

[REPUBLIC ACT NO. 864, June 16, 1953]

AN ACT TO FURTHER AMEND SECTIONS FIFTY-FIVE, FIFTY-SEVEN, FIFTY-EIGHT, FIFTY-NINE AND SIXTY OF REPUBLIC ACT NUMBERED ONE HUNDRED AND SIXTY-FIVE, AS AMENDED BY REPUBLIC ACT NUMBERED SIX HUNDRED AND THIRTY-SEVEN; AND TO AMEND SECTIONS TWENTY-EIGHT, THIRTY-THREE, SIXTY-ONE, SIXTY-TWO, SEVENTY-FOUR, AND SEVENTY-FIVE OF SAID REPUBLIC ACT NUMBERED ONE HUNDRED AND SIXTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections fifty-five, fifty-seven, fifty-eight, fifty-nine and sixty of Republic Act Numbered One hundred and sixty-five, as amended by section six of Republic Act Numbered Six hundred and thirty-seven, are hereby further amended so as to read as follows:

"CHAPTER XII.—Designs and utility models

"SEC. 55. Design patents and patents for utility models.— (a) Any new, original, and ornamental design for an article of manufacture and (b) any new model of implements or tools or of any industrial product, or of part of the same, which does not possess the quality of invention, but which is of practical utility by reason of its form, configuration, construction or composition, may be protected by the author thereof, the former by a patent for a design and the latter by a patent for a utility model, in the same manner and subject to the same provisions and requirements as relate to patents for inventions in so far as they are applicable, except as otherwise herein provided.

"The standard of novelty established by section nine hereof for inventions shall apply to ornamental designs.

"A utility model shall not be considered 'new' if, before the application for a patent, it has been publicly known or publicly used in this country, or has been described in a printed publication or publications circulated within the country, or if it is substantially similar to any other utility model so known, used or described within the country.

Applications for design patents and patents for utility Models shall be subject to interference proceedings as authorized in section ten of this Act, as amended by section one of Republic Act Numbered Six hundred

and thirty-seven.

"Patents for designs and for utility models shall be subject to compulsory license as authorized in section thirty-four of this Act. They shall not be subject to the payment of annual fees provided for invention patents in Chapter V hereof.

"SEC. 57. *Notice of grant of patent shall be published.*—Notice of the grant of a design patent or of a patent for a utility model shall be published in the Official Gazette.

"SEC. 58. *Term and extension thereof.*—The term of the design patent and of the patent for a utility model shall be five years from the date of the grant thereof.

"Before the expiration of the five-year term, upon payment of the required fee, or within a further time thereafter not to exceed six months upon payment of the surcharge, the owner of the design patent or of a patent for a utility model may apply for an extension for an additional five years. The application for extension must be accompanied by an affidavit showing that the design or the model is in commercial or industrial use in the Philippines or satisfactorily explaining non-use. In a similar manner an extension for a third five-year period may be obtained.

"SEC. 59. *Marking.*—The marking required by section forty-four, Chapter X, hereof, shall be 'Philippine Design Patent', and 'Philippine Utility Model Patent' or appropriate abbreviations, and the number of the patent.

"SEC. 60. *Infringement.*—Infringement of a design patent or of a patent for utility model shall consist in unauthorized copying of the patented design or utility model for the purpose of trade or industry in the article or product and in the making, using or selling of the article or product copying the patented design or utility model. Identity or substantial identity with the patented design or utility model shall constitute evidence of copying."

SEC. 2. Sections twenty-eight and thirty-three of Republic Act Numbered One hundred and sixty-five are hereby amended so as to read as follows:

"SEC. 28. *General grounds for cancellation.*—Any person may on payment of the required fee petition the Director within three years from the date of publication of the issue of the patent in the *Official Gazette*, to cancel the patent or any claim thereof, on any of the following grounds:

"(a) That the invention is not new or patentable in accordance with sections seven, eight, and nine, or that the design or utility model is not new or patentable under section fifty-five hereof;