

# T I T L E 24

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## *Patent, Copyright and Trademark Law*

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**§ 1.1. Application for patent.**

Any person who discovers or invents any new and useful art, machine, manufacture, process or composition of matter, or any new and useful improvement therein, or any new and useful application of any known substance, machine, matter, composition of matter, article of manufacture, device or apparatus, or any person who is the legal owner of any such invention or discovery, may apply in writing to the Minister of Foreign Affairs for the issuance of a patent therefor.<sup>1</sup>

**§ 1.2. Contents of application.**

An application for a patent shall include the following:

- (a) A written description of the invention or discovery and the manner and process of making, constructing, using, applying and compound-

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1. *Prior legislation* 1956 Code 25:1; L. 1944-45, ch. XXI, § 4; L. 1924-25, ch. XVII, § 3; L. 1864-65, 34, § 1.

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ing it, in such full, clear and exact terms as to enable any person skilled in the art or science to which it appertains or with which it is most nearly connected, to make, construct, apply, compound and use it, and shall particularly specify the part, improvement or combination which the applicant claims as his own invention or discovery, or of which he claims legal ownership;

(b) Drawings and written references where the nature of the case admits of drawings;

(c) The oath or affirmation of the applicant with regard to the following:

(i) that he believes he is the original inventor or discoverer of such invention or discovery or that he is the legal owner of such invention or discovery, naming the original inventor or discoverer thereof;

(ii) that prior to its invention or discovery he believes that it was not known or used by others within the Republic of Liberia, or patented or described in a printed publication in the Republic of Liberia or in a foreign country;

(iii) that since its invention or discovery he believes that it was not patented or described in a printed publication in the Republic of Liberia or in a foreign country and was not in public use or on sale in the Republic of Liberia more than one year prior to the date of application for a patent in the Republic of Liberia;

(iv) whether the applicant is a citizen of the Republic of Liberia, a person with immigrant status, a resident alien, or a nonresident alien; and

(d) If the invention or discovery for which an application is being made has been patented in a foreign country, a certificate shall be presented, authenticated in the manner set forth in the Civil Procedure Law for official records kept in a foreign state or country, certifying

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that the applicant is the original inventor or discoverer of such invention or discovery or that he is the legal owner of such invention or discovery.<sup>2</sup>

### **§ 1.3. Conditions for issuance of patent; novelty and loss of right to patent.**

A patent shall be issued to an applicant unless, upon examination, it appears that:

(a) the invention or discovery was known or used by others in this country, or patented or described in a printed publication in this country or in a foreign country prior to the invention or discovery by the original inventor or discoverer named in the application, or

(b) since its invention and discovery it was patented or described in a printed publication in this country or in a foreign country, or was in public use or on sale in this country more than twelve months prior to the date of the application for patent in the Republic, or

(c) he or his predecessor abandoned the invention or discovery, or

(d) the invention or discovery was first patented or caused to be patented by the original inventor or discoverer or his legal representatives or assigns in a foreign country prior to the date of application for patent in this country on an application filed more than twelve months before the filing of the application in the Republic of Liberia, or

(e) the invention or discovery was described in a patent granted on an application for patent by another in the Republic of Liberia before the invention or discovery thereof by the applicant for patent, or

(f) the original inventor or discoverer named in the application did not invent the subject matter sought to be patented, or

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2. *Prior legislation:* 1956 Code 25:2; L. 1864-65, 34, §§ 3, 5.

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(g) before the invention or discovery of the patent claims set forth in the application, the invention or discovery was made in this country by another person who had not abandoned, suppressed or concealed it.

In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention but also the reasonable diligence of one who was first to conceive and last to reduce to practices, from a time prior to conception by the other.<sup>3</sup>

**§ 1.4. Foreign patent reciprocity; method of obtaining earlier filing date priority right.**

A right of priority upon an application for a patent for which an application has been previously filed in a foreign country shall be granted in accordance with the following:

(a) An application for a patent for an invention or discovery filed in this country by any person who has or whose legal representatives or assigns have previously regularly filed an application for a patent for the same invention or discovery in a foreign country which affords similar privileges in the case of applications filed in the Republic of Liberia or to citizens of Liberia, shall have the same effect as the same application would have if filed in this country on the date on which the application for a patent for the same invention or discovery was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for a patent for an invention or discovery which had been patented or described in a printed publication in any country more than twelve months before the date of the actual filing of the application in this country or which had been in public use or an sale in this country more than twelve months prior to such filing;

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3. *Prior legislation:* 1956 Code 25:3(l); L. 1864-65, 34, § 4.

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(b) No application for a patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification and drawings upon which it is based are filed with the Minister of Foreign Affairs before the patent is granted or at such time during the pendency of the application as required by the Minister of Foreign Affairs, not earlier than six months after the filing of the application in this country. Such certification, authenticated in the manner set forth in the Civil Procedure Law for official records kept in a foreign state or country shall be made by the patent office of the foreign country in which the patent is filed and shall show the date of the application and of the filing of the specifications and other papers. The Minister of Foreign Affairs may require a translation of the papers filed if they are not in the English language and such other information as he deems necessary.

### **§ 1.5. Fee for filing application for patent.**

A fee of thirty-five dollars shall be paid for the filing of an application for the issuance of a patent to a citizen of this Republic or to a person having immigrant status therein and a fee of seventy-five dollars shall be paid for the filing of such application by an alien. Such fee shall accompany the application and shall not be refundable.<sup>4</sup>

### **§ 1.6. Contents and term of letters patent.**

Every patent shall be issued in the name and under the seal of this Republic, signed by the Minister of Foreign Affairs and shall contain the following:

- (a) A short title of the invention or discovery, indicating its nature, design and terms;
- (b) A grant for a term of twenty years, to the applicant, his heirs, administrators, executors or assigns, of the right to exclude others

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4. *Prior legislation:* 1956 Code 25:3(2); L. 1937, ch. XXV, art. 6, § 3; L. 1864-65, 34, § 7.

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from making, using or selling the invention or discovery throughout the Republic of Liberia;

(c) A reference to the specifications of such invention or discovery, a copy of which, with the illustrative drawings, shall be annexed to the patent specifying what the patentee claims as his invention or discovery.<sup>5</sup>

### § 1.7. Recording of patents and filing of copies thereof with Minister.

All patents, together with descriptions, specifications and drawings, shall be recorded in an office in the Ministry of Foreign Affairs, to be designated by the Minister of Foreign Affairs. Exact copies of all patents issued and also of all drawings pertaining to such patents shall be made and classified and retained as permanent records in such office. Such copies shall be open for public inspection at reasonable hours. Certified copies of patents or of drawings relating thereto shall be furnished on reasonable terms.<sup>6</sup>

### § 1.8. Assignment of patents.

Every patent is assignable in law in whole or in part by an instrument in writing, duly executed. An acknowledgment shall be *prima facie* evidence of the execution of the instrument. Assignments, grants and conveyances of exclusive rights under patents applicable to all or part of this Republic upon payment of the prescribed fee, shall be recorded in the office of the Ministry of Foreign Affairs designated by the Minister of Foreign Affairs therefor.<sup>7</sup>

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5. *Prior legislation:* 1956 Code 25:4; L. 1864-65, 34, § 2.

6. *Prior legislation:* 1956 Code 25:5; L. 1944-45, ch. XXI, § 4; L. 1864-65, 34, §§ 2, 10.

7. *Prior legislation:* 1956 Code 25:7; L. 1944-45, ch. XXI, § 4; L. 1864-65, 34, § 8.

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### § 1.9. Abandonment of patent by alien because of non-use.

An alien who obtains a patent for any invention or discovery and neglects to put it into active operation in this Republic within three years from the date the patent is issued thereby abandons his patent to the public.<sup>8</sup>

### § 1.10. Law suits relating to patents.

Actions for damages for infringement of any patent and all suits and controversies and cases concerning patents shall be cognizable in law and equity by the Circuit Court.<sup>9</sup>

### § 1.11. Use of patents by Government.

Patents granted hereunder, which include devices, machines, systems, or the use of chemical or electrical energy or any other energy, which may be utilized for the reception or transmission of power, messages, pictures, photographs or speech and which may be used in connection with any machine, apparatus or device used by the Government of the Republic of Liberia in the radio, television, telegraph, telephone, or power stations of the Republic, shall be held subject to the right of the Government to use without charge.<sup>10</sup>

## *Chapter 2. COPYRIGHTS*

§ 2.1. Definitions.

§ 2.2. Copyright application filed with the Minister of Foreign Affairs.

§ 2.3. Requirements of copyright applications

§ 2.4. Issuance of certificate of copyright; fee.

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8. *Prior legislation:* 1956 Code 25:6; L. 1864-65, 34, § 6.

9. *Prior legislation:* 1956 Code 25:8; L. 1864-65, 34, § 9.

10. *Prior legislation:* 1956 Code 25:9; L. 1927-28, ch. XIV, § 6.



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- § 2.5. Copyright notice to be affixed to work.
- § 2.6. Publication of copyrights granted.
- § 2.7. Effect of copyright.
- § 2.8. Limitations on copyright.
- § 2.9. Transfer of copyright.
- § 2.10. Penalty for publication or plagiarizing of copyrighted work.
- § 2.11. Works protected by Universal Copyright Convention.
- § 2.12. Publishers to furnish Ministry of Information with copies of books printed in Liberia.

### § 2.1. Definitions.

Except when the context or a specific provision of law otherwise requires, the following terms, when used in this chapter, for the purposes of this chapter, shall have the meanings ascribed to them in this section:

(a) The term "applicant" includes the author of a literary, scientific or artistic work, his heirs and assigns, and the proprietor thereof;

(b) The term "author" refers to the person who has created a literary, scientific, or artistic work and includes writers, playwrights, composers, designers, painters, architects, sculptors, engravers, lithographers, illustrators, photographers, translators, arrangers, adaptors, and all other creators of literary, scientific or artistic works. However, where the work is produced by officials, employees, or workers, as part of their duties, the persons who employ them shall be entitled to copyright originally, unless the contrary results from a contract or regulations applying to the parties concerned. Further, where the work is commissioned by a person who is not the employer of the author and who pays or agrees to pay for it and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to copyright originally, unless there is a stipulation to the contrary or he has not fulfilled his agreement;

(c) The term "literary, scientific or artistic work," irrespective of the value and the manner or form of expression shall include the following:

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1. Works inspired by folklore.
  2. Books, pamphlets and other writings.
  3. Dramatic or dramatic-musical works, choreographic works and pantomimes.
  4. Lectures, speeches and sermons.
  5. Musical compositions.
  6. Cinematographic and photographic works.
  7. Paintings, drawings, designs, engravings, etchings, lithographs, woodcuts, lithography, illustrations and similar works including pictorial woven tissues and articles of applied handicraft and industrial art with respect to the prototype as well as the work itself.
  8. Sculpture and pottery of all kinds.
  9. Architectural works, designs and models.
  10. Maps, charts, plans, sketches, drawings and graphic and plastic representations or portrayals of a technical or scientific nature.
  11. Translations, adaptations and arrangements of the above mentioned literary, scientific or artistic works.
- (d) The term "Publication" means the reproduction in tangible form and the general distribution to the public of a literary, scientific or artistic work, from which it can be read or otherwise visually or aurally perceived;
- (e) The term "work inspired by folklore" means any literary, scientific or artistic work composed with the aid of elements which belong to

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the traditional African cultural heritage. <sup>11</sup>

**§ 2.2. Copyright application filed with Minister of Foreign Affairs.**

An applicant for copyright of a literary, scientific or artistic work shall file his application with the Minister of Foreign Affairs. <sup>12</sup>

**§ 2.3. Requirements of copyright applications.**

*1. Contents of application.* An application for copyright of a literary, scientific or artistic work shall contain the following matters:

- (a) A declaration that such work is either an original composition or an original translation, adaptation or arrangement made by the author;
- (b) If published, a statement of the precise date of first publication;
- (c) A declaration that the applicant has fully complied with the provisions of this section together with proof of the filing in accordance with paragraph 2, if the work has been published or reproduced for sale and in accordance with paragraph 3, if the work has not been published or reproduced for sale, of the required number of copies of the literary, scientific or artistic work sought to be copyrighted.

*2. Filing requirements for published works.* When the work has been published or reproduced for sale, copies of the literary, scientific or artistic work sought to be copyrighted shall be filed in accordance with the following:

- (a) If a copyright is desired of a dramatic, musical or dramatic musical composition, or a lecture, speech, sermon or other written work, or of

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11. *Prior legislation:* L. 1963-64, ch. XV, § 2(25:30); 1957-58 Supp. 25:30 (2); 1955-56, ch. I, § 1; 1956 Code 25:30(2); L. 1944-45, ch. XXI, § 4; L. 1911-12, 24, §§ 2, 5.

12. *Prior legislation:* L. 1963-64- ch. XV, § 2(§31); 1956 Code 25:30(1); L. 1944-45, ch. XXI, § 4; L. 1911-12, 24, §§ 2, 5.

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a painting, sculpture, illustration, photograph, drawing or similar work of art of which more than one copy can be reproduced, one copy shall be filed with the Minister of Foreign Affairs, one copy in the National Public Library in Monrovia, one copy in the reference library of the Ministry of Information, Cultural Affairs and Tourism and one copy in the library of the University of Liberia;

(b) If a copyright is desired of a painting, sculpture, illustration, drawing or similar work of art of which only one original exists and which cannot be reproduced, one true and clear photographic copy of the original or other identifying reproduction thereof shall be filed with the Minister of Foreign Affairs, one in the National Public Library in Monrovia, one in the reference library of the Ministry of Information, Cultural Affairs and Tourism and one in the library of the University of Liberia,

(c) If a copyright of a cinematographic work is desired, a copy of the original film and a copy of the script of the film shall be filed with the Minister of Foreign Affairs together with a certificate addressed to the Minister of Foreign Affairs from the Chairman of the movie Censor Board of the Ministry of Information, Cultural Affairs and Tourism or his designated representative, that the original film has been viewed by the Chairman of the Movie Censor Board or his duly authorized delegate, and is in keeping with the script. In addition, one copy of the script shall be filed in the National Public Library in Monrovia, one in the reference library of the Ministry of Information, Cultural Affairs and Tourism and one in the library of the University of Liberia.

3. *Filing requirements for unpublished works.* When the work has not been published or reproduced for sale, copies of the literary, scientific or artistic work sought to be copyrighted shall be filed with the Minister of Foreign Affairs in accordance with the following:

(a) If a copyright is desired of a dramatic, musical, dramatic musical composition or a lecture, speech, sermon, or other written work, or of a painting, sculpture, illustration, photograph, drawing or similar

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work of art, of which more than one copy can be reproduced, one complete copy of such work;

(b) If a copyright is desired of a painting, sculpture, illustration, drawing or similar work of art of which only one original exists and which cannot be reproduced, one true and clear photographic copy of the original or other identifying reproduction thereof;

(c) If a copyright of a cinematographic photoplay is desired, the title and description of the work together with one print taken from each scene or act;

(d) If copyright of a cinematographic work other than a photoplay is desired, the title and description together with not less than two prints taken from different sections of a complete motion picture.

But the privilege of registration secured hereunder shall not exempt the copyright proprietor from the filing of copies and required certificates under paragraph 2 where the work is later published or reproduced in copies for sale.<sup>13</sup>

### § 2.4. Issuance of certificate of copyright; fee.

Upon the filing of an application for copyright, if it shall appear that the literary, scientific or artistic work is an original composition or an original translation, adaptation, or arrangement made by the author and that the applicant has fully complied with the provisions of sections 2.3, a certificate of copyright shall be issued by the Minister of Foreign Affairs, certifying: (a) that the applicant has complied with the law regulating the copyright of such works, and (b) that the applicant is entitled to enjoy the rights secured to authors by this chapter. A fee of five dollars shall be paid for such certificate, provided, however, that publishers of newspapers and other periodicals published on a regular basis during the calendar year, whether daily, weekly, semi-monthly,

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13. *Prior legislation:* L. 1963-64, ch. XV, § 2(25:31); 1956 Code :.25:31; L. 1911-12, 24, § 5.

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monthly, bi-monthly or on any other regular periodic basis, who file periodical applications and comply with the filing requirements of section 2.3 and the other applicable provisions of chapter for each issue of the periodical sought to be copyrighted, may obtain copyright for each issue of the periodical published by them during the calendar year without the necessity of filing an additional application for each issue of such publication, upon the payment in advance for each calendar year application of a fee of twenty-five dollars.<sup>14</sup>

### § 2.5. Copyright notice to be affixed to work.

A work for which a certificate of copyright has been issued shall have that effect affixed on all copies. The notice of copyright shall consist either of the word "Copyright", the abbreviation "Copr", or the symbol "C", accompanied by the name of the copyright proprietor and if the work be a literary, musical or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of copyrighted works of the following kinds: maps, works of art, models or designs for works of art, reproduction of works of art, drawings or plastic works of scientific or technical character, photographs, prints and pictorial illustrations, including prints or labels used for articles of merchandise, the notice may consist of the letter C enclosed within a circle, thus (C), accompanied by the initials monogram, mark or symbol of the copyright proprietor; provided that on some accessible portion of such copies or the margin, back, permanent base or pedestal, or of the substance on which such copies shall be mounted, his name shall appear.<sup>15</sup>

### § 2.6. Publication of copyrights granted.

The Minister of Foreign Affairs shall cause a notice of all copyrights

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14. *Prior legislation:* L. 1963-64, ch. XV, § 2 (25:32); 1956 Code 25:32; L. 1911-12, 24, § 6.

15. *Prior legislation:* L.- 1963 64.,ch. XV. § 2(132); 1956 Code, 25:32 (in part); L. 1911-12, 24, § 6.

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granted in accordance with the provisions of this chapter to be published in the Liberia Official Gazette as soon as feasible after the granting thereof.<sup>16</sup>

### § 2.7. Effect of copyright.

1. *Rights of authors who are natural persons.* The author of a work copyrighted under the provisions of this chapter who is a natural person, his representatives, heirs or assigns, shall have the exclusive right within this Republic during the author's lifetime and for twenty-five years thereafter to reproduce it, to sell or authorize reproductions, to communicate the work or reauthorize its communication to the public by performance by any medium of communication, to make, publish and communicate to the public by performance by any medium of communication and to authorize the making, publishing and communication of translations, adaptations and arrangements and to forbid the sale in the Republic of Liberia of reproductions, translations, adaptations and arrangements made in another country without the permission of the author, his representatives, heirs or assigns.

2. *Rule as to works of collaboration by natural persons.* In the collaboration where the collaborators are natural persons, the date of death the last surviving collaborator shall be considered alone for the calculation of the term of protection.

3. *Rule as to applicants other than natural persons.* Where the work copyrighted under the provisions of this chapter is the original property of corporation or other similar legal entity, including the Republic of Liberia and partnerships, no one of whom is the author of the copyrighted work and in cases of anonymous and pseudonymous works, as long as the author of these works remains unknown, the term of protection hereunder extended the applicants for copyright of such works shall be limited to twenty-five years from the date of first publication.

4. *Translators, adaptors, etc.* The authors of translations, adaptations, new versions or arrangements of literary, scientific or artistic works who

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16. *Prior legislation:* L. 1963-64, § 2 (§ 34); 1956 Code 25:33; L. 1911-12, 24, § 7.

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are natural persons, shall enjoy the protection provided for such authors by paragraphs 1 and 2 without prejudice to the copyright in the original work and where the translations, adaptations, new versions or arrangements of literary, scientific or artistic works are the original properties of a corporation or other similar legal entity, including the Republic of Liberia and partnerships, no one of whom is the author thereof, and in cases where such works are by anonymous or pseudonymous authors, as long as the authors of these works remain unknown, the applicants for copyright thereof shall enjoy the protection provided for such applicants by paragraph 3. These provisions shall also apply to anthologies or collections of various works, which by reason of the selection and arrangement of their content, constitute intellectual creations.<sup>17</sup>

### § 2.8. Limitations on copyright.

1. *Exemptions for private, educational and religious uses.* When a literary, scientific or artistic work has been lawfully made accessible to the public under the provisions of this chapter, the author, his representatives, heirs or assigns shall not be entitled to prohibit (a) communications thereof, if they are private and free of charge or if they are made for educational purposes or at religious services and (b) reproductions, translations, adaptations and arrangements thereof destined exclusively for personal or private use.

2. *Exemption of reproductions for educational purposes of electronic broadcasts.* Sound or sound and visual reproductions of literary, scientific or artistic works copyrighted under the provisions of this chapter and broadcast to the public by electronic medium, may be made if they are destined solely for educational purposes.

3. *Quotations; when and how permitted.* It shall be permissible to make quotations of a literary, scientific or artistic work already lawfully made accessible to the public under the copyright provisions of this chapter, provided that they are compatible with fair practice and to the extent

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17. *Prior legislation:* L..1963-64; ch. XV, § 2 (25:35); 1957-58 Supp. 25:34; L. 1955-56, ch. 1, § 2; 1956 Code 25:34; L. 1911-12, 24, §§ 1, 3. 4.



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justified by the scientific, critical, informatory or educational purpose, including quotations from newspaper articles and periodicals in the form of press summaries. Such quotations may be utilized in their original form or in translation.

*4. Reproduction of articles on current topics; when and how permitted.* Articles on current political, social, economic or religious topics copyrighted under the provisions of this chapter may be reproduced by the press or communicated by electronic medium, unless such reproduction or communication is expressly prohibited by the proprietor of the copyright. However, when reproduced or communicated as herein permitted, the source must always be clearly indicated.

### **§ 2. 9. Transfer of copyright.**

Copyright shall be deemed to be personal property. It may be transmitted to the heirs of the author or to his successors in title and likewise by them. It may be alienated in whole or in part. However, the transfer of the right to communicate the copyrighted work to the public shall not imply transfer of the right to reproduce it and similarly, the transfer of the right to reproduce the copyrighted work shall not imply transfer of the right to communicate it to the public.

### **§ 2.10. Penalty for publication or plagiarizing copyrighted work.**

Any person who without permission of the author, his representative, heirs or assigns, publishes a work copyrighted under the provisions of this chapter, or who plagiarizes such a work, is subject to a fine up to \$500 or to imprisonment up to six months, or to both such fine and imprisonment. Nothing in this section, however, shall be so construed as to prevent the proprietor of a copyright from bringing an action for damages against the infringer of his copyright or from instituting any other applicable civil remedy.<sup>18</sup>

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18. *Prior legislation:* L. 1963-64, ch. XV, § 2 (25:36); 1956 Code 25:35 Crim. Code, § 76; L. 1911-12, 24, § 8.

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### § 2.11. Works protected by Universal Copyright Convention.

The provisions of this chapter shall not apply to foreign works protected by the Universal Copyright Convention except that this exemption shall not be extended to works of an author who is a citizen of the Republic of Liberia or who is domiciled therein, regardless of place of first publication, or to works first published in the Republic of Liberia.<sup>19</sup>

### § 2.12. Publishers to furnish Information Service with copies of books printed in Liberia.

Apart from other provisions of this chapter, every person who prints or publishes in the Republic of Liberia, any book, booklet, newspaper, magazine, pamphlet, or any other publication of general interest to the public for public distribution or sale, shall deposit two copies thereof with the Ministry of Information, Cultural Affairs and Tourism. Any person who fails to comply with the provisions of this section shall be subject to a fine of not less than fifty dollars nor more than one hundred dollars for each offense.<sup>20</sup>

## *Chapter 3. TRADEMARKS AND SERVICE MARKS*

- § 3.1. Trademark; definition.
- § 3.2. Service marks registrable; definition.
- § 3.3. Application for registration of trademark or service mark.
- § 3.4. Standards for refusing registration of mark.
- § 3.5. Advertisement of accepted application.
- § 3.6. Publication of granting of registration.
- § 3.7. Registration of trademarks and service marks.
- § 3.8. Permitted amendments of registered trademarks.
- § 3.9. Duration and effect of registration; renewals.

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19. *Prior legislation:* 1957-58 Supp, 25:33-A; L. 1955-56, ch. I, § 3.

20. *Prior legislation:* L. 1963-64, ch. XV, § 2 (§ 33).

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§ 3.10. Assignments of registered marks.

§ 3.11. Fees.

### **§ 3.1. Trademark; definition.**

A trademark is a mark used or proposed to be used upon or in connection with goods for the purpose of indicating that they have been manufactured, selected, certified, dealt with or offered for sale by the proprietor of the trademark. Trademarks used in connection with all classes of goods or products of industry, agriculture or commerce may be registered.<sup>21</sup>

### **§ 3.2. Service marks registrable; definition.**

Service mark is a mark which identifies and distinguishes services. Subject to the provisions relating to the registration of trademarks, so far as they are applicable, service marks used or proposed to be used in industry, agriculture or commerce may be registered in the same manner and with the same effect as are trademarks and when registered they shall be entitled to the protection provided in this chapter in the case of trademarks, except when used so as to represent falsely that the proprietor thereof makes or sell the goods on which such mark is used. Applications and procedure under this section shall conform as nearly as practicable to those prescribed for the registration of trademarks.

### **§ 3.3. Application for registration of trademark or service mark.**

Any person may apply to the Minister of Foreign Affairs for registration of a trademark or service mark. Such application shall be in writing, in such form as may be prescribed by the Minister of Foreign Affairs and shall contain the following:

- (a) A statement that the applicant believes himself or the firm, corporation or association in whose behalf he makes the application, to be the proprietor of the trademark or service mark sought to be

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21. *Prior legislation:* 1956 Code 25:50; L. 1924-25, ch. XVII, § 4.

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registered;

(b) A description of the mark;

(c) A drawing of the mark;

(d) A declaration setting forth the goods or services to which it is intended to affix the mark and the mode or manner in which the mark is used or proposed to be used in connection with such goods or services;

(e) The date of the applicant's first use of the mark;

(f) The date of the applicant's first use or proposed use of the mark in industry, agriculture or commerce;

(g) An oath or affirmation on the information and belief of the applicant that such trademark or service mark was not in use by any other person at the time of the adoption thereof and that no other person, to the best of his knowledge and belief, has the right to use such mark in industry, agriculture, commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other persons, to cause confusion or to cause mistake or to deceive. The applicant shall present with his application such number of specimens or facsimiles of the mark as actually used as may be required by the Minister of Foreign Affairs.<sup>22</sup>

### § 3.4. Standards for refusing registration of trademark.

No trademark or service mark by which the goods or services of the applicant may be distinguished from the goods or services of others shall be refused registration by the Minister of Foreign Affairs on account of its nature unless it appears:

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22. *Prior legislation:* 1956 Code 25:51(l); L.1924-25, ch. XVII, 5, 6, 12.

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(a) that it consists of or comprises immoral, deceptive, or scandalous matter, or matter which may disparage or falsely suggest a connection with persons living or dead, or with institutions, beliefs or national symbols, or which may bring them into contempt or disrepute; or

(b) that it consists of or comprises the flag or coat of arms or other insignia of the Republic of Liberia, or of any county, municipality or other political subdivision thereof, or of any foreign nation, or any simulation thereof; or

(c) that it consists of or comprises a name, portrait or signature identifying a particular living individual, except by his written consent or the name, signature or portrait of a deceased President of the Republic of Liberia during the life of his widow, if any, except by the written consent of the widow, or

(d) that it consists of or comprises a mark which so resembles a mark registered by the Minister of Foreign Affairs or a mark or trade name previously used in the Republic of Liberia by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or to cause mistake or to deceive; or

(e) that it consists of a mark which (1) when applied to the goods of the applicant is merely descriptive or deceptively misdescriptive of them, or (2) when applied to the goods of the applicant is primarily geographically descriptive or deceptively misdescriptive of them. Except as expressly excluded in subsections (a), (b), (c), (d) and (e) of this section, nothing in this chapter shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services in industry, agriculture or commerce. The Minister of Foreign Affairs may accept as *prima facie* evidence that the mark has become distinctive as applied to the applicant's goods or services in industry, agriculture or commerce, proof of substantially exclusive and continuous use thereof as a mark by the applicant in industry, agriculture or commerce for the five years next

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preceding the date of the filing of the application for its registration.<sup>23</sup>

### **§ 3.5. Advertisement of accepted application.**

Upon acceptance of an application for the registration of a trademark or service mark and prior to its registration, the Minister of Foreign Affairs shall cause the pertinent facts contained in the application to be advertised once a week for two successive weeks in a newspaper having national circulation. The cost of such advertisement shall be paid by the applicant.<sup>24</sup>

### **§ 3.6. Publication of granting of registration.**

The Minister of Foreign Affairs, upon granting registration of a trademark or service mark, shall cause the mark and the pertinent facts concerning its registration to be published in the Liberia Official Gazette.<sup>25</sup>

### **§ 3.7. Registration of trademarks and service marks;**

All trademarks and service marks shall be registered in a register kept by the Minister of Foreign Affairs. Certificates of registration shall be issued in the name of the Republic of Liberia, under the seal of the Ministry of Foreign Affairs and shall be signed by the Minister or have his signature placed thereon. The registration shall reproduce the mark and state that the mark is registered in the register provided for by this section, the date of the first use of the mark, the date of the first use of the mark in industry, agriculture or commerce, the particular goods or services for which it is registered, the number and date of the registration, the term thereof, the date on which the application for registration was received by the Minister of Foreign Affairs, and any conditions and

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23. *Prior legislation:* 1956 Code 25:51(2), 59; L. 1924-35, ch. XVII, § 4, par. 3, 6.

24. *Prior legislation:* 1956 Code, 25:52; L. 1924-25, ch. XVII, § 9.

25. *Prior legislation:* 1956 Code 25:52; L. 1974-25, ch. XVII, § 9.

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limitations that may be imposed in the registration.<sup>26</sup>

### § 3.8. Permitted amendments of registered trademarks.

1. *Non-material alterations.* Upon application of the registrant and payment of the prescribed fee, the Minister of Foreign Affairs for good cause may permit any registration to be amended or disclaimed in part, provided that the amendment or disclaimer does not alter materially the character of the mark. Appropriate entry shall be made in the trademark register records kept by the Minister of Foreign Affairs and upon the certificate of registration or, if said certificate is lost or destroyed, upon a certified copy thereof. The Minister of Foreign Affairs shall also cause the amended mark and the pertinent facts concerning the amendment or the disclaimer to be published in the Liberia Official Gazette.

2. *Material alterations.* If an amendment or disclaimer materially alters the character of a trademark or service mark, the application therefor may be considered as an application for a new mark and if granted, and upon payment of the prescribed registration fee, advertisement costs and prescribed publication fee, the altered mark shall be registered as an original mark and the mark previously registered shall be cancelled.<sup>27</sup>

### § 3.9. Duration and effect of registration; renewal.

The proprietor of a registered trademark or service mark shall have the exclusive right to use such mark for a period of fifteen years from the date of its registration. Each registration may be renewed for a further period of fifteen years from the expiration of the last registration upon the application of the proprietor of the registered trademark or service mark and the payment of the prescribed fee therefor. Such renewal application, however, shall be made within the last month prior to the

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26. *Prior legislation:* 1956 Code, 25:53; L. 1944-45, ch. XXI, § 4; L. 1924-25, ch. XVII, § 4.

27. *Prior legislation:* 1956 Code 25:54; L. 1924-25, ch. XVII, § 11.

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expiration of the registration involved.<sup>28</sup>

**§ 3.10. Assignment of registered marks.**

1. *Assignment to include goodwill.* A registered trademark or service mark, or any such mark for which application to register has been filed, shall be assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill of the business connected with the use of one symbolized by the mark, and in any such assignment it shall not be necessary to include the goodwill of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

2. *Written instrument required; recording.* Assignments of trademarks and service marks shall be by instruments in writing duly executed. An acknowledgment shall be prima facie evidence of the execution of the assignment. An assignment shall be void as against any subsequent purchaser for a valuable consideration without notice unless within three months after it is recorded in the office of the Minister of Foreign Affairs as herein set forth. In order to be recorded, the assignment shall be presented to the Minister of Foreign Affairs with an application for the recording thereof together with the certificate of registration granted to the original applicant, or if lost or destroyed, a certified copy thereof. Upon acceptance by the Minister and the payment of the prescribed fee, the assignment shall be entered upon the certificate of registration, or if lost or destroyed, upon the certified copy thereof and recorded in the register kept by the Minister of Foreign Affairs therefor.

**§ 3.11. Fees.**

The fees payable in connection with the following matters prescribed by this chapter are as follows:

- (a) For the registration of a trademark or service mark.....25.00

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28. *Prior legislation:* 1956 Code 25:55; L. 1924-25. ch. XVII. §§ 7, 8, 10.



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- (b) For the renewal of the registration of a trademark or service mark.....10.00
- (c) For rectification or alteration of a trademark or service mark by way of an amendment or disclaimer which does not materially alter its character..... 5.00
- (d) For registration of a transfer or assignment of a trademark or service mark..... 1.50
- (e) For the original publication of the registration of a trademark or service mark..... 1.00
- (f) For each publication of an amendment or disclaimer of a registration of a trademark or service mark which does not materially alter its character..... 1.00 <sup>29</sup>

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29. *Prior legislation:* 1956 Code 25:58; L. 1937, Ch. XXV, art. 6, § 2.