

The Intellectual Property Organization of Pakistan Ordinance, 2005

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The Intellectual Property Organization of Pakistan Ordinance, 2005

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PART I

Acts, Ordinances, President's Orders and Regulations
GOVERNMENT OF PAKISTAN
MINISTRY OF LAW, JUSTICE, HUMAN RIGHTS

(Law, Justice and Human Rights Division)

Islamabad, the 10th August, 2005

No. F. 2(l)/2005-Pub.—The following Ordinance promulgated by the President is hereby published for general information:—

ORDINANCE No. XI OF 2005
AN
ORDINANCE

to provide for the establishment of the Intellectual Property Organization of Pakistan

WHEREAS it is expedient to establish the Intellectual Property Organization of Pakistan to provide for the protection of Intellectual Property Rights in Pakistan and for matters connected therewith or incidental thereto;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Intellectual Property Organization of Pakistan Ordinance, 2005.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the 7th day of August, 2005.

2. Definitions.—In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) "Board" means the Policy Board constituted under section 4;
- (b) "Chairman" means the Chairman of the Board and Head of the Organization;
- (c) "Director General" means the Director-General appointed under

section 8;

- (d) "Federal Government" means the Cabinet Division;
- (e) "Intellectual Property" includes a patent, industrial design, layout-design (topographies) of integrated circuits, copyright and related rights, service mark, trade mark, trade name, undisclosed information or trade secrets, traditional knowledge, geographical indications, technical know-how and ideas for new products and markets, including the commercial information about customer or any combination thereof;
- (f) "Member" means a member of the Board;
- (g) "Organization" means the Intellectual Property Organization of Pakistan established under section 3;
- (h) "prescribed" means prescribed by rules;
- (i) "rules" means the rules made under this Ordinance;
- (j) "regulations" means the regulations made under this Ordinance; and
- (k) "schedule" means a schedule to this Ordinance.

3. Establishment of the Organization.—(1) There shall be established an organization to be known as Intellectual Property Organization of Pakistan to carry out the purposes of this Ordinance.

(2) The Organization shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Ordinance, to hold and dispose of the property both movable and immovable and shall by the said name sue and be sued.

(3) The Organization shall be an autonomous Organization under the administrative control of the Cabinet Division.

(4) The Federal Government may setup offices of the Organization at such places, as it may deem necessary, as and when required.

4. Policy Board.—(1) The Federal Government shall, by notification in the official Gazette, constitute a Policy Board of the Organization consisting of the Chairman, Vice-Chairman and such other members from the public and private sectors, as it may deem fit.

(2) Notwithstanding the composition of the Board constituted under sub-section (1), the Federal Government may increase or decrease the number of members and prescribe the qualifications and mode and manner of their appointment.

(3) The Director-General shall act as *ex officio* Secretary of the Board.

5. Functions and powers of the Board.—(1) The Board shall be responsible for setting of objectives and policy guidelines of the Organization in accordance with the powers and functions provided in section 11.

(2) The general direction and administration of the Organization and its affairs shall vest in the Board which shall exercise all powers, perform all functions and do all acts and things, which may be exercised, performed or done by the Organization under this Ordinance.

(3) In particular and without prejudice to the generality of the foregoing powers, the Board shall,—

(a) promote a modern system for the protection of intellectual property rights in Pakistan;

- (b) approve policies, plans and programmes of the Organization; and
- (c) formulate procedures and necessary framework for utilization of funds generated or acquired through services, donations or grants, etc.

6. Delegation of powers.—The Board may, by general or special order in writing subject to such limitations, restrictions or conditions, delegate all or any of its powers and functions to the Chairman, Vice-Chairman or any committee of the Board, as may be constituted for the purpose, or to the Director-General as it may deem appropriate.

7. Meetings of the Board.—(1) Save as hereinafter provided, the Board shall regulate the procedure for its meetings.

(2) The meetings of the Board shall be convened by and under the directions of the Chairman:

Provided that the Federal Government may direct convening of a meeting of the Board at any time on any matter requiring a decision by the Board.

(3) The meeting of the Board shall be held at least twice a year.

(4) A simple majority of the total membership shall constitute the quorum' for a meeting of the Board.

(5) The decision of the Board shall be adopted by simple majority of the Members present and voting.

8. Functions of the Chairman.—The Chairman shall be the Head of the Organization. He shall directly oversee the Director-General in the performance of his duties and responsibilities under this Ordinance, shall guide and direct him, as deemed necessary by him and shall liaise and consult with the Federal Government, on behalf of the Board, for carrying out the purposes of this Ordinance.

9. Privileges and Perquisites of the Chairman, Vice-Chairman and the Members.—The Chairman, Vice-Chairman and the Members of the Board, other than the official members, shall be entitled to such privileges and perquisites as may be prescribed.

10. Director-General.—(1) There shall be a Director-General of the Organization who shall be appointed by the Federal Government on terms and conditions as may be prescribed.

(2) The Director-General shall be the Chief Executive Officer of the Organization and shall discharge such duties and perform such functions as are assigned to him by or under this Ordinance.

(3) The Director-General shall comply with such directions that the Federal Government or the Board may give from time to time.

11. The powers and functions of the Organization.— The powers and functions of the Organization shall be to: —

(a) administer and coordinate all government systems for the protection and strengthening of intellectual property rights under the laws specified in the Schedule and the rules and regulations made there under;

(b) prescribe, regulate or implement measures and standards on any matter related to or connected with intellectual property right;

(c) accredit or certify and regulate any person as intellectual property agent;

(d) levy such charges or fees as may be reasonable for services and facilities provided by the Organization and its constituent offices;

(e) carry out such other works or activities as may be deemed by the *Organization to be necessary*, with a view to making the best use of the assets of the organization;

(f) coordinate, monitor or engage, in conjunction with other authorities, international agencies or Organizations, in any study or cooperation project related to intellectual property;

(g) enter into contracts for the supply of goods or materials or for the execution of works as may be necessary for the discharge of any of its duties and functions;

(h) supervise and coordinate the working of all intellectual property offices including the Patent Office, Trade Marks Registry and Copyright Office;

(i) evolve and maintain a system to provide access to public documents and information relating to any intellectual property kept or maintained by the Organization;

(j) advise the Government of Pakistan on policy relating to intellectual property rights;

(k) plan for development and up-gradation of the intellectual property infrastructure and capacity in Pakistan;

(l) promote education and research in the field of intellectual property;

(m) advise the Federal Government regarding the international negotiations in the area of intellectual property;

(n) engage in human resource development of its officers and staff;

(o) promote awareness about intellectual property issues in the public and private sector;

(p) liaise and interact with counterpart Intellectual Property related organizations in other countries for capacity building and exchange of information;

(q) propose and initiate intellectual property rights legislation for the protection of intellectual property rights in Pakistan;

(r) initiate and monitor the enforcement and protection of intellectual Property rights through designated law enforcement agencies of the government and collect related data and information. The law enforcement agencies shall keep the Organization regularly and appropriately informed of their actions and operations against violations of intellectual property rights and ensure full liaison and cooperation with the Organization;

(s) develop working manuals, references, materials and procedures in order to assist in improving the protection of intellectual property rights;

(t) coordinate the implementation of foreign-aided technical assistance projects on intellectual property; and

(u) perform and carry out any other act, thing or function relating to intellectual property assigned to it by the Board or the Federal Government.

12. Authentication of orders and other instruments of the Organization.—

All orders, decisions and all other instruments issued by the Organization shall be authenticated only by the signatures of such officer or officers who are authorized by the Organization in this behalf.

13. Prohibition of use of certain names, marks, seals, etc.—No person shall use—

(a) any name, mark or seal, which may resemble the name, mark or seal of the Organization or contain the expression or any abbreviation of such expression; or

(b) any mark or trade mark in relation to any article or process containing the expression Intellectual Property Rights Organization of Pakistan or any abbreviation of such expression.

14. Exercise of powers of the Organization by other bodies.—The

Federal Government may, in consultation with the Organization, by notification in the official Gazette, direct that any power exercisable by the Organization under this Ordinance shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such body or such organization as may be specified in the notification.

15. **Certain matters to be kept confidential.**—Any information coming into notice of the Organization or any of its officers in relation to any article or process, subject to the provision of this Ordinance or any other law for the time being in force shall be treated as confidential and shall not be communicated or revealed to any person:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Ordinance.

16. **Appointment of officers, etc., by the Organization.**—(1) The Organization may, with the prior approval of the Board, create posts and appoint such officers, employees, experts and consultants, as it may consider necessary for the performance of its functions.

(2) The Organization, with the approval of the Board, shall devise procedures for the appointment of its officers, employees, experts and consultants.

(3) The Organization, with the approval of the Board, shall determine the terms and conditions of service of its officers, employees, experts and consultants and shall also be competent to take disciplinary action against them.

(4) The civil servants working in the Organization shall be governed by the Civil Servants Act, 1973 (LXXI of 1973), and rules made thereunder unless absorbed in the Organization.

17. **Members and officers, etc., to be public servants.**—The Chairman, Vice-Chairman, Members, Director General, officers, employees, experts and consultants of the Organization shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

18. **Intellectual Property Organization of Pakistan Fund.**—(1) There shall be created a fund to be known as Intellectual Property Organization of Pakistan Fund which shall vest in the Organization and shall be utilized by the Organization to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Director-General, officers, employees, experts and consultants of the Organization.

(2) The Intellectual Property Organization of Pakistan Fund shall be financed from the following Sources, namely:—

- (a) grants and loans made by the Federal Government or a Provincial Government;
- (b) loans, aid and donations from the national or international agencies; and
- (c) revenue earned from the levy of various charges or fees, etc.

(3) The Intellectual Property of Organization Pakistan Fund shall be kept in one or more accounts maintained by the Organization, in local or foreign currency, in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the Board.

19. **Budget.**—The Organization shall, in respect of each financial year submit for approval of the Federal Government, on such date as may be prescribed, a statement of the estimated receipts and expenditure, including requirements of foreign exchange for the next financial year.

20. **Audit and accounts.**—(1) The accounts of the Organization shall be maintained in the manner prescribed by the Controller General of Accounts.

(2) The Auditor-General of Pakistan shall conduct audit of the accounts of the Organization.

(3) A copy of the audit report shall be sent to the Federal Government, alongwith the comments of the Organization.

(4) The Federal Government may issue directions to the Organization for the rectification of any item objected to by the Auditor-General of Pakistan and the Organization shall comply with such directions.

21. **Power to amend the Schedule.**—The Federal Government may, in consultation with the Organization, amend the Schedule so as to add any entry thereto or modify or omit any entry there from.

22. **Mode of recovery.**—Any sum payable to the Organization under this Ordinance shall be recoverable as an arrear of land revenue.

23. **Submission of yearly reports and returns.**—(1) Within three months of the conclusion of each financial year, the Board shall submit an Annual Report to the Federal Government in respect of the activities of the Board including the status of its existing programmes, projects and further plans formulated in furtherance of its aims and objectives.

(2) The Federal Government may require the Organization to furnish it with—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Organization;

(b) a report on any subject with which the Organization is concerned; and

(c) a copy of any document in the charge of the Organization.

24. **Protection of action taken under the Ordinance.**—No suit, . prosecution or other legal proceeding shall lie against the Federal Government or the Organization or any person acting under the Federal Government or the Organization for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or regulation made there under.

25. **Exemption from any provision of this Ordinance.**—The Federal Government may, by notification in the official Gazette, exempt any article or class of articles from the operation of all or any of the provisions of this Ordinance.

26. **Policy directives.**—The Federal Government may, as and when it considers necessary, issue policy directives to the Board in respect of its activities and the compliance of such directives shall be binding on the Board.

27. **Power .to make rules.**—The Organization may, with the approval of the Federal Government, make rules for carrying out the purposes of this

Ordinance. On approval of the rules by the Federal Government, the Federal Government shall notify the same in the official Gazette.

28. **-Power to make regulations.**—The Organization may, with the prior approval of the Board and by notification in the official Gazette, make regulations not inconsistent with this Ordinance or the rules made there under to carry out the purposes of this Ordinance.

29. **Integration of the Trade Marks Registry, Copyright Office and Patent Office.**—Upon the commencement of this Ordinance, the Trade Marks Registry, Copyright Office and Patent Office hereinafter referred to as the said offices shall become part of the Organization, and,—

(a) all assets rights, powers, authorities and privileges and all properties, movable and immovable, cash and bank balance, reserve funds, investment and all other interest and rights in, or arising out of such properties and all debts, liabilities and obligations of whatever kind of the said offices subsisting immediately before their integration shall stand transferred to and vest in the Organization;

(b) all officers and other employees of the said offices shall, notwithstanding anything contained in any law or in any agreement, deed, document or other instrument, stand absorbed and transferred to the Organization and shall be deemed to have been appointed or engaged by the Organization in accordance with the terms and conditions which shall not be less favourable than in the said offices; and no officer or other employee whose services are so absorbed and transferred shall be entitled to any compensation because of such absorption or transfer;

(c) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things, engaged to be done by, with or for the said offices before their integration, shall be deemed to have been incurred, entered into, acquired or engaged to be done by or for, the Organization; and

(d) all suits and other legal proceedings instituted by or against the said offices before their integration shall be deemed to be suits and proceedings by or against the Organization and may be proceeded or otherwise dealt with accordingly.

30. **Authorities to aid the Organization.**—All intellectual property enforcement authorities in the Federation and the Provinces shall render such assistance to the Organization, as may be necessary, for the protection and enforcement of intellectual property rights.

31. **Removal of difficulties.**—In case any difficulty arises in giving effect to this Ordinance, the Federal Government may, for the purpose of removing such difficulty, make such order as it considers expedient and any such order shall be deemed to be, and given effect to, as a part of the provisions of this Ordinance:—
Provided that no such power shall be exercised after the expiry of three years from the commencement of this Ordinance.

32. **Repeal.**—The Pakistan Intellectual Property Rights Organization Ordinance, 2005 (V of 2005), is hereby repealed.

THE SCHEDULE

- (1) The Trade Marks Ordinance, 2001 (XIX of 2001).
- (2) The Copyrights Ordinance, 1962 (XXXIV of 1962).
- (3) The Patents Ordinance, 2000 (LXI of 2000).
- (4) The Registered Designs Ordinance, 2000 (XLV of 2000).
- (5) The Registered Layout-Designs of Integrated Circuits. Ordinance, 2000 (XLIX of 2000),

GENERAL
PERVEZ MUSHARRAF,
PRESIDENT.