if the inventor has requested not to be mentioned;
- (3) the filing date and number of the application;
- (4) priority details (if any);
- (5) the effective date of grant;
- (6) the title of the invention;
- (7) the abstract and the most illustrative drawing (if any); and
- (8) the applicable symbol of the International Patent Classification.

A certificate of grant will be issued, signed by the Registrar, and containing the description, claims, drawings, abstract and search report.

The average processing time to grant is eighteen months from the filing/priority date.

[11] Re-examination

Not applicable in this jurisdiction.

[12] Opposition

Opposition against the grant of a patent is not provided for.

[13] Appeal

An appeal against the decision of the Registrar may be lodged with the Supreme Court.

[14] Continuation applications

Not applicable in this jurisdiction.

[15] Unity of invention / Divisional applications

A patent application may relate to one invention only, or to a group of inventions so linked as to form a single general inventive concept. If an application relates to more than one invention, the requirement of unity will be considered complied with only if there is a technical relationship between those inventions involving one or more of the same or corresponding special technical features, where special technical features means those technical features which define the contribution that each of the inventions as claimed, considered as a whole, makes over the prior art. The determination of whether a group of inventions is so linked as to form a single general inventive concept is to be made without regard as to whether the inventions are claimed in separate claims or as alternatives within a single claim.

In particular, the following may be included in one application:

- (1) an independent claim for a product, an independent claim for a process specially adapted for the manufacture of that product, and an independent claim for a use of that product;
- (2) an independent claim for a process and an independent claim for an apparatus or means specially designed for carrying out that process; or
- (3) an independent claim for a product, an independent claim for a process specially adapted for the manufacture of that product, and an independent claim for an apparatus or means specially designed for carrying out the process.

Divisional applications may be filed, provided that no divisional application may extend beyond the disclosure in the parent patent application. If the Registrar is of the opinion that the requirement of unity is not complied with, the applicant may file one or more divisional applications within two months from the communication of that opinion. The applicant may also on his or her own initiative file divisional applications, until the parent application from which the divisional applications are to be divided is in order for grant. Duly filed divisional applications will retain the filing date of the parent application and may benefit from any priority date claimed for the parent case provided that the divisional application contains a request in this regard.

Any priority document and any necessary translations submitted to the Registrar's Office concerning the original application shall be deemed to have been submitted in relation to all divisional applications.

[16] Conversion

There is no provision in the Patents Law regarding utility models.

[17] Publication / Public File Inspection

Irrespective of the course of the procedure, each application will be published as soon as possible after the expiration of eighteen months from the filing date or, if priority was claimed, as soon as possible after the expiration of eighteen months from the priority date. The applicant may request in writing that the application be published earlier. Early publication of the application may be of interest, as from the date of publication of the application a provisional protection starts.

The publication consists in the advertising in the Official Gazette of a notice relating to the publication and to the laying open to public inspection of the application, and in the laying

open to public inspection of the description, claims and drawings as filed, and, as an annex, of the search report and the abstract. If the search report and abstract are not yet available before the termination of the technical preparations for the publication, they will be published as soon as possible thereafter.

An application will, however, not be published if it is rejected or withdrawn or abandoned or considered withdrawn or abandoned before the expiration of seventeen months from the filing date or, if priority was claimed, before the expiration of seventeen months from the priority date. If a patent has already been granted on the subject of the application by the time the application is published, the patent will be published together with the search report, and the application is made open to public inspection.

Patent specifications are not printed, but after grant the complete file of the granted patent is published by laying it open to public inspection. After publication of the application, the description, claims, drawings and the search report and abstract will be laid open to public inspection.

[18] Withdrawal to prevent publication

At any time until grant, the applicant may withdraw his or her application by written and signed declaration filed with the Registrar. In case of withdrawal, the application fee will not be refunded.

[K] Nullity and Lapse

Any person may apply to the Supreme Court for the invalidation of a patent.

An application for invalidation may be based upon any of the following grounds only:

- (1) subject matter of patent was not novel, or was not patentable for another reason;
- (2) insufficient disclosure of the invention (i.e., the invention is not disclosed in the patent in a manner sufficiently clear and complete so as to allow it to be carried out by a person skilled in the art); or
- (3) the person to whom the patent was granted was not entitled to it.

In the invalidation proceedings the court may require the owner of the patent to file publications and other documents which show the prior art referred to in connection with an application for a patent or other title of protection filed by that owner with any other national or regional industrial property office for the same or essentially the same invention, or in connection with any proceedings relating to the patent or other title of protection granted on such application. Partial invalidation of only one or some of the claims, or a part or parts of a claim or claims is possible. Invalidation is effective retroactively from the date the patent was granted.

Depending on ratification of the Agreement on a Unified Patent Court, the Unified Patent Court will have jurisdiction concerning the validity of European patents registered in the EU Member States that ratify or adopt the Agreement (which is currently expected to be the whole of the EU except Spain and Poland). During a transitional period of at least seven years patentees will however have the option to file an 'opt-out' notice that nationally registered European patents do not fall under the jurisdiction of the Unified Patent Court, but under the jurisdiction of the respective national courts. See for more details the chapters 'European Union' and 'European Patent System' in the section 'Patents' under 'Conventions and Legislation'.

[L] Use Requirement

A patented invention should be used in the fullest possible measure in Cyprus within four

years from grant, and should if the invention is a product be so used that the demand for it in Cyprus is met on reasonable terms. If, without legitimate reasons, the patented invention is not so used, the patent will become subject to the grant of compulsory licenses.

For the purpose of use, the importation into Cyprus of patented products protected by a patent granted by a country member of the World Trade Organization (WTO) will be deemed use in Cyprus.

[M] Marking

Marking is not compulsory, and marked products have no implications for awarding compensation in case of past infringement.

[N] Licenses

There is no provision for recording of voluntary licenses.

Any person may at any time after the expiration of four years (or of such other period as may be prescribed) from the date of grant of a patent apply to the Registrar for the grant of a compulsory license under the patent, on any of the following grounds:

- (1) that the patented invention, though capable of being worked commercially in Cyprus, is not so worked or not so worked to the fullest extent being reasonably practicable;
- (2) that the patented invention is a product and a demand for that product in Cyprus is not met or not met on reasonable terms;
- (3) that, by reason of refusal of the owner of the patent to grant a license upon reasonable terms, a market for the export of any patented product made in Cyprus is not being supplied, or the working or efficient working in Cyprus of another patented invention which makes a substantial contribution to the art is prevented or hindered, or the establishment or development of commercial or industrial activities in Cyprus is unfairly prejudiced; or
- (4) that the manufacture, use or disposal of materials not protected by the patent, or the establishment or development of any commercial or industrial activities within Cyprus, is unfairly prejudiced by conditions attached by the owner of the patent to the grant of licenses thereunder or to the disposal or use of the patented product or the using of the patented process.

If an application for the grant of a compulsory license is made on the ground that the patented invention is not being exploited commercially in Cyprus or not exploited in the fullest possible measure, the Registrar may grant a compulsory license to the applicant on such terms as the Registrar deems fit. The Registrar also has the option to adjourn the application for a sufficient time for the invention to be exploited, if it appears to the Registrar that the time lapsed since the publication of the notice of grant of the patent in the Official Gazette for any reason has been insufficient to enable the invention to be exploited.

If an application for the grant of a compulsory license is made on the ground that the patented invention is a product for which a demand in Cyprus is not met or not met on reasonable terms, the Registrar may grant a compulsory license to the person specified in the application on such terms as the Registrar deems appropriate.

A compulsory license obtained on the ground that, by reason of refusal of the patent owner to grant a license upon reasonable terms, a market for the export of a patented product made in Cyprus is not being supplied, should contain such provisions as the Registrar thinks fit for restricting the countries wherein any product concerned may be disposed of or used by the grantee.

A compulsory license in case of dependency (i.e., when by reason of the refusal of the patent owner to grant a license on reasonable terms, the working or efficient working in Cyprus

of another patented invention making a substantial contribution to the art is being hindered) may be granted only if the owner of the younger patent is prepared to grant the owner of the older patent and his or her licensees a license on reasonable terms.

The grant of a compulsory license on any of the above-mentioned grounds may also be applied for by a party who is already a licensee under the patent concerned. In such case, the Registrar may grant a compulsory license and order the existing license to be cancelled, or may order the existing license to be amended instead of granting a compulsory license.

If the Registrar is of the opinion that the manufacture, use or disposal of materials not protected by the patent is unfairly prejudiced by conditions imposed by the owner of the patent on the grant of licenses thereunder, or on the disposal or use of the patented product or the use of the patented process, in case of an application for the grant of a compulsory license on that ground, the Registrar may order the grant of a compulsory license to the applicant and to the applicant's customers.

If required for reasons of national security or public safety, the Council of Ministers may by notice published in the Official Gazette authorize a government agency or person designated in the notice to make, use or sell an invention being the subject of a patent or patent application, provided that an equitable remuneration is paid to the owner of the patent or patent application. An appeal against the Council's decision relating to the remuneration may be lodged with the Supreme Court.

A compulsory license will only be granted if the applicant has first tried to obtain a voluntary license, but was not able to obtain such license on reasonable terms within a reasonable period of time. In case of a national emergency or where there are other very urgent circumstances, or in cases of public non-commercial use, this requirement does not apply, provided that the owner of the patent is notified as soon as possible. An application for the grant of a compulsory license is to be made on the applicable form upon payment of the required fee, and must be accompanied by evidence that the applicant has requested a license contract from the patent owner, but was unable to obtain a license on reasonable terms and within a reasonable time. The application must also be accompanied by a plan according to which the applicant intends to work the patented invention, including evidence that he or she is able to work the invention in Cyprus. A decision to grant a compulsory license will establish the period for which it is granted, the acts to which it extends, the period within which the grantee must start to work the patented invention, and the terms for payment of the remuneration.

A compulsory license will be non-exclusive, and may be assigned only with the (part of the) enterprise or goodwill to which it pertains. The scope and duration of a compulsory license will be limited to the purpose for which it was granted. With respect to semiconductor technology, a compulsory license may be granted only for public non-commercial use or to remedy a practice determined after judicial or administrative proceedings to be anti-competitive. A compulsory license must be predominantly for the supply of the market in Cyprus. A compulsory license does not include the right to importation. The owner of the patent will be entitled to a remuneration which is appropriate in the circumstances of the case, taking into consideration the economic value of the license. A compulsory license may be terminated if and when the circumstances that led to its grant have ceased and will not likely recur, provided that the legitimate interests of the holder of the compulsory license will be observed. An appeal may be lodged with the Supreme Court against decisions concerning a compulsory license.

[O] Pledge and Seizure

Not applicable in this jurisdiction.

[P] Infringement*[1] Infringing acts / Non-infringing acts*

The following acts done in Cyprus without the consent of the owner of a patent are deemed infringement:

- (1) in the case of a patent for a product: the manufacture, offering or putting on the market of a product incorporating the invention, or the use of such product, or the importation or stocking of such product for such offering or putting on the market or for such use, and inducing third parties to do any of these acts; and
- (2) in the case of a patent for a process: using the process which forms the subject matter of the patent, and furthermore the offering, putting on the market or use of a product directly resulting from the application of the patented process, and the importation or stocking of such product for such offering or putting on the market or for such use even where a patent cannot be obtained for such product, and inducing third parties to do any of these acts.

As follows from the above, the protection conferred by a patent for a process extends to products directly resulting from application of the patented process.

The following are not considered infringement:

- (1) acts done privately and on a non-commercial scale, provided these do not substantially prejudice the economic interests of the owner of the patent;
- (2) acts consisting in making or using the invention for purely experimental purposes or for scientific research;
- (3) acts consisting in the extemporaneous preparation of a medicine in accordance with a medical prescription made for individual cases by a medical doctor or in a pharmacy, and acts concerning a medicine thus prepared; and
- (4) acts concerning a patent protected product which has been put on the market by the owner of the patent or with his or her explicit consent, committed after that product has been so put on the market in the European Economic Area (exhaustion of patent right).

Supplying or offering to supply any third party who is not authorized to exploit the patented invention with means relating to an element of the patented invention, exclusively for carrying out the invention is an infringement if the supplier or provider is aware, or the circumstances make it apparent, that these means are apt for and destined for carrying out the invention. However, there is no infringement if the means in question are staple commercial products and the circumstances in which they are supplied do not constitute inducement to infringe the patent. When judging a case of contributory infringement, persons who perform acts as mentioned under (1), (2) or (3) above will not be considered entitled to exploit the invention as envisaged in the present paragraph.

Any interested person may apply to the court for a declaration that the doing of a certain act does not infringe upon a particular patent. In such case, the owner of the patent must inform all licensees of the proceedings, and the licensees may then join in the proceedings unless the license agreement does not permit this. The non-infringement declaration will be granted if the person bringing the proceedings proves that the act concerned does not constitute an infringement of the patent. Proceedings for a non-infringement declaration may be instituted together with proceedings for the invalidation of the patent, but proceedings for a non-infringement declaration may not be instituted by a defendant in infringement proceedings relating to the act concerned.

Bolar provision:

Experiments and trials, both pre-clinical and clinical, conducted in pursuance of seeking

regulatory approval for a generic or similar biological medicinal product, do not constitute infringement. Also manufacture/importation of the active ingredient and batches in order for such tests to be performed does not constitute infringement.

[2] Prior user rights

There are no provisions on prior user rights. An invention is deemed new if it is not part of previous technique. ‘Previous Technique’ includes acts that have been made public either under any written form or under a verbal description or that have been used under any other way, anywhere in the world.

[3] Remedies

Any infringement action is to be brought before the competent court, which may, as appropriate, award damages, an injunction to prevent further infringement and any other remedy provided in the law. If infringement has not yet taken place but it is proved that it is likely that infringement will occur, an injunction to prevent infringement may be obtained. In infringement proceedings, the defendant may request the invalidation of the patent. In case of an action based upon infringement of a European patent, the court may suspend the proceedings until the period for filing an opposition has expired where no opposition has been filed or, if an opposition has been filed, until a final decision on the opposition has been made.

Unless the license agreement provides otherwise, a licensee may request the owner of the patent to institute legal proceedings for any infringement indicated by the licensee, specifying the relief desired. After having notified the owner of the patent in this way the licensee may then institute infringement proceedings in his or her own name, if the licensee proves to the court that the owner of the patent received the request but refused or failed to institute proceedings within three months from receipt of the request. In such case, the owner of the patent will be entitled to join in the proceedings brought by the licensee. The court may, on application by the licensee, grant an injunction to prevent infringement or further infringement even before the expiration of this three-month period if the licensee proves that immediate action is required to avoid substantial damage,

Infringement action becomes statute barred after six years from committing the infringement.

As from the publication of the patent application (which takes place as soon as possible after the expiration of eighteen months from the filing or priority date, or earlier if so requested by the applicant in writing), the application will already provisionally confer exclusive rights on the applicant, and the applicant may take infringement action against infringement upon a published application, but the court may suspend proceedings concerning unauthorized acts relating to an invention being the subject of a published application until a final decision on the application (grant or refusal) has been taken by the Registrar. A published European patent application designating Cyprus will only have said effect provided that a Greek translation of the claims has been filed with the Cyprus Office in the prescribed manner accompanied by the prescribed fee, or has been notified to the alleged infringer. The extent of protection conferred by a published application will be determined by the latest filed claims as contained in the published application, provided that the patent as granted shall retroactively determine the extent of protection of the application insofar as the protection is not extended by it. If a patent is amended in revocation proceedings, the extent of protection conferred by the published application will retroactively be determined by the patent as amended (insofar as the protection is not extended by the amendment).

Depending on ratification of the Agreement on a Unified Patent Court, a European patent granted after the entry into force may, at the applicant’s choice, alternatively be registered as a European patent with unitary effect for the whole of the European Union except (as currently expected) Spain and Poland (‘EU patent’). The Unified Patent Court will have jurisdiction concerning the infringement (and validity) of EU patents, as well as European patents registered

in the EU Member States that ratify or adopt the Agreement. During a transitional period of at least seven years patentees will however have the option to file an ‘opt-out’ notice that nationally registered European patents do not fall under the jurisdiction of the Unified Patent Court, but under the jurisdiction of the respective national courts. See for more details the chapters ‘European Union’ and ‘European Patent System’ in the section ‘Patents’ under ‘Conventions and Legislation’.

[4] Penal provisions

The Law provides that it is a criminal offence not to comply with an order of the court prohibiting the infringement of a patent in the future.

[5] Enforcement and Customs

Under some circumstances, the customs authorities may be entitled to seize goods from being imported into Cyprus.

The Department of Customs and Excise may seize goods infringing intellectual property rights (including patent infringement) in accordance with the provisions of the Control of the Movement of Goods Infringing Intellectual Property Rights Law No. 133(I)/2006 and in line with Council Regulation (EC) No. 1383/2003 of 22 July 2003, now replaced by Regulation (EU) No. 608/2013.

[Q] Restoration

If a patent has lapsed or a patent application has been deemed withdrawn on account of non-payment of an annual fee, and if the non-payment was unintentional, the patent or application may be restored upon application by any interested person made within twelve months from the expiration of the grace period for paying the annual fee. The request is to be made on the applicable form and to be accompanied by evidence in support of the statements made in the request. If the Registrar is of the opinion that no restoration should be granted, he or she will notify the applicant, who may then within one month request to be heard, failing which the request will be refused. If the Registrar accepts that the failure to pay the annual fee was unintentional and allows the request, the applicant will be required to file the applicable forms and pay the unpaid annual fee and surcharge and the restoration fee.

If these requirements have been duly complied with and all fees due been paid, the Registrar will make an order restoring the patent or application (as applicable) and publish it in the Gazette. Any interested person may lodge an appeal with the Supreme Court against a decision of the Registrar to grant or refuse a request for restoration. If a patent has been restored, no proceedings can be brought with respect to any acts performed after the lapse of the patent and before the date of the order for restoration, or with respect to any acts performed after the date of the order for restoration in relation to articles which were manufactured in Cyprus or imported into Cyprus after the lapse of the patent and before the date of the order for restoration.

Restoration of priority right, in case an application was not filed within the twelve months Paris Convention term, is possible within sixteen months from the earliest priority date claimed.

Provided that a PCT application and a request for restoration is filed at the Receiving Office in this jurisdiction within fourteen months from the priority date, restoration of priority right under Rules 26bis.3 in the international phase of the PCT application may be possible.

Restoration of failure to meet other time limits is not possible.

[R] Specific Aspects of Regional Patents

Cyprus has been bound by the European Patent Convention since 1 April 1998, and consequently patent protection for Cyprus may be obtained in the form of a European patent valid in Cyprus.

Depending on ratification of the Agreement on a Unified Patent Court, a European patent granted after the entry into force may, at the applicant's choice, alternatively be registered as a European patent with unitary effect for the whole of the European Union except (as currently expected) Spain and Poland ('EU patent'). See for more details the chapters 'European Union' and 'European Patent System' in the section 'Patents' under 'Conventions and Legislation'.

[1] Filing Authority

A European patent application may be filed with the Patent Office of Cyprus, provided that divisional applications may be filed only directly with the EPO.

Unless priority from an earlier Cyprus patent application is claimed, applicants who are Cyprus nationals must file European patent applications (other than divisional applications) with the national Office of Cyprus and not directly with the EPO.

[2] Appointment of Representative

For the purpose of filing the translation, validation, conversion and for payment of annual renewal fees, applicants neither residing nor having their principal place of business in Cyprus must appoint an attorney at law who is entitled to practise in Cyprus as agent.

[3] Validation

A European patent designating Cyprus will only have effect in Cyprus if within three months from the publication of the mention of its grant in the European Patent Bulletin a translation into Greek of the patent is furnished in duplicate to the Cyprus Office, together with proof of payment of the required fee. If this fee has not been paid, the notice of the filing of the translation will not be published. In the event that a European patent in opposition proceedings is maintained in amended form, a Greek translation of the patent as amended must be filed within three months from publication in the European Patent Bulletin of the decision to maintain the patent as amended, together with proof of payment of the required fee. In such case the translated amended text is to be attached to the original translation. Two copies of the drawings are to be attached even if these contain no text matter, together with two copies of the abstract, translated into the Greek language. The filing number of the European patent application, the name and address of the applicant, and the publication number of the notification of the grant of the European patent must be given. European patents are entered in a separate Part of the Register of Patents. If the required translation is not filed in due time or the required fee is not paid in due time, the patent will be deemed void from the beginning as far as Cyprus is concerned.

[4] Authentic text

Should the scope of protection according to the Greek translation of the claims be narrower than according to the original text in the language of the proceedings, the translation will prevail. The applicant will however be entitled at any time to submit an improved translation, which will take effect as from the day of its publication or from the day of it being submitted

to the alleged infringer. Note that in invalidation or revocation proceedings, the text in the language of the proceedings will be decisive.

[5] Amendments and corrections

Amendment and corrections of the patent may be recorded at the Cyprus Patent Office.

[6] Publication

A notice of the filing of the translation will be published in the Official Gazette. The translation will be open to public inspection at the Cyprus Office, and copies may be obtained.

[7] Provisional protection

The right to institute infringement actions in case of infringement committed before grant exists as from the day that a Greek translation of the claims is made available to the public or served upon the alleged infringer. A reasonable compensation may be claimed, as well as interlocutory measures. However, the court may suspend the proceedings until after the patent has been granted. The translation must be accompanied by the filing number of the European patent application, name and address of the applicant, number of publication of the European application by the EPO, and the title of the invention in translation. If priority was claimed the particulars are to be given.

Anyone who in good faith had begun or had made real and serious preparations to use an invention which was the subject of a European patent, which use would not constitute an infringement of the patent in the original version of the translation, but would constitute an infringement in the improved version, will be entitled to continue such use in or for the needs of his or her own enterprise after the improved translation has become effective, without any extra charge.

[8] Simultaneous protection

If both a national Cyprus patent and a European patent designating Cyprus in respect of the same invention and belonging to the same inventor or his or her assignee coexist, and both patents have the same application or priority date, the Cyprus patent will be ineffective after the lapse of the opposition term for the European patent (which is nine months from publication of the mention of the grant of the European patent) or, in case opposition procedures have been started and the European patent is maintained, as from the day that such procedures have ended. If in such a situation the national Cyprus patent would not be granted earlier than after the lapse of the opposition term, respectively after the ending of the opposition procedures with maintenance of the European patent, the Cyprus patent will have no effect at all. In all these cases, the subsequent lapse or invalidation of the European patent will not revive the Cyprus patent.

[9] Conversion

A European patent application designating Cyprus may be converted into a national patent application if it is deemed withdrawn because it has not reached the EPO before the end of the fourteenth month after the filing or priority date, or because it was filed in the Greek language and the translation into one of the three official languages of the EPO was not filed in due time. In such case, the national filing fee must be paid and the evidence of payment

and the conversion request in duplicate must be filed within three months from the date that the applicant was notified that the application was deemed withdrawn, and a Greek translation of the application in duplicate must be filed within four months from filing of the conversion request with the Cyprus Office. If a search report has been drawn up prior to conversion, this report will take the place of the search report prescribed in the national procedure.

[10] Payment of fees

To keep a European patent valid in Cyprus in force, annual renewal fees must be paid as in the case of a national patent. Annual renewal fees are due as from the third year from filing. The first annual renewal fee to be paid is that for the year following the year in which the mention of the grant of the European patent was published in the European Patent Bulletin.

[S] Specific Aspects of International Patent Applications (PCT)

Cyprus has been a party to the Patent Cooperation Treaty (PCT) of 1970 since 1 April 1998. The only kind of patent protection that may be obtained for Cyprus by filing a PCT international application is by way of a European patent valid in Cyprus.

[1] Receiving Office

The Patent Office of Cyprus acts as Receiving Office under the PCT for international patent applications filed by nationals and residents of Cyprus.

The Cyprus Office currently accepts filing of international applications with the request in PCT-EASY format.

[2] International Searching Authority

The competent International Searching Authority for international patent applications filed with the Cyprus Office is the EPO.

[3] International Preliminary Examining Authority

The competent International Preliminary Examining Authority for such applications is also the EPO.

[4] National phase / Regional phase

Not applicable in this jurisdiction. Patent protection for Cyprus through an international patent application filed under the PCT can be obtained only in the form of a European patent valid in Cyprus.

[5] Payment of fees

Not applicable in this jurisdiction.

[T] Fees*[1] Table of official fees*

	EUR
Preparing and filing of an application for a Supplementary patent Certificate – up to and including the issue of Certificate.....	100.00 and stamp duty 18.00 + 2.00 approximately
Preparing and filing of an application for the payment of annuities in respect of one patent.....	See list below for official fees
Recording of change of owner's name or address in respect of one patent.....	100.00 and stamp duty 6.00 approximately
Preparing and filing application for assignment of a patent – up to and including the issue of Certificate.....	100.00 and stamp duty 15.00 approximately
Validation of a European Patent in Cyprus.....	100.00 and stamp duty 18.00 + 2.00
Filing Power of Attorney.....	Stamp duty 12.00
Extra cost of filing any other document (per document).....	None

Official annuity fees for patents:

Year (Protection)	1st	2nd	3rd	4th	
Fees (EUR)	0	0	50.00	60.00	
5th	6th	7th	8th	9th	
80.00	100.00	120.00	140.00	160.00	
10th	11th	12th	13th	14th	
180.00	200.00	240.00	280.00	320.00	
15th	16th	17th	18th	19th	20th
360.00	420.00	480.00	540.00	600.00	660.00

Annuities for Supplementary Protection Certificates:

21st	22nd	23rd	24th	25th
700.00	740.00	780.00	820.00	860.00

[U] Transitional Provisions

Not applicable in this jurisdiction.

[V] Specific Patent Issues

There are no specific issues to be mentioned.

[W] Governmental Websites

- www.mcit.gov.cy/drcor

PART 2 TRADEMARKS**§2.01 SUMMARY****[A] Duration of Registration**

- 7 years from the date of registration (which coincides with the filing date), indefinitely renewable for further 14-year periods.

[B] Registrable/Not Registrable

- Registrable is any sign which can be represented graphically, provided it is capable of distinguishing the goods or services of one enterprise from those of other enterprises.
- The following may in particular be registered as a mark: words (including personal names), designs, letters, numerals, figures and the shape of goods or their packaging or any combination of these.

[C] Procedure

- A trademark will be registered after examination as to formal requirements, as to registrability per se and as to conflict with earlier registered or pending marks, and after opposition that may be filed within the prescribed period.

[D] Governmental Websites

- www.mcit.gov.cy/drcor

§2.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967 (Cyprus is bound by the Stockholm text of 1967 as from 3 April 1984);
- Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, 1961, since 30 April 1973;
- WIPO Convention, 1967, since 26 October 1984;
- Madrid Agreement (International Registration of Marks), since 4 November 2003;
- Madrid Protocol (International Registration of Marks), since 4 November 2003;
- Trademark Law Treaty, 1994, which took effect on 17 April 1997;
- Nairobi Treaty on the Protection of Olympic Symbol, 1981, since 11 August 1985;
- WTO TRIPS Agreement, since 30 July 1985;
- EU Directive 2008/95/EC of 22 October 2008 to approximate the laws of the Member States relating to trademarks;
- EU Council Regulation (EC) No. 40/94 of 20 December 1993, on the Community Trademark, as amended by Regulation (EC) No. 3288/94, Council Regulation (EC) No. 1653/2003 of 18 June 2003 and Council Regulation (EC) No. 422/2004 of 19 February 2004;
- EU Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community Trademark, entered into force on 13 April 2009; and
- EU Directive 2004/48/EC of 29 April 2004 on the enforcement of intellectual property rights.

[2] Laws

- Trademarks Law, Cap. 268 (as amended); and
- Trademarks Rules 1951 (as amended).

[B] Duration of Registration

The duration of the registration of a mark is seven years from the date of registration (which coincides with the filing date), indefinitely renewable for further fourteen-year periods.

[C] Requirements for Renewal

The requirements for renewal are:

- (1) application for renewal;
- (2) power of attorney; and
- (3) payment of the required renewal fee.

Renewal is to be applied for during the last three months of the current registration period.

The renewal term begins with the date of the expiration of the previous period. If renewal is not affected in time, the Registrar may remove the mark from the Register. However, it can be restored up to two months after the date of advertisement of the removal upon application and payment of the prescribed fee.

In the event that a trademark is not renewed on its due date, and not within two months after the date of advertisement of removal, there is a six-month grace period following the

renewal deadline, during which the trademark registration can still be renewed by filing a form and paying the original official fee due, together with a surcharge.

As to the possibility of restoring a lapsed trademark due to non-payment of the renewal fee, see 'Restoration'.

[D] Registrable / Not Registrable

Registrable is any sign which can be represented graphically, provided it is capable of distinguishing the goods or services of one enterprise from those of other enterprises.

Any sign which can be represented graphically may be registered as a mark, provided that it does not belong to any of the categories of non-registrable signs and marks. The following may in particular be registered as a mark: words (including personal names), designs, letters, numerals, and the shape of goods or their packaging, or any combination of these, provided they can serve to distinguish the products or services of one enterprise from those of another.

(A) Not registrable on absolute grounds:

- (1) Signs not capable of being represented graphically or not capable of distinguishing goods or services of one enterprise from those of other enterprises, and marks devoid of any distinctive character.
- (2) Marks consisting exclusively of signs or indications which may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, or time of production of goods or rendering of services, or other characteristics of goods or services.
- (3) Marks consisting exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.
- (4) Signs consisting exclusively of the shape resulting from the nature of the goods or being necessary to obtain a technical result or giving substantial value to the goods.
- (5) Marks being of such a nature as to deceive the public, for instance with regard to the nature, quality or geographical origin of the goods or services.
- (6) Marks consisting of or containing the flag of a Convention country and anything which from a heraldic point of view imitates such flag, except with the authorization of the competent authorities of the country concerned, unless it appears to the Registrar that use of the flag in the manner proposed is permitted without such authorization.
- (7) Marks consisting of or containing the armorial bearings or any other state emblem of a Convention country which is protected under the Paris Convention and anything, which from a heraldic point of view imitates any such bearings or emblem, except with the authorization of the competent authorities of that country. However, a national of a country who is authorized to make use of a state emblem of that country may apply for registration thereof as a mark, even if it is similar to that of another country.
- (8) Marks consisting of or containing an official sign or hallmark adopted by a Convention country and indicating control and warranty, protected under the Paris Convention, and anything which from a heraldic point of view imitates any such sign or hallmark, in respect of goods or services identical or similar to those in relation to which it indicates control and warranty, except with the authorization of the competent authorities of the country concerned. However, a national of a country who is authorized to make use of an official sign or hallmark of that country may apply for the registration thereof as a mark, even if it is similar to that of another country.
- (9) Marks consisting of or containing any armorial bearings, flag or other emblem (including anything which from a heraldic point of view imitates any such emblem), or an abbreviation or name of any international intergovernmental organization of which one or more Convention countries are members, which emblem, abbreviation or name is protected under the Paris Convention, except with the authorization of the intergovernmental organization concerned, unless it appears to the Registrar that the use of the emblem, abbreviation or name in the manner proposed:

- (a) is not such as to suggest to the public that a connection exists between the organization and the mark; and
 - (b) is not likely to mislead the public as to the existence of a connection between the user and the organization.
- (10) Marks containing a sign of high symbolic value, particularly a religious symbol.
- (11) Marks the application for the registration of which is made in bad faith by the applicant. It could be assumed that an application could be considered filed in bad faith, for instance if it is made where there is no bona fide intention to use the mark in relation to the goods or services concerned.
- (12) Marks being contrary to public policy or to accepted principles of morality.

A mark devoid of any distinctive character or a mark belonging to any of the categories mentioned under (2) and (3) above, may nevertheless be registered, if such mark prior to the date of filing the application for registration has obtained distinctive character through the use made thereof (secondary meaning).

(B) Not registrable on relative grounds:

- (1) Marks which are identical with a mark already registered or applied for (subject to its being registered) in or with effect for Cyprus for identical goods or services. A later mark will still be not registrable for this reason for one year after the registration of such earlier mark expired, unless the Registrar is satisfied that there has been no bona fide use of the earlier mark during the two years immediately preceding the expiration.
- (2) Marks which are identical with a mark already registered or applied for (subject to its being registered) in or with effect for Cyprus covering similar goods or services.
- (3) Marks which are similar to a mark already registered or applied for (subject to its being registered) in or with effect for Cyprus covering identical or similar goods or services, where because of such identity or similarity there is a likelihood of confusion amongst the public, including the likelihood that the marks are associated with each other by the public. A later mark will still be not registrable for this reason for one year after the registration of such earlier mark expired, unless the Registrar is satisfied that there has been no bona fide use of the earlier mark during the two years immediately preceding the expiration.
- (4) Marks which are identical with a mark which at the application or priority date is entitled to protection under Article *6bis* of the Paris Convention as a well-known mark for identical goods.
- (5) Marks which are identical with a mark which at the application or priority date is entitled to protection under Article *6bis* of the Paris Convention as a well-known mark for similar goods.
- (6) Marks which are similar to such mark which under Article *6bis* of the Paris Convention is entitled to protection as a well-known mark for identical or similar goods, where because of such identity or similarity there is a likelihood of confusion amongst the public, including the likelihood that the signs are associated with each other by the public.
- (7) Marks which are identical with or similar to an earlier mark having a reputation in Cyprus being registered for non-similar goods or services, if use of the later mark without due cause would take advantage of, or be detrimental to, the distinctive character or the repute of the earlier mark.
- (8) Marks whose use in Cyprus is liable to be prevented by virtue of an earlier copyright or industrial property right, or an earlier right to a name or personal portrait, or another earlier right (not being an earlier right as referred to under items 1–7). Such marks are not registrable to the extent that the use thereof is liable to be so prevented.
- (9) Marks which are identical with or similar to an earlier certification mark conferring a right which expired less than three years before filing of the application.

- (10) Marks which are identical with or similar to an earlier collective mark conferring a right which expired less than three years before filing of the application.
- (11) Marks which are identical with or similar to an earlier mark which was registered for identical or similar goods or services and whose registration expired due to failure to renew less than two years before filing of the application, except if the owner of the earlier mark consented to the registration, or that owner within the period of two years from failure to renew the registration has not put the mark to genuine use in relation to the goods or services for which it is registered.

In Cyprus, a mark may be registered with the consent of the owner of an earlier mark or other earlier right with which it conflicts. However, notwithstanding the consent, the Registrar may still refuse to register the mark.

The registration of a later mark as referred to in items 1 to 9 inclusive above will not be refused if the applicant shows to the satisfaction of the Registrar that there has been honest concurrent use of that mark, unless objection is raised in opposition proceedings by the owner of the earlier mark or other earlier right.

No notice of any trust (express, implied or constructive) shall be entered in the Register, and the Registrar shall not be affected by any such notice.

It has been possible to register service marks in Cyprus since 19 November 1990. The provisions applicable to trademarks for goods apply *mutatis mutandis* to service marks.

[1] Colour marks

A mark may be entirely or partly limited to one or more specific colours and the fact that it is so limited will be taken into consideration by the Registrar or the court when deciding on the distinctive character of the mark. If and to the extent that a mark is registered without limitation of colours, it will be deemed registered for all colours.

[2] Three-dimensional marks

Three-dimensional marks may be registered provided that they may be represented graphically and are sufficiently distinctive. Note, however, that three-dimensional signs consisting exclusively of the shape resulting from the nature of the goods, or being necessary to obtain a technical result, or giving a substantial value to the goods concerned, cannot be registered as a mark.

[3] Collective marks

Associations may apply for the registration of a collective mark. A collective mark is a mark distinguishing the goods or services of members of the association owning the mark from those of other undertakings. A collective mark may not be registered if the public is liable to be misled with regard to the character or significance of the mark, in particular if it is likely to be taken to be something other than a collective mark. For that reason the Registrar may require the mark to indicate that it is a collective mark. Regulations governing the use of the mark must be filed. These are subject to the Registrar's approval and open to public inspection. Amendments are effective only following approval by the Registrar.

Signs or indications which may serve in commerce to designate the geographical origin of goods or services may be registered as a certification mark or a collective mark. However, the owner of such a certification or collective mark may not prohibit the use of such signs or indications in accordance with honest practices in industrial or commercial matters, and in particular by a person who is entitled to use a geographical name.

[4] Certification marks

Certification marks may be registered both in respect of goods and of services. A certification mark is a mark indicating that the goods or services in connection with which it is used are certified by the owner of the mark in respect of origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics. A certification mark may not be registered if the public is liable to be misled with regard to the character or significance of the mark, in particular if it is likely to be taken to be something other than a certification mark, and for that reason the Registrar may require the mark to indicate that it is a certification mark. A certification mark may not be registered in the name of a person carrying on a business involving the supply of goods or services of the kind certified. Regulations governing the use of the mark must be filed. These are subject to the Registrar's approval and open to public inspection. Amendments are effective only following approval by the Registrar.

A certification mark may be assigned only with the special consent of the Registrar.

Signs or indications which may serve in commerce to designate the geographical origin of goods or services may be registered as a certification mark or a collective mark. However, the owner of such a certification or collective mark may not prohibit the use of such signs or indications in accordance with honest practices in industrial or commercial matters, and in particular by a person who is entitled to use a geographical name.

[5] Associated marks

Not applicable in this jurisdiction.

[6] Series of marks

A number of marks which resemble each other as to their material particulars and differ only as to matters of a non-distinctive character not substantially affecting the identity of the mark may be registered as a series of marks, and will be deemed to be associated marks. It is a condition for acceptance of the application that the Registrar is satisfied that the marks constitute a series.

[7] Other marks

Taste marks, fragrance marks and sound marks are not registrable.

[E] Applicant

Any person (individual, legal entity) who claims to be the owner of a mark may apply for its registration. There is no distinction between Cyprus nationals and others or between residents of Cyprus and non-residents.

[F] Assignment

A registered mark may be assigned with or without the goodwill of the business, and in respect of all or part of the goods or services for which it is registered. Assignments must be recorded.

The requirements for recordal are:

- (1) request for recordal on prescribed form;

- (2) original or certified copy of the deed of assignment, legalized by Notary Public, signed by the assignor and the assignee;
- (3) power of attorney signed by the assignee; and
- (4) payment of the required fee.

Assignment of a certification mark is possible only with the special consent of the Registrar.

An application for the registration of a mark may be assigned and the assignment will be recorded but the Registrar's certificate of the assignment will not be issued until the Certificate of Registration of the trademark has been issued.

[G] Requirements for Filing

[1] Request for registration

A separate application for registration is to be filed for each class of the International Classification.

The requirements are as follows:

- (1) Application in the prescribed form in the Greek language, signed by the applicant or his or her agent, giving the full name, address and occupation of the applicant, and a specification of the goods or services and of the relevant class of the International Classification for which registration is sought. If an application is for all goods of a class, a notarized affidavit confirming that the applicant uses or intends to use the mark for all the goods in that class will be required.
- (2) Five prints of the mark (sixth print for the agent's file), also in case of a word mark, for each class.
- (3) In the case of an application for the registration of a certification mark or a collective mark, the rules governing the use of the mark must be filed.

A filing fee is payable.

A mark may be registered in its original language, but if it is in characters other than Latin characters, a transliteration must be filed which will be published in the Official Gazette. In practice the Registrar also requires a translation of the characters into Greek. All documents filed should be in Greek.

[2] Appointment of Representative

Applicants for the registration of a mark must appoint an attorney at law licensed to practice in Cyprus as agent.

[3] Power of Attorney

Applications must be filed through an attorney at law licensed to practice in Cyprus and a power of attorney in the prescribed form in the Greek language in favour of the attorney must be filed in duplicate. No legalization or notarization is required. A general power of attorney valid for all applications of the same applicant is acceptable. The power of attorney should be filed with the request for registration or within one month from the Registrar's request.

[4] Priority

If Convention priority is to be claimed (priority term six months), this must be done on filing

the application, by making the priority claim in the application form. A priority document, (a confirmation from the registering or other competent authority of the country where the priority application was filed certifying, or verifying to the satisfaction of the Registrar, the date of filing of the application, the country or registering or competent authority, the representation of the mark, and the goods or services covered by the application) must be filed with a certified Greek translation within three months from submitting the application, or else the priority will be lost. The specification of goods or services in the Cyprus application may not be broader than in the application whose priority is claimed. However, it can be narrower.

[5] Graphical representations

A registrable trademark must consist of signs capable of being represented graphically. Five labels of the mark must be filed with the Registrar.

[H] Procedure

[1] Filing Authority

Applications for the registration of trademarks are filed with the Department of Registrar of Companies and Official Receiver (part of the Ministry of Energy, Commerce, Industry and Tourism) in Nicosia.

[2] Online filing

Not applicable in this jurisdiction.

[3] Classification

The classification of marks applicable in Cyprus is the International Classification under the Nice Agreement.

A separate application for registration is to be filed for each class of the International Classification.

[4] Search

The Registrar will, at the time of examination of the application, make an official search for prior marks (pending or registered, national, European Union or international marks designating Cyprus).

The Cyprus Trade Mark Office is currently under computerization and availability searches are mainly conducted manually. The Cyprus Trade Mark Office has entered into an agreement with the OHIM, with possibility of access to TMView and TMClass.

[5] Examination

Applications for registration of a mark are examined by the Registrar for compliance with the formal requirements, for registrability per se and for non-conflict with earlier registered or pending marks.

If objections are made, the applicant will be informed and must then respond within two

months (term extendable). If the applicant fails to respond within the time limit, the application will be rejected.

If registration of a mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving the applicant in writing a notice of non-completion, treat the application as abandoned unless it is completed within the time specified in that notice.

[6] Registration

If an application has been accepted and advertised and no notices of opposition have been filed within the opposition period, or any opposition has been withdrawn or decided in favour of the applicant, the mark will be registered and a certificate of registration will be issued. The registration of the mark is effective from the date of filing the application for registration, which date shall be deemed to be the date of registration.

[7] Opposition

Within two months from advertisement of the application (term extendable), any person may file with the Registrar a notice of opposition to registration. The notice must include a statement of the grounds for opposition. A copy of the notice and the statement will be sent to the applicant, who has two months to file a counter-statement. The parties may file evidence, and a hearing will be held and the opposition will be decided upon.

[8] Appeal

An appeal against refusal or against a decision on opposition may be lodged with the Supreme Court.

[9] Alteration after Registration

A registered proprietor of a trademark may file an application with the Registrar requesting the amendment of a trademark in a way that the trademarks' identity is not substantially affected. The Registrar has discretion to accept such a request and the Registrar's decision is subject to appeal to the Supreme Court of Cyprus.

Alteration will also be allowed if it relates to the name or address or description of the owner of the trademark.

[10] Publication / Public File Inspection

If it appears to the Registrar that the requirements for registration are met, the application will be accepted, and the application will be advertised in the Official Gazette.

[I] Nullity and Lapse

A registered trademark may be removed from the Registry of Trademarks on any of the following grounds:

- (1) The proprietor of the trademark has not used the mark for five consecutive years in

respect of the goods or services for which it is registered and there are no proper reasons for non-use.

- (2) That as a consequence of the owner's behaviour (either activity or inactivity) the mark has become in the trade the common name for the goods or services for which it is registered.
- (3) That the mark has become deceptive as to the nature, quality or geographical origin of the goods or services in consequence of the use made of it by the owner or with his or her consent in relation to the goods or services for which it is registered.

Any person who is affected may apply to the Registrar or the court for the removal of a trademark from the Register or for the revocation of the registration of a trademark on the ground of breach or non-compliance with any conditions imposed by the Registrar regarding its registration.

[J] Use Requirement

Use of a mark is not required for its registration, but at least a bona fide intention to use the mark is required.

Once registered, a mark must be used within five years from registration date. A mark may be removed from the Register if it is not genuinely used in bona fide manner in Cyprus by the registrant or with his or her consent during five consecutive years, unless the non-use is due to legitimate reasons, such as force majeure. The burden of proof of use of a mark is upon the owner of the mark.

Affixing in Cyprus a mark on goods destined solely for export out of Cyprus or on the packaging of such goods may be sufficient use. Use of a mark in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered may be considered sufficient use. Use of a registered mark by a registered licensee will accrue to the owner.

[K] Marking

Marking is not compulsory, and marked products have no implications for awarding compensation in case of past infringement. The possible marking is Registered Trademark, or ®. False marking is punishable with a fine. The competent minister may issue an Order sanctioned by the Council of Ministers for the compulsory marking of goods and the provision of certain items or information on goods in the interests of persons purchasing goods.

[L] Licenses and Registered Users

A person other than the proprietor of a trade or service mark may be registered as a registered user in respect of all or any of the goods or services for which the mark is registered, and this permitted use must be in accordance with any conditions or instructions imposed at the time of registration.

The application for registration of a person or firm as registered user must be made jointly by the proprietor and the registered user of the mark and accompanied by information, verified by Statement of Case and Statutory Declaration, which must state the following (in summary):

- (1) particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user;
- (2) the degree of control by the proprietor over the permitted use;
- (3) whether the proposed registered user will be the sole registered user or whether there will be others;

- (4) the mark or marks in respect of which the application is made;
- (5) any conditions or restrictions proposed, as regards characteristics of goods, mode or place or permitted use or to any other matter;
- (6) whether the permitted use is to be for an indefinite or a limited period and, if the latter, its duration; and
- (7) any other documents, information or evidence the Registrar may require.

[M] Pledge and Seizure

Not applicable in this jurisdiction.

[N] Infringement

[1] Infringing acts / Non-infringing acts

Registration confers proprietary rights. The registration of a person as the owner of a mark will, if valid, give such person the exclusive right to use the mark on or in connection with the goods or services for which it is registered. In all legal proceedings relating to a registered mark the fact that a person is registered as owner of the mark is prima facie evidence of the validity of the original registration of the mark and of all subsequent assignments and transmissions. Trademark infringement action can be taken only in respect of a registered mark. However, in respect of unregistered marks passing off action is possible.

The exclusive rights of the owner of a registered mark are effective from the date of registration, which is the date of filing the application for registration. No infringement proceedings may be started until the registration procedure is completed but after grant of the registration action could be taken in respect of infringement committed between filing and grant.

The exclusive rights conferred by the registration of a mark entitle the owner:

- (1) To prevent any use in the course of trade in Cyprus of a sign identical with that mark in respect of goods or services identical with those for which the mark is registered.
- (2) To prevent any use in the course of trade in Cyprus of a sign identical with that mark for goods or services similar to those for which the mark is registered and to prevent any such use of a sign similar to the mark for goods or services identical or similar to those for which the mark is registered, where because of such identity or similarity there is a likelihood of confusion amongst the public, including the likelihood of association of the sign with the mark. Furthermore, the owner of a registered mark having a reputation in Cyprus is entitled to prevent any use in the course of trade in Cyprus of a sign which is identical with or similar to that mark for goods or services not similar to those for which the mark is registered, if such use, without due cause, takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the mark.

The following acts by a party with a sign under any of the conditions mentioned in the preceding paragraph, done without the consent of the owner of the registered mark, are in particular considered infringing use:

- (1) Affixing the sign to goods or their packaging.
- (2) Offering or exposing goods for sale, putting goods on the market, or stocking goods for those purposes under the sign, or offering or supplying services under the sign.
- (3) Importing or exporting goods under the sign.
- (4) Using the sign on business papers or in advertising.

The trademark shall not entitle the proprietor to prohibit a third party from using, in the course of trade:

- (a) his own name or address;
- (b) indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; and
- (c) the trademark where it is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts; provided he uses them in accordance with honest practices in industrial or commercial matters.

Exhaustion of the rights conferred by a trademark: the trademark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the European Economic Area under that trademark by the proprietor or with his consent. This shall however not apply where there exist legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

[2] Remedies

In case of infringement, relief may be sought in the form of an award of damages or an account of profits and an injunction restraining the further use of the mark. As soon as an action for infringement is begun, the plaintiff may apply for an interlocutory injunction to restrain the defendant from continuing the infringing acts. The owner of the registered mark (especially in case of infringement on a larger scale) may apply to the court for the delivery up of any infringing goods, material or articles and for an order that these be destroyed or forfeited to such person as the court may think fit. Infringement action is to be brought before the District Court competent in the region where the infringement took place. Any appeal is to be brought to the Supreme Court in its appellate jurisdiction.

[3] Penal provisions

It is a criminal offence to falsely represent a trademark as registered or that it has been registered in respect of any goods or services in respect of which it is not registered.

[4] Enforcement and Customs

The owner of a registered mark, who expects that goods infringing the exclusive rights to the mark will arrive from outside the European Union, or from within the European Union without having been entered for free circulation, may request the Department of Customs and Excise to treat those goods as prohibited goods and prevent their import into Cyprus.

Seizure of goods infringing intellectual property rights (including Trade Mark infringement) may be effected by the Department of Customs and Excise in accordance with the provisions of the Control of the Movement of Goods Infringing Intellectual Property Rights Law No. 133(I)/2006 and Council Regulation (EC) No. 1383/2003, now replaced by Regulation (EU) No. 608/2013.

[O] Well-known and Reputed Marks

Marks entitled to protection under Article 6*bis* of the Paris Convention as a well-known mark

(even if not registered or used in Cyprus) are protected under the trademark law of Cyprus, in that:

- (1) their owner may obtain an injunction against use in Cyprus of a mark which or whose essential part is identical or similar to the well-known mark, in relation to identical or similar goods or services, where the use is likely to cause confusion;
- (2) marks may not be registered:
 - (a) for identical goods or services if they are identical to a well-known mark; and
 - (b) for identical goods or services if they are similar, or for similar goods or services if they are identical or similar to a well-known mark, if because of the identity or similarity there is a likelihood of confusion including the likelihood of association.

Marks having a reputation in Cyprus (as distinct from well-known marks described above) and registered in Cyprus are entitled to extra protection, in that:

- (1) infringement action may be taken also against use of an identical or similar sign in relation to goods or services not similar to those for which the reputed mark is registered, if such use without due cause would take advantage of, or be detrimental to, the distinctive character or the repute of the earlier mark; and
- (2) marks may not be registered if they are identical with or similar to an earlier mark having a reputation in Cyprus if registration is applied for in respect of goods or services not similar to those for which the earlier mark is registered, if use of the later mark without due cause would take advantage of, or be detrimental to, the distinctive character or the repute of the earlier mark.

[P] Trademarks and Trade Names

The possible grounds for an action when a trademark is used as a trade name are the following:

- (1) infringement of the registered trademark; and
- (2) passing-off.

Strictly speaking, neither the trademark law nor the relevant legislation regarding trade names reveals a specific cause of action to squarely cover such a case. Thus, the protection is sought either by using the possibilities above, offered by other enactments or the common law.

[Q] Trademarks and Domain Names

The use of a domain name which is similar to or identical to an earlier registered trademark could amount to infringement or, in the case of an unregistered trademark, passing off.

Passing off is defined by the legislator as an attempt by imitation of a name, description, sign, label or otherwise to cause any goods to be mistaken for the goods of another, so as to be likely to lead an ordinary purchaser to believe that he or she is purchasing the goods of that other person.

The remedies available upon successfully proving infringement or passing off are:

- (1) an injunction restraining the use of the offending name;
- (2) damages, representing any damage the proprietor of the trademarks has incurred; and
- (3) an account of profits made by the infringing use of the trademark.

In the event of a dispute regarding a domain name registration, a trademark owner may file

an action at the court seeking these remedies as well as filing a complaint through an approved dispute resolution service provider.

The University of Cyprus, which is currently the Domain Registrar in Cyprus, follows the Uniform Domain Name Dispute Resolution Policy (UDRP) adopted by the Internet Corporation for Assigned Names and Numbers (ICANN). The decisions issued in accordance with this policy are binding on the parties involved and may result in a registrar transferring, cancelling or suspending the domain name registration in question.

[R] Trademarks and Appellations of Origin / Trademarks and Geographical Indications

Section 11(1) of the Trade Mark Law provides that marks which are of such a nature as to deceive the public, for instance with regard to the geographical origin of the goods or services, are not registrable. Cyprus has implemented Council Regulation (EEC) No. 2081/92 into domestic law through the Geographical Indications and Designations of Origins for Agricultural Products and Foodstuffs Law, No. 7(I)/2002, which regulates the registration and protection of appellation of origin and geographical indications and designations of origin for agricultural products and foodstuffs.

[S] Restoration

Restoration of a trademark is a discretionary power of the Registrar of Trademarks.

In cases where no application for renewal has been filed within the grace period of six months and the trademark is removed from the Register, an application may be lodged for its restoration supported by an affidavit giving reasons for its restoration. A good reason is the fact that there is no other identical trademark already registered. In practice restoration has been granted even after a lapse of five years.

[T] Specific Aspects of Regional Trademark Registration

Protection of a mark in Cyprus may be obtained also by registration of the mark as a Community trademark extending at once to all countries of the European Union including Cyprus.

[U] Specific Aspects of International Trademark Registration

Cyprus is a party to the Madrid agreement and the Madrid Protocol. International applications designating Cyprus are examined according to national law, and may be opposed in the same manner. Cyprus has made Declarations extending refusal to eighteen months, including for possible opposition after eighteen months.

[V] Fees*[1] Table of official fees*

	EUR
Filing an Application for registration of a mark in one class of goods/services (up to the stage of publication).....	50.00 and 18.00 (stamp duty) & 2.00 Bar Council Pension Fund
Filing an Application for registration in additional Classes for the same mark (per class) (up to the stage of publication).....	50.00 and 18.00 (stamp duty) & 2.00 Bar Council Pension Fund
Extra cost of claiming Convention priority per mark per class.....	None
Extra cost of claiming Convention priority (for one mark in all classes)...	None
Filing Power of Attorney (general).....	12.00 (stamp duty)
Filing Power of Attorney (special).....	5.71 (stamp duty)
Extra cost of filing any other document (per document).....	Depends on the type of document
Attending to the publication and issue of certificate (upon acceptance, per mark, per class).....	100.00
Filing notice of Opposition to registration.....	40.00 and 18.00 (stamp duty) & 2.00 Bar Council Pension Fund
Filing Counter – Statement to Opposition.....	40.00
Application for hearing.....	50.00
Simple availability search for one mark in one class.....	15.00
Simple availability search for one mark in additional classes, per class...	15.00
Search and advice on availability for one mark in one class.....	15.00
Search and advice on availability for one mark in additional classes, per class.....	15.00 (search) + 30.00 (advice)
Filing an application for renewal for one mark in one class up to and including issue of Certificate.....	80.00 and 18.00 (stamp duty) & 2.00 Bar Council Pension Fund

Filing an application for the assignment of one mark (up to and including the issue of Certificate).....	from 40.00 + 18.00 (stamp duty) & 2.00 Bar Council Pension Fund depending on the date of assignment for the 1st mark and 10.00 each additional mark
Filing an application to record a Registered User for one mark (up to an including issue of certificate).....	70.00 and 18.00 (stamp duty) & 2.00 Bar Council Pension Fund for the 1st mark and 10.00 for each additional mark
Filing an application to record change of the owner's name or address for one mark (up to and including issue of certificate).....	15.00 (for 1st registered mark) & 2.00 Bar Council Pension Fund and 5.00 (for each additional registered mark) and 17.09 for pending application
Preparing and filing a Considered Reply.....	30.00
Filing an application for the restoration of a removed Trade or Service Mark.....	from 93.97, depending on the date of removal from the Registry

[W] Transitional Provisions

Not applicable in this jurisdiction.

[X] Specific Trademark Issues

In line with their commitment to continue to collaborate in the context of the Convergence Programme through the European Trade Mark and Design Network, the trademark offices of the European Union member states have agreed on a common practice with regard to trademarks in black and white (B&W) or greyscale. The common practice has been published

in the form of a Common Communication with the purpose of further increasing transparency, legal certainty and predictability for the benefit of examiners and users alike. The subject of the Common Communication is the convergence of the different handlings of trademarks in B&W or greyscale as regards priority, relative grounds and genuine use.

Priority

A trademark in B&W from which priority is claimed is not identical to the same mark in colour unless the differences in colour are insignificant. The Common Communication defines an insignificant difference between two marks as a difference that a reasonably observant consumer will perceive only upon side-by-side examination of the marks.

A trademark in greyscale from which priority is claimed is not identical to the same mark in colour or in B&W unless the differences in the colours or in the contrast of shades are insignificant.

Relative Grounds

An earlier trademark in B&W is not identical to the same mark in colour unless the differences in colour are insignificant.

An earlier trademark in greyscale is not identical to the same mark in colour, or in B&W unless the differences in the colours or in the contrast of shades are insignificant.

Genuine Use

A change only in colour does not alter the distinctive character of the trademark, as long as the following requirements are met:

- (a) the word/figurative elements coincide and are the main distinctive elements;
- (b) the contrast of shades is respected;
- (c) colour or combination of colours does not possess distinctive character in itself and;
- (d) colour is not one of the main contributors to the overall distinctiveness of the mark.

For establishing genuine use, the principles applicable to trademarks in B&W also apply to greyscale trademarks.

[Y] Governmental Websites

- www.mcit.gov.cy/drcor

PART 3 UTILITY MODELS

The protection of utility models is not possible in this jurisdiction.

PART 4 INDUSTRIAL DESIGNS AND MODELS

§4.01 SUMMARY

[A] Duration of Registration

- 5 years from the filing date, renewable for four terms of 5 years each, for a total duration of 25 years.

[B] Registrable / Not Registrable

- For a design or model to be registrable, it must be novel and have individual character.
- Registrable is the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of a product itself or its ornamentation.

[C] Novelty

- A design is new if a disclosure could not reasonably have become known in the normal course of business to the circles specialized in the sector concerned in the European Union before the filing date or the priority date, if applicable.
- A 12-month grace period preceding the priority or filing date is applicable.

[D] Procedure

- Examination is as to formal requirements only.

[E] Governmental Websites

- www.mcit.gov.cy/drcor

§4.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967 (Cyprus has been bound by the Stockholm text of 1967 with effect from 3 April 1984);
- Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, 1961, with effect from 30 April 1973;
- WIPO Convention, 1967, with effect from 26 October 1984;
- WTO TRIPS Agreement, with effect from 30 July 1985;
- EU Council Regulation (EC) No. 6/2002 of 12 December 2001 on Community Designs, in force since 6 March 2002;
- EU Directive 2004/48/EC of 29 April 2004 on the enforcement of intellectual property rights; and
- EU Directive 98/71/EC of 13 October 1998 on the legal protection of designs.

[2] Laws

- Legal Protection of Industrial Designs and Models Law, No. 4(I)/2002;
- Legal Protection of Industrial Designs and Models Order 873/2003; and
- Legal Protection of Industrial Designs and Models (Fees) Regulations 74/2002.

[B] Duration of Registration

The initial term of a design registration is five years from the filing date, renewable for four terms of five years each. The maximum term is twenty-five years.

[C] Requirements for Renewal

The requirements for renewal are as follows:

- Application for renewal
- Power of attorney
- Payment of the required renewal fee.

Renewal is to be effected during the last three months before the expiration of a five-year registration period. There is a grace period of six months following the expiration of the registration or renewal period of the industrial design. As to the possibility of restoring a lapsed design due to non-payment of the renewal fee, see ‘Restoration’

[D] Registrable / Not Registrable

In order for a design or model to be registrable, it must be novel and have individual character.

Design means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product itself or its ornamentation.

Product means any industrial or handicraft item, including parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs.

Complex product means a product made up of multiple components which can be replaced permitting disassembly and reassembly of the product.

Protection is afforded to the design and not the product incorporating the design.

Designs which are solely dictated by the technical function of a product are not registrable. A design which would be contrary to public order or morality may not be registered.

A design will have individual character if the overall impression it produces on the informed user (i.e., a user familiar with the product) differs from the overall impression produced on such a user by any design which has been made available to the public before the date of filing or the priority date, if applicable.

Where features of a product must be reproduced in an exact form and dimension in order to mechanically connect to another product, registration will not be available unless the design serves the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.

[E] Novelty

A design will be considered new if no identical design has been made available to the public before the date of filing of the application for registration or if priority is claimed, before the priority date. In this context, designs shall also be deemed to be identical if their features differ only in immaterial details.

For the purpose of determining the novelty and individual character, a design will be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the filing or priority date, except where these events could not reasonably have become known in the normal course of business to the circles specialized in the sector concerned, operating within the European Union. A design will, however, not be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:

- (1) If the component part after it has been incorporated into the complex product, remains visible during normal use of the complex product. Normal use means use by the end user, excluding maintenance, servicing or repair work.
- (2) In so far as those visible features of the component part themselves are new and have individual character.

[1] Grace period

The following will not amount to a disclosure of the design:

- (1) If the disclosure took place during the twelve-month period preceding the date of filing (or priority date, if applicable) by the creator of the design, his or her successor in title or a third person as a result of information provided or action taken by the creator of the design or his or her successor in title.
- (2) If the disclosure was made available to the public as a consequence of an abuse in relation to the creator of the design or his or her successor in title.

[F] Applicant

The creator of the design or his or her assignee, the joint creators of the design, or the commissioner of the design, may apply for design registration. In the case of a design made

by an employee in the course of his or her employment, the employer is the entitled person, unless otherwise agreed between the employer and the employee.

An application for the registration of an industrial design may be filed by:

- (1) Cypriots or citizens of the European Union or persons who have their customary residence in Cyprus or in a Member State of the European Union.
- (2) Companies or other legal entities which have a real industrial or commercial establishment in Cyprus or in a Member State of the European Union.

Persons or companies from outside the European Union may register designs in Cyprus if they have their customary residence or a real industrial or commercial establishment in Cyprus, or in a Member State of the European Union.

[G] Assignment

The right of registration of a design and the rights deriving from a registered design may be assigned. The assignment must be registered with the Registrar who will request a written assignment deed. A notarized original or certified copy of a Deed of Assignment or other written document evidencing the assignment must be provided. The recordal of the assignment is published in the Official Gazette of the Republic.

[H] Requirements for Filing

[1] Request for registration

The requirements for registration are:

- (1) Application for the registration of a design, which must contain the following:
 - (a) Name, nationality, address or registered office of the applicant.
 - (b) In the event that the applicant does not have an address or a registered office in Cyprus, the full name and address of the applicant's agent in Cyprus must be stated and the applicant must make a declaration that he or she accepts the jurisdiction of the Cyprus courts.
 - (c) An indication of the product or products into which the design will be incorporated.
 - (d) Representations of the design.
- (2) The registration fee and the fee for the first five years of protection of the design must be paid when the application is submitted. The application may also contain:
 - (a) List of products, embodying the design or model.
 - (b) Classification of products referred to in paragraph (a) into categories and sub-categories in accordance with the International Classification of designs and models, established by the Locarno Agreement dated 2 October 1968, with effect since then, copy of which is kept with the Registrar and is available for review.
 - (c) Where the applicant is not the creator or the sole creator, a declaration of origin of claim over the design or model.
 - (d) Priority claim of previous filing, in accordance with Article 15, with a declaration of date and the country of first filing.
 - (e) Short description of the design's or models' characteristics including reference to colours. The said description shall not exceed 100 words, and shall refer to the characteristics of the design or model in accordance with the filed representation

but shall not relate to technical details related to the function of the object, in which the design or model or possible usage or constructive material is embodied.

- (f) Claim for advertisement of representation.
- (g) Request for postponement of the application for advertisement for the filing of the design or model, which cannot exceed twelve months from the date of filing the application.

Declaration that the design or model has been presented in a report. Such declaration shall be accompanied by a certification of realization of such report.

[2] Appointment of Representative

Applicants for the registration of a design who do not have a registered office in Cyprus must appoint a representative in Cyprus. The full name and address of the applicant's agent in Cyprus must be stated and the applicant must make a declaration that he or she accepts the jurisdiction of the Cyprus courts.

[3] Power of Attorney

A power of attorney must be filed. The power of attorney should be filed with the request for registration or within one month from the Registrar's request. The power of attorney need not be legalized.

[4] Priority

If an application for a design is filed in one of the Member States of the European Union, the applicant may claim priority under the Paris Convention provided that the application in Cyprus is filed within six months.

If priority is to be claimed, the country and date of the application whose priority is claimed must be stated in the application and a certified copy of the priority document with a certified translation into the Greek language must be filed within ten months from the date of filing in the country whose priority is claimed. As to the possibility of restoring priority right, see 'Restoration'.

[5] Description

The Industrial Designs Law provides that an application for the registration of an industrial design may contain a brief description of the distinctive features of the design or model, as well as any reference to colours. However, this is not compulsory.

[6] Graphical representations

An application for the registration of a design must contain a representation of the design (drawings or photographs).

[7] Multiple deposits

A multiple deposit application can be filed provided the designs or models do not exceed in

total 50 and the products which shall embody the designs or models belong to the same subcategory or the same composition structure.

[I] Procedure

[1] Filing Authority

Applications for the registration of industrial designs are filed with the Registrar of Companies and Official Receiver (part of the Ministry of Energy, Commerce, Industry and Tourism) in Nicosia.

[2] Online filing

Not applicable in this jurisdiction.

[3] Classification

Cyprus follows the Locarno Agreement and thus the International Classification for Industrial Designs is used in Cyprus.

[4] Search

Not applicable in this jurisdiction.

[5] Examination

The Registrar examines if the formal requirements are complied with and issues a Certificate of Registration of the design without conducting an examination as to registrability per se.

[6] Registration

The Certificate of Registration of the design must be issued the latest within four months from the filing date of the application, provided that all the formal requirements have been complied with, including payment of a publication fee.

[7] Opposition

Not applicable in this jurisdiction.

[8] Appeal

An appeal may be filed in the Supreme Court against the decision of the Registrar.

[9] Publication / Deferred Publication / Public File Inspection

Upon the issue of the Certificate of Registration and following the payment of a publication fee, the design is published in the Official Gazette of the Republic.

Following the issue of the Certificate of Registration of the design, any third party may request (upon payment of the prescribed fee) a certified copy of the application, the description, the drawings and other relevant particulars of the design.

If no consent to publish has been given by the applicant, such consent must be given within twelve months from the initial filing of the application.

The Registrar has integrated its registered designs data into DesignView.

[J] Nullity and Lapse

The court may cancel any registration of a design on the following grounds:

- (1) It is not a design within the meaning of the Law.
- (2) It is not new and does not have an individual character.
- (3) The applicant is not the creator or owner of the design. This ground may be pleaded only by the proprietor of the design.
- (4) The proposed design conflicts with a design which has been known to the public prior to the filing date or priority date and for which an application or a registration exists in Cyprus or in a Member State of the European Union. This ground may be pleaded only by the owner of the design or the Registrar.
- (5) The applicant is not a Cyprus citizen or a citizen of a country of the European Union and does not reside in Cyprus or in a country of the European Union.
- (6) The design infringes a work protected by copyright in Cyprus. This ground may be pleaded only by the owner of the copyright.
- (7) The design contradicts Article 6*bis* of the Paris Convention or contains signs, emblems, etc. which are in the public interest of Cyprus or a Member State of the European Union. This ground may be pleaded by the appropriate authority or the Registrar.

The Industrial Design Law provides that the owner of a design or model may file an action before the court requesting a declaration that he or she is the owner of the industrial design.

[K] Use Requirement

There is no requirement to use or work the design in Cyprus to maintain the registration.

[L] Marking

Marking is not compulsory, and marked products have no implications for awarding compensation in case of past infringement. False marking is a criminal offence punishable with a fine. The competent minister may in the interests of persons purchasing goods, issue an Order sanctioned by the Council of Ministers for the compulsory marking of goods and the provision of certain items or information on goods.

[M] Licenses

The owner of a registered design may grant a license to use the design to a third party. A written agreement must be made and the license must be registered at the Registry of Design and advertised in the Official Gazette of the Republic.

An application for registration of a license may be made by a licensor or a licensee and must be accompanied by the original or a certified copy of the agreement and any other documents that confirm that authority of each party to enter into the agreement. The signatures of the parties must be notarized.

In certain cases, the court or the Council of Ministers may grant compulsory licenses for designs.

[N] Pledge and Seizure

Not applicable in this jurisdiction.

[O] Infringement

[1] Infringing acts / Non-infringing acts

A registered design gives the owner the exclusive right to use it and to prevent any third party from using it without consent.

In this context ‘use’ of a design includes the manufacture, offer, distribution, import or export of a product or stocking of a product for those purposes.

The following acts do not constitute infringement even if done without the consent of the registered proprietor:

- acts which are private and non-commercial;
- acts done for experimental purposes;
- reproduction for teaching purposes provided that the source of the design is revealed and these acts are not contrary to the customary trade and do not adversely affect the exploitation of the design; and
- certain acts in respect of ships or aircraft registered outside Cyprus.

Exhaustion: not considered infringement are acts done in relation to a product in which a design protected by registered design right is incorporated or to which it has been applied, after the product has been put onto the market in the European Economic Area by the owner of the design or with his consent.

[2] Prior user rights

The court may cancel the registration of a design which is in conflict with a prior design, which has been made available to the public after the filing of the application for registration, or where priority is claimed, after the date of priority of that other design, and which is protected from a date prior to the said filing date, or as the case may be, the said priority date by a design right in Cyprus or a Member State, or an application for registration in Cyprus or a Member State.

[3] Remedies

In the event of an infringement of a registered design, the proprietor of the design may seek an injunction, award of damages or account of profits. The court may also order the delivery up of the infringing articles, their forfeiture and destruction.

These remedies are also available to the applicant of a pending design if a third party fraudulently reproduces, exploits commercially or imports the said design.

Claims for compensation of damage or account of profits due to the unlawful use of the

design are barred after the lapse of five years after the certificate holder noted the infringement or loss, but in any event no action may be instituted after twenty years from the date of infringement.

[4] Penal provisions

Any person who fraudulently uses a design commits a criminal offence.

[5] Enforcement and Customs

In order to prevent the importation of infringing goods into the Cyprus market, the owner of an industrial design may file an application with the Department of Customs and Excise for the border control of goods entering into a market which are suspected of infringing the intellectual property rights of the applicant.

The customs authorities also conduct random checks of goods sold in the market. If goods are found in the market that are suspected of infringing the industrial design rights of the rights holders, they are seized and the right holder is informed.

Seizure of goods may be effected by the customs authorities in accordance with the provisions of the Control of the Movement of Goods Infringing Intellectual Property Rights Law No. 133(I)/2006 and Council Regulation (EC) No. 1383/2003 of 22 July 2003, now replaced by Regulation (EU) No. 608/2013.

[P] Restoration

There is no provision for restoration. If the grace period for payment of renewal fee expires, restoration is not possible. Also, restoration of priority right is not possible.

[Q] Specific Aspects of Regional Design Registration

Protection of a design in Cyprus may also be obtained by registration of the design as a Community design extending at once to all countries of the European Union including Cyprus.

[R] Specific Aspects of International Design Registration

Not applicable in this jurisdiction.

[S] Design and Copyright Protection

A design registered in Cyprus under the Industrial Designs and Models Law, No. 4(I)/2002 may also be protected under the copyright law. The court may cancel the registration of a design that infringes a work protected by copyright in Cyprus. This ground may be pleaded only by the owner of the copyright.

[T] Fees*[1] Table of official fees*

	EUR
Application for the registration of a design.....	85.43
Renewal Fees:	
– For the first five years of protection.....	51.26
– 2nd renewal.....	85.43
– 3rd renewal.....	136.69
– 4th renewal.....	170.86
– 5th renewal.....	256.29
Publication fee.....	68.34
Where consent to publish has not been given on filing.....	42.72
Certified copy of the application, description or other particulars of the design.....	17.09
Certified copy of the Certificate of Registration of the design.....	17.09

[U] Transitional Provisions

Not applicable in this jurisdiction.

[V] Specific Industrial Design and Model Issues

There are no specific issues to be mentioned.

[W] Governmental Websites

- www.mcit.gov.cy/drcor