



## OFFICE OF THE PRESIDENT - FOR IMMEDIATE ENACTMENT

# A LAW

For the purpose of establishing the Federal Patents and Trademarks Bureau

### ARTICLE I

1. There shall be a subordinate executive agency of the Department of the Interior, known as the Federal Patents and Trademarks Bureau (hereafter either “the FPTB” or simply “FPTB”), which shall be headed by a Director-General.
2. The Director-General of the FPTB shall:
  - a. Be appointed by the President;
  - b. Serve at the pleasure of the President and the Minister of the Interior and may be relieved of their post by either individual (though a ministerial firing may be countermanded by presidential command);
  - c. Have unilateral authority to hire, fire, arrange and organise the staff of their agency at their discretion and as they see fit, as well as hire agents for the purpose of enforcing the rights of patent and trademark holders.
3. The FPTB shall be responsible for applications for patents, trademarks and copyrights.
4. Patents shall be defined as a writ approved by the government that allows a legal person to exclusively sell, profit from, or produce a certain invention or authorise other legal persons so to do for a period of fifteen years. The legal person to whom the patent is assigned shall be known as the patent-holder of that patent.
5. Trademarks shall be defined as a writ approved by the government that grants a legal person the exclusive right to use a specific recognisable sign, design or expression for the purpose of identifying a product or service. The legal person to whom the trademark is assigned shall be known as the trademark holder of that trademark.
6. Copyrights shall be defined as a writ approved by the government that grants a legal person the exclusive right to determine who, and under what conditions, their exclusive work that they wish to have protected by copyright (hereafter “copyrighted work(s)”, “their copyrighted works” or “the copyrighted work”) may be used by others. The legal person to whom the copyright is assigned shall be known as the copyright holder of that copyright.
7. For the purpose of I.6, work in the clause “their exclusive work” refers to:
  - a. Literary works, including writings done online or academically;
  - b. Musical works, including individual lyrics;
  - c. Pantomimes, choreography or dancing, provided it is recorded and is not simple or sufficiently social as would appear to the passive observer as to make it not the original work of the copyright applicant;
  - d. Movies, photographs, and other audiovisual works;
  - e. Sound recordings;
  - f. Architectural works;
  - g. Pictorial work, graphics, sculptures, maps and floor and architectural plans;
  - h. Computer programs.
8. Copyrighted works, to be protected by copyright, must be reproducible or otherwise able to be preserved.
9. The list enumerated in I.7 is not exhaustive; it should be broadly interpreted.



10. The following works cannot be copyrighted:
  - a. Works that are not fixed in some tangible form of expression – if a work is not written down, recorded or otherwise enumerated in a physical or otherwise accessible capacity, it is not copyrightable;
  - b. Titles, names, short names or slogans, which would require trademark rather than copyright applications;
  - c. Designs or symbols that are familiar to the general public;
  - d. Works that are the common heritage of the general public, for instance calendars, weight/height charts, tape measures, etc.;
  - e. Works that are in the public domain or owned by the government.
11. For the purpose of this law, the various symbols of the branches of government and the flag of the Amissopian Federation are owned by the government.
12. The rights attached to works owned by the government may be exercised unilaterally by the President of the Federation.
13. For the purpose of this law, a legal person is:
  - a. Any citizen of the Amissopian Federation;
  - b. Any individual who is not a citizen of the Amissopian Federation who is nevertheless granted leave by the Director-General of the FPTB to make application under this law;
  - c. Any organisation incorporated under Amissopian law.

## **ARTICLE II**

1. A patent-holder may:
  - a. Relinquish their patent early, whereafter the rights to produce, import, sell and otherwise profit from an invention transfer into the public domain and may be exercised by any legal person or individual;
  - b. Issue, with binding legal effect, cease and desist notices against individuals or legal persons attempting to violate the rights granted to them by I.4 of this law (hereafter referred to as a “civil patent violation”), provided they can provide to the FPTB on request satisfactory evidence that would lead a reasonable person to conclude that their rights are being violated in this fashion. These cease and desist notices shall have the following effects:
    - i. Requiring the recipient to, within ten days, shut down any operation, production or importation of the invention subject to the patent that is in violation of the rights of the patent-holder;
    - ii. Requiring the recipient to provide such compensation to the patent-holder as the government shall find necessary to a sum not exceeding £100,000 GBP;
    - iii. Surrendering, if necessary, the tools of production of the invention subject to the patent to preclude the offender from attempting to perform a civil patent violation of this nature again.
  - c. Authorise other individuals or legal persons to utilise their patent.
2. The government may, the previous provisions of this law notwithstanding, exercise the right to sell, produce, import or profit from an invention protected by patent without performing a civil patent violation provided:
  - a. Reasonable effort is made to compensate the patent-holder for that invention;



- b. There is a compelling purpose that requires the government to take this action in order to ensure the public safety, the continuation of national security, or otherwise the good functioning of the federal government.
3. The government may not compel a patent-holder to relinquish their patent early per I.6.a of this law.
4. It shall be a criminal offence – specifically, the crime of “knowingly and deliberately attempt to deceive or defraud the government by submitting false information” in the terms of the Fraudulent Submissions Law – to issue a cease and desist notice per I.6.b of this law without reasonable evidence that a patent violation is taking place.
5. A civil patent violation becomes an indictable criminal patent violation in the event that an individual continues to produce, import, sell or otherwise profit from an invention protected by patent after receipt of a cease and desist notice.
6. The Federal Criminal Code of Amissopia is hereby amended as follows:
  - a. Section III (“Crimes against the Person”) shall be amended to have a new Section 13, which shall read as follows: “It shall be a criminal offence for any individual to knowingly and deliberately, after being handed a legitimate cease and desist notice, continue to violate the patent rights of a holder of a patent under the terms of the Federal Patent and Trademark Law. This offence may be referred to in short hand as “criminal patent violation”.

### ARTICLE III

1. A trademark holder may:
  - a. Relinquish their trademark, whereafter the rights to use that mark, design or expression transfer into the public domain and may be exercised by any legal person or individual;
  - b. Issue, with binding legal effect, cease and desist notices against individuals or legal persons attempting to violate the rights granted to them by I.5 of this law (hereafter referred to as a “civil trademark violation”), provided they can provide to the FPTB on request satisfactory evidence that would lead a reasonable person to conclude that their rights are being violated in this fashion. These cease and desist notices shall have the following effects:
    - i. Requiring the recipient to, as immediately as possible upon receipt of the notice, to cease using the trademark holder’s trademark(s) for whatever purpose they were used for;
    - ii. Requiring the recipient to provide such compensation to the patent-holder as the government shall find necessary to a sum not exceeding £100,000 GBP.
  - c. Authorise other individuals or legal persons to utilise their trademark.
2. The government may not compel a trademark holder to relinquish their trademark early per I.6.a of this law.
3. It shall be a criminal offence – specifically, the crime of “knowingly and deliberately attempt to deceive or defraud the government by submitting false information” in the terms of the Fraudulent Submissions Law – to issue a cease and desist notice per III.1.b of this law without reasonable evidence that a civil trademark violation is taking place.
4. A civil trademark violation becomes an indictable criminal trademark violation in the event that an individual continues to use a trademark they do not control after receipt of a cease and desist notice.
5. The Federal Criminal Code of Amissopia is hereby amended as follows:



- a. Section III (“Crimes against the Person”) shall be amended to have a new Section 13, which shall read as follows: “It shall be a criminal offence for any individual to knowingly and deliberately, after being handed a legitimate cease and desist notice, continue to violate the trademark rights of a holder of a patent under the terms of the Federal Patent and Trademark Law. This offence may be referred to in short hand as “criminal trademark violation”.

#### ARTICLE IV

1. A copyright holder may:
  - a. Relinquish their copyright, whereafter the rights to use their copyrighted work transfer into the public domain and may be exercised by any legal person or individual;
  - b. Issue, with binding legal effect, cease and desist notices against individuals or legal persons attempting to violate the rights granted to them by I.6 of this law (hereafter referred to as a “civil copyright violation”), provided they can provide to the FPTB on request satisfactory evidence that would lead a reasonable person to conclude that their rights are being violated in this fashion. These cease and desist notices shall have the following effects:
    - i. Requiring the recipient to, as immediately as possible upon receipt of the notice, to cease using the copyright for whatever purpose it was used for;
    - ii. Requiring the recipient to provide such compensation to the copyright holder as the government shall find necessary to a sum not exceeding £100,000 GBP.
  - c. Authorise other individuals or legal persons to utilise their copyright.
2. The government may not compel a trademark holder to relinquish their trademark early per I.6.a of this law.
3. It shall be a criminal offence – specifically, the crime of “knowingly and deliberately attempt to deceive or defraud the government by submitting false information” in the terms of the Fraudulent Submissions Law – to issue a cease and desist notice per III.1.b of this law without reasonable evidence that a civil trademark violation is taking place.
4. A civil trademark violation becomes an indictable criminal trademark violation in the event that an individual continues to use a trademark they do not control after receipt of a cease and desist notice.
5. The Federal Criminal Code of Amissopia is hereby amended as follows:
  - a. Section III (“Crimes against the Person”) shall be amended to have a new Section 13, which shall read as follows: “It shall be a criminal offence for any individual to knowingly and deliberately, after being handed a legitimate cease and desist notice, continue to violate the trademark rights of a holder of a patent under the terms of the Federal Patent and Trademark Law. This offence may be referred to in short hand as “criminal trademark violation”.
6. Rights pursuant to copyright shall expire 45 years after the copyright application was approved, after which time such rights shall enter the public domain and may be exercised by any individual or legal person.
7. Copyrighted works may nonetheless be used by others without the permission of the copyright holder for the purposes of the following:
  - a. News reporting, where there is original commentary on the work and the work itself is not merely republished in original format;



- b. Transformative work, where the resulting work is both significantly transformative and sufficiently original as to differentiate itself from the copyrighted work it seeks to transform;
        - c. Critique of the original transformative work;
8. If a copyrighted work is used for the purposes of IV.7, an individual affected by a cease and desist notice for the work may make an affirmative defence of fair use and dismiss the notice prejudicially. Such dismissal may be appealed by the copyright holder.
9. Courts may issue copyright injunctions, which shall serve the same purpose as a cease and desist notice for the purposes of IV.1.b, with the following exceptions:
  - a. No compensation may be levied against the individual against whom the copyright injunction is served;
  - b. The injunction only requires a temporary restriction upon the usage of the copyright pending a full hearing by a court on the merits of the copyright's usage.
10. Courts may, in judgements on alleged copyright violations, consider additional factors that they deem prudent and which, in their judgement, may make the utilisation of copyrighted work fair. In making these judgements, and judgements on fair use in general, courts should consider the following:
  - a. Whether there is likely to be significant damage levied on the original copyright holder as a result of the usage of the copyrighted work, and whether the good created by the resulting, allegedly fair use is sufficient to outweigh the aforesaid damage;
  - b. The volume of content used by the resulting work of the copyrighted work;
  - c. The nature of the copyrighted work itself;
  - d. Whether the use of the copyrighted work is commercial or not.

## **ARTICLE II**

1. This law shall take effect upon presidential signature.
2. This law shall affect the entire Federation.
3. This law may be referred to in short hand as the Federal Patents and Trademarks Law.