



**AFRICAN REGIONAL INTELLECTUAL PROPERTY
ORGANIZATION (ARIPO)**

**NOTICE TO ALL APPLICANTS ON
THE AMENDMENTS TO THE BANJUL PROTOCOL**

Reference is made to the Resolutions of the ARIPO Administrative Council at its 43rd Session that was held in Margibi County, Liberia, from November 18 to 20, 2019. The Administrative Council adopted the amendments to the Banjul Protocol on Marks as well as its Implementing Regulations, which shall come into force on January 1, 2020.

In view of that, the Office wishes to draw your attention to the following amendments:

1. SECTION 2

SECTION 2
FILING AND TRANSMITTAL OF APPLICATION

[.....]

2:4 Where an application is filed with the Industrial Property Office of a Contracting State, such office shall, within **one** 1 month of receiving the application, transmit the application to the Office.

2. SECTION 3

SECTION 3
CONTENT OF APPLICATION

[.....]

3:2 The application shall indicate the goods and/or services in respect of which protection of a mark is claimed, including the corresponding class or classes provided for under the Nice Agreement Concerning the *International*

Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957, as revised. For this purpose the **ARIPO Office** will check that the applicant has made such indication of class or classes and that indication is correct and where the applicant does not give such indication or the indication is not correct, the **ARIPO Office** shall classify the goods or services under the appropriate class or classes of the latest edition of the Nice Classification on payment of a classification fee.

[.....]

3:5 The application shall contain a declaration of actual use of the mark or a declaration of intention to use the mark. ~~m, or be accompanied by an application for the registration of a person as a registered user of the mark;~~

~~Provided that where there is an application for a registered user the Director General of the Office is satisfied that—~~

~~(a) the applicant intends it to be used by that person in relation to those goods or services; and~~

~~(b) that person shall be registered as a registered user thereof immediately after registration of the mark.~~

3:6 The application may also be accompanied by an application for the registration of a person as a registered user of the mark;

Provided that where there is an application for a registered user the Director General of the Office is satisfied that—

(a) the applicant intends it to be used by that person in relation to those goods or services; and

(b) that person shall be registered as a registered user thereof immediately after registration of the mark.

3. SECTION 6bis

SECTION 6bis PUBLICATION; REGISTRATION AND NOTICE OF OPPOSITION

[.....]

6bis:4 At any time after the publication in the Marks Journal of an application as accepted by the designated State or designated States in terms of Section 6bis:1 but before the registration of the mark in terms of Section 6bis:2, any **interested** person may lodge a notice of opposition to the application for registration; which notice shall be filed with the Office. Thereafter, the application shall be treated according to the opposition procedures laid down under the national laws of the designated State or designated States concerned.

**AMENDMENTS TO THE REGULATIONS FOR IMPLEMENTING THE
BANJUL PROTOCOL**

6. [NEW] RULE 5ter

**Rule 5ter
Filing Date**

5ter:1 The **ARIPO** Office shall accord as the filing date, the date on which the application was received by the Office or the industrial property office of the Contracting State with which the application was filed, provided that the application on the face of it fulfils the requirements of Rule 4:1; if on the date on which the application was received by the Office or the industrial property office of the Contracting State it did not fulfil the requirements of Rule 4:1, the Office shall accord as the filing date the date on which the application on the face of it fulfilled the requirements of Rule 4:1.

5ter:2 The **ARIPO** Office shall notify the applicant and the industrial property office of each designated State of the filing date of the application.

7. RULE 10

**Rule 10
Fees**

10:1 An application for registration shall be subject to payment of the prescribed fee. The fees payable for application, registration, renewal and other matters incidental thereto are contained in Schedule I to these Regulations.

10:2 Subject to paragraph 10:3, fees shall be paid in U.S. dollars direct to the Office or the application shall be accompanied by an undertaking signed by the applicant that he will effect payment to the Office within a period of 21 days from the date on which the application is filed with the Office or the industrial property office of a Contracting State.

10:3 (a) Notwithstanding paragraph 10:2, where the applicant is a national of the Contracting State in which the application is filed, the industrial property office concerned may—

- (i) accept payment of the fees in local currency equivalent, at the prevailing official rate of exchange, to the prescribed fees; and
- (ii) request the Office to debit its account in ARIPO with the amount of such fees.

- (b) The Office shall be bound by the decision taken by the industrial property office of a Contracting State concerning the applicability of this paragraph with regard to the nationality of the applicant.

10:24 [.....]

10:35 [.....]

10:46 [.....]

10:57 [.....]

8. [NEW] RULE 11ter

Rule 11ter Notice of Opposition

- 11ter.1 Any interested person may, within 3 months from the date of publication in the ARIPO Marks Journal of an application as accepted by designated State(s) under Section 6bis.1 lodge a notice of opposition to the application for registration.
- 11ter.2 The notice of opposition shall be prepared in accordance with the national laws of each designated state concerned.
- 11ter.3 The notice of opposition shall be lodged directly with the Office and copied to the designated State(s) office.
- 11ter.4 The Office shall without delay transmit the notice of opposition to the designated State (s) concerned and copy it to the Applicant(s) under ARIPO Form M20A.
- 11ter.5 The designated state(s) shall pronounce its decision on the notice of opposition and such decision shall be made available to the Office on Form M20B and copied to the opponent and applicant. The decision shall be subject to appeal or review under the national laws of the designated State concerned.
- 11ter.6 Each designated state concerned shall notify the Office where an appeal has been lodged and of its final decision without delay, on Form M20B. The Office shall also without delay transmit the decision to the opponent and applicant.
- 11ter.7 The Office shall record the decision in the ARIPO Marks Register and publish in the ARIPO Marks Journal.

9. AMENDMENT OF THE TABLE OF CONTENTS UNDER THE REGULATIONS

TABLE OF CONTENTS

[.....]

Rule 5ter *Filing Date*

[.....]

Rule 11ter *Notice of Opposition*

[.....]

10. AMENDMENT OF SCHEDULE I

**SCHEDULE I
BANJUL PROTOCOL FEES
Part B: Regional Fees Structure**

[.....]

3. ~~Later~~ *Subsequent* Designation per D/S 100.00 No. M 3

[.....]

11. AMEND SCHEDULE II

**FORMS
PART A: LIST OF FORMS**

List of Forms

Form No. M	Description/Title
1	Application for registration of a mark or of a series of marks
2	Appointment of representative/Power of attorney
3	Request for later <i>subsequent</i> designations

[.....]

- 20A Notification of transmittal by Office of notice of opposition documents to concerned designated State.
- 20B Notification by designated State concerned of the final decision on the opposition of a mark.

12. FORM NO. M3

FORM M3



<p>Form No. M 3 BANJUL PROTOCOL <i>(Rule 9)</i></p> <p>To: Director General ARIPO Office P.O. Box 4228 Harare Zimbabwe</p>	<p style="text-align: center;">For Official Use</p> <p>Received on:</p> <p>Applicant's or Representative's File Reference:</p>
<p>REQUEST FOR LATER SUBSEQUENT DESIGNATIONS</p>	
<p>I. Application/Registration No.: <i>(delete whatever is not applicable)</i></p> <p>Classification:</p>	<p>Filing date:</p>
<p>II. Full name(s) of applicant(s), being–</p> <p>(i) registered proprietor or assignor and full business address</p> <p>.....</p> <p>.....</p> <p>and/or</p> <p>(ii) assignee and full business address, nationality and occupation</p> <p>.....</p> <p>.....</p> <p>also trading under the style of</p> <p>I/We hereby apply for territorial extension in the following country(s)</p> <p>.....</p> <p>.....</p> <p>Dated this day of, 20.....</p> <p style="text-align: center;">.....</p> <p style="text-align: center;">Registered Proprietor /Assignor(s) or Agent for Assignor(s)</p> <p style="text-align: center;">.....</p> <p style="text-align: center;">Assignee(s)/Agent for Assignee(s)</p>	

13. [NEW] FORM NO. M20A



<p>Form No. M20A BANJUL PROTOCOL <i>(Rule 11ter.4)</i></p> <p>*To:</p>	<p style="text-align: center;">For Official Use</p> <p>Received on:</p> <p>Applicant's or Representative's File Reference:</p>
<p>NOTIFICATION OF TRANSMITTAL BY ARIPO OFFICE OF NOTICE OF OPPOSITION DOCUMENTS TO CONCERNED DESIGNATED STATE(S)</p>	
<p>I. Application No.:</p>	<p>Filing date:</p>
<p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p>	
<p>III. TRANSMITTAL</p> <p>Pursuant to Rule 11ter.4, we hereby transmit to the following designated state(s):..... documents comprising</p> <p>Notice of Opposition received at the ARIPO Office from:.....(opponent)</p> <p>..... concerning the above mentioned application.</p> <p>Each designated state shall decide on the Notice of Opposition in accordance with its national laws and without delay notify the ARIPO Office and the opponent of it decision on Form M20B.</p> <p>This notification shall be copied to the above mentioned applicant(s).</p>	
<p>IV. SIGNATURE..... (Date)</p>	

14. [NEW] FORM NO. M20B



<p>Form No. M20B BANJUL PROTOCOL <i>(Rule 11ter.6)</i></p> <p>To: Director General ARIPO Office P O Box 4228 HARARE ZIMBABWE</p>	<p style="text-align: center;">For Official Use</p> <p>Received on:</p> <hr/> <p>Applicant's or Representative's File Reference:</p>
<p>NOTIFICATION BY DESIGNATED STATE CONCERNED OF THE FINAL DECISION ON THE OPPOSITION OF A MARK</p>	
<p>I. Application No.:</p>	
<p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p>	
<p>III. COMMUNICATION</p> <p>On behalf of (Designated State), we hereby notify the ARIPO Office that, a decision has been made in accordance with its national laws and in accordance with Rules 11ter.5 and 11ter.6 of the Banjul Protocol on Marks on the Notice of Opposition received on.....</p> <p><input type="checkbox"/> - Notice of Appeal</p> <p><input type="checkbox"/> - Notice of Final Decision</p> <p>The decision is attached to this communication.</p> <p>This communication is copied to the applicant(s) above and the opponent(s) below:</p> <p>.....</p> <p>.....</p> <p>.....</p>	
<p>IV. SIGNATURE..... (Date)</p>	

[End of Notification]

Signature:

A handwritten signature in blue ink, appearing to read "Fernando A. Dos Santos".

Date: 12.12.2019

**Mr. Fernando A. Dos Santos
DIRECTOR GENERAL**