

PATENT LAW OF COASTLAND

PART I: GENERAL AND INSTITUTIONAL PROVISIONS

CHAPTER I: GENERAL PROVISIONS

Article 1 - Definitions and Interpretation.

For the purposes of this Law -

- a) "Court" means the Vineapolis Commercial Court or any other court of competent jurisdiction in Coastland;
- b) "Infringer" means a person who has committed an Act of infringement under Article 15;
- c) Paris Convention means the Paris Convention for the Protection of Industrial Property, done at Paris on March 20, 1883 administered by the World Intellectual Property Organization;
- d) "Patent holder" means the owner of a patent, their successor in title, or duly authorized exclusive licensee;
- e) "The IP Office" means the Coastland Intellectual Property Office.
- f) TRIPS Agreement means the Agreement on Trade Related aspects of Intellectual Property Rights signed in Marrakesh, Morocco, on April 15, 1994 and administered by the World Trade Organization.

Article 2 – Scope and Application

This Law applies to the protection inventions in Coastland and to the enforcement of patents that have legal effect in Coastland.

PART II: SUBSTANTIVE PATENT LAW

CHAPTER I: PATENTABILITY

Article 3 - Requirements for Patentability

1. A patent shall be granted for any invention, in all fields of technology, provided that the invention:
 - a) is new;
 - b) involves an inventive step; and
 - c) is industrially applicable.
2. All three requirements must be satisfied as of the filing date or, where priority is claimed, at the priority date.

Article 4 - Novelty

1. An invention shall be considered to be new if it does not form part of the state of the art.
2. The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the filing date or, where priority is claimed, the priority date.

Article 5 - Inventive Step

An invention shall be considered as involving an inventive step if, as compared to the prior art, the claimed invention as a whole, would not have been obvious to a person skilled in the art at the filing date or, where priority is claimed, at the priority date.

Article 6 - Industrial Application

An invention is industrially applicable if it can be made or used in any kind of industry.

CHAPTER II: RIGHTS AND ENTITLEMENT

Article 7 - Right to a Patent

1. The right to a patent shall belong to the inventor or their successor in title.
2. Where two or more persons have made an invention jointly, the right to a patent shall belong to them jointly.
3. The applicant shall be deemed to be entitled to exercise the right to a patent, unless there is a final decision to the contrary.

Article 8 - Entitlement to File a Patent Application

1. A patent application may be filed by:
 - a) the inventor; or
 - b) the successor or successors in title of the inventor, having obtained the right to a patent by valid assignment, transfer, or operation of law.
2. Where a patent has been granted to a person not entitled to file a patent application under this Article, any person with a legitimate interest may apply for revocation of a patent on the ground of lack of entitlement, provided that the proceedings are initiated within two years from the date of grant.

Article 9 – Right to Priority

1. Any person who have duly filed a first application for a patent in or for any of the States party to the Paris Convention or the TRIPS Agreement, or their successor in title, shall enjoy, for the filing of a patent application in Coastland for the same invention, a priority right of twelve months from the date of filing of said first application, whether national or foreign, under the conditions established in Article 4 of the Paris Convention.
2. The same right of priority referred to in the preceding paragraph shall be enjoyed by those who have filed a first application for protection in or for a State not mentioned in paragraph 1 that recognizes applications filed in Coastland as having a right of priority

under conditions and with effects equivalent to those provided for in the Paris Convention.

3. By virtue of the exercise of the right of priority, the date of filing of the application shall be deemed to be the date of filing of the previous application whose priority has been validly claimed.

PART III: PATENT GRANT PROCEDURE

CHAPTER I: PATENT APPLICATION

Article 10 – Filing of a Patent Application

1. An application for a patent filed with the IP Office shall be in the prescribed manner and shall be accompanied by the prescribed fee.
2. An application for a patent shall contain -
 - a) a request for the grant of a patent;
 - b) a description of the invention;
 - c) one or more claims;
 - d) any drawings referred to in the description; and
 - e) an abstract.
3. The request shall contain—
 - a) a petition to the effect that a patent be granted;
 - b) the name of and other prescribed data concerning the applicant, the inventor and the agent, if any; and
 - c) the title of the invention.
4. The application shall also contain:
 - a) where the applicant is not the inventor, a statement justifying the applicant's right to the patent; and
 - b) where the applicant is acting before the IP Office through a legal representative, a power of attorney stating the corresponding mandate.
5. The IP Office shall accord as a filing date, the date of receipt of the application, provided that, at the time of receipt, the application contains all of the following elements:
 - a) an express or implicit indication to the effect that the elements are intended to be an application;
 - b) indications allowing the identity of the applicant to be established or information allowing the applicant to be contacted by the IP Office; and
 - c) a part which, on the face of it, appears to be a description of an invention.

Article 11 – Publication of the Patent Application

The IP Office shall publish the patent application in the Patent Bulletin, eighteen (18) months after the filing date or, if priority is claimed, from the filing date of the earlier application whose priority is so claimed.

CHAPTER II: INTERNATIONAL APPLICATIONS UNDER THE PATENT COOPERATION TREATY

Article 12 - Application of the Patent Cooperation Treaty (PCT)

International applications filed under the Patent Cooperation Treaty may be the subject of proceedings before the IP Office. In such proceedings, the provisions of the PCT and its Regulations shall be applied, supplemented by the implementing rules to this Law. In case of conflict, the provisions of the PCT or its Regulations shall prevail.

Article 13 – The IP Office as Designated Office

1. The IP Office shall act as a designated office in respect of an international application in which Coastland is designated for the purposes of obtaining a national patent or other protection under this Law.
2. An international application for which the Coastland IP Office is a designated Office, and which has been accorded an international date of filing, shall be equivalent to a regular national patent application.

CHAPTER III: PATENT EXAMINATION AND GRANT

Article 14 – Classification and Examination

1. Within 12 months from the filing date, the IP Office shall:
 - a) classify the invention according to the International Classification; and
 - b) determine whether the requirements of Article 10 and whether the subject matter of the application is patentable under Articles 3 to 6.
2. If the IP Office finds that the application does not comply with these requirements, it shall issue an examination report stating the objections.
3. Where requested by the IP Office, the applicant may, within the specified period:
 - a) respond to the objections raised;
 - b) amend the description, claims, or drawings to overcome the objections, provided that the amendments do not extend beyond the content of the application as filed; or
 - c) request a time extension of upon payment of the prescribed fee.
4. Where the applicant fails to respond within the prescribed time limit, the application is deemed withdrawn.

Article 15 - Grant and Publication of the Patent

1. Where the IP Office determines that the application complies with the requirements of this Law, it shall grant a patent and publish the grant in the Patent Bulletin.
2. A patent granted under this Law shall remain in force for a period of twenty years from the filing date.

PART IV: SCOPE AND EFFECTS OF A PATENT

CHAPTER I: SCOPE OF PROTECTION

Article 16 - Rights Conferred by a Patent

1. A patent shall confer on its owner on its owner the right to prevent third parties from exploiting the patented invention in Coastland. The scope of the right of the patent owner is defined by the claims. The patent grant establishes a rebuttable presumption of the validity and enforceability of the right to prevent others from exploiting the claimed invention in Coastland.
2. For the purposes of this Law, “exploiting” a patented invention means any of the following acts—
 - a) when the patent has been granted in respect of a product—
 - i. making, importing, offering for sale, selling and using the product; and
 - ii. stocking such product for the purposes of offering for sale, selling or using;
 - b) when the patent has been granted in respect of a process—
 - i. using the process; and
 - ii. doing any of the acts referred to in paragraph (a) in respect of a product obtained directly by means of the process. making, offering for sale, or using a product which is the subject of a patent, or importing or stocking the product for these purposes.

CHAPTER II: LICENSES

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PART V: INVALIDATION AND INFRINGEMENT

CHAPTER I: GROUNDS FOR INVALIDATION

Article 17 - Grounds for Invalidation

1. A patent may only be invalidated by a final decision of a competent national court on the following grounds:
 - a) the subject-matter of a patent is not patentable under Article 3;
 - b) the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

- c) the protection conferred by the patent has been extended by an amendment which should not have been allowed;
- d) the priority claim was invalid, and the patent lacks novelty or inventive step when assessed from the actual filing date;
- e) the patent owner was not entitled to file a patent application under Article 8.

CHAPTER II: INFRINGEMENT AND REMEDIES

Article 18 – Acts Constituting Patent Infringement

Any of the acts listed in Article 16 done without the consent of a patent owner constitutes an infringement, without prejudice to Article 19.

Article 19 - Exceptions

1. The rights conferred by a patent under Article 16 shall not extend to:
 - a) Acts done privately and for non-commercial purposes;
 - b) Acts done for experimental purposes relating to the subject-matter of a patented invention; or
 - c) the extemporaneous preparation for individual cases in a pharmacy of a medicine in accordance with a medical prescription.

Article 20 – Patent enforcement

Notwithstanding the specific patent enforcement provisions contained in this law, the enforcement of patent rights is governed by the Republic of Coastland's Intellectual Property Rights Enforcement Law.

Article 21 – Action for Infringement

The patent holder may bring an action before the Court, to determine infringement under Article 18 and request one or more civil remedies under the Intellectual Property Rights Enforcement Law of the Republic of Coastland's.

Article 22 - Defenses in Action for Infringement

In any action for infringement, the defendant, in addition to other defenses available to him or her, may show the invalidity of the patent, or any claim thereof, on any of the grounds on which a petition of invalidation can be brought under Article 17 hereof.

Article 23 - Civil Remedies

On the application of the patent holder, the Court may order the civil remedies provided for in Article 12 of the Intellectual Property Rights Enforcement Law of the Republic of Coastland.

Article 24 - Expert Evidence

The Court may, on application of a party or on its own motion, appoint one or more independent experts to give evidence on any technical, scientific, or legal issue relevant to

the proceedings, including matters of patent validity, infringement, priority entitlement, or damages assessment.

Article 25 - Documentary Evidence

1. Where a patent holder has presented reasonably available evidence and identified relevant evidence in the infringer's control, the Court may order production, subject to protection of confidential information.
2. If a party without good reason refuses access to necessary information or significantly impedes proceedings, the Court may draw adverse inferences.
3. The Court may order a party to disclose documents, assignments, declarations, or other evidence relevant to determining inventorship, ownership, priority entitlement, or the validity and scope of a patent.

Article 26 - Burden and Standard of Proof

1. The party challenging the validity of a patent bears the burden of proving its invalidity. Where priority entitlement is challenged, the party challenging the priority entitlement must prove that the priority claim was invalid and that a patent lacks validity when assessed from the filing date.
2. Any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process in either of the following circumstances—
 - a) If the products obtained by the patented process is new; or
 - b) If there is substantial likelihood that the identical product was made by the process and the patent owner has been unable through reasonable efforts to determine the process actually used.
3. In requiring the production of evidence, the Court before which the proceedings referred to in this subsection take place shall take into account the legitimate interests of the alleged infringer in not disclosing the alleged infringer's manufacturing and business secrets.
4. A granted patent is presumed valid unless proven otherwise on a balance of probability.