Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)\textsuperscript{1}

Select Legislative Instrument 2006 No. 355

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Designs Act 2003, the Patents Act 1990, the Plant Breeder’s Rights Act 1994 and the Trade Marks Act 1995.

Dated 13 December 2006

P. M. JEFFERY
Governor-General

By His Excellency’s Command

IAN MACFARLANE
Minister for Industry, Tourism and Resources
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4 Amendment of Patents Regulations 1991 2
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Schedule 4 Amendments of Trade Marks Regulations 1995 16

1 Name of Regulations
These Regulations are the Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1).

2 Commencement
These Regulations commence on 1 March 2007.

3 Amendment of Designs Regulations 2004
Schedule 1 amends the Designs Regulations 2004.

4 Amendment of Patents Regulations 1991
Schedule 2 amends the Patents Regulations 1991.
5 Amendment of Plant Breeder’s Rights Regulations 1994

Schedule 3 amends the Plant Breeder’s Rights Regulations 1994.

6 Amendment of Trade Marks Regulations 1995

Schedule 4 amends the Trade Marks Regulations 1995.

Schedule 1 Amendments of Designs Regulations 2004
(regulation 3)

[1] Schedule 3, Part 1
substitute

Part 1 Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Matter</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Preparing notice of opposition</td>
<td>$200</td>
</tr>
<tr>
<td>2</td>
<td>Receiving and perusing notice of opposition</td>
<td>$130</td>
</tr>
<tr>
<td>3</td>
<td>Preparation of case for hearing</td>
<td>$525</td>
</tr>
<tr>
<td>4</td>
<td>Attendance at hearing by:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) a registered patent attorney without counsel; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) a registered trade marks attorney without counsel; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) a solicitor without counsel</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>$260 an hour, but not more than $1 170 a day</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Attendance at hearing by:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) a registered patent attorney instructing counsel; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) a registered trade marks attorney instructing counsel; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) a solicitor instructing counsel</td>
<td>$200 an hour, but not more than $900 a day</td>
</tr>
</tbody>
</table>

2006, 355 Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)
<table>
<thead>
<tr>
<th>Item</th>
<th>Matter</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Counsel fees for attendance at hearing</td>
<td>$300 an hour, but not more than $1 350 a day</td>
</tr>
</tbody>
</table>

[2] **Schedule 3, Part 2, paragraph 2 (b)**

*omit*

$405

*insert*

$700

[3] **Schedule 3, Part 2, paragraph 3 (b)**

*omit*

not less than $95, or more than $475,

*insert*

not less than $140, or more than $700,


*omit*

not less than $54, or more than $89,

*insert*

not less than $80, or more than $130,

[5] **Schedule 4, item 14, column 3, paragraph (a)**

*omit*

$25

*insert*

$50
[6] **Schedule 4, item 15, column 3, paragraph (a)**

*omit*

$25

*insert*

$50

[7] **Schedule 4, item 16, column 3**

*omit*

$25

*insert*

$50
Schedule 2 Amendments of *Patents Regulations 1991* (regulation 4)

[1] Schedule 7, Part 2, item 204, column 3
   
   *omit*
   $240
   
   *insert*
   $300

[2] Schedule 7, Part 2, item 205, column 3
   
   *omit*
   $340
   
   *insert*
   $420

[3] Schedule 7, Part 2, item 206, column 3
   
   *omit*
   $240
   
   *insert*
   $300

   
   *omit*
   $290
   
   *insert*
   $370
[5] **Schedule 7, Part 2, item 208**

*substitute*

208 Filing a request under paragraph 101A (b) of the Act, by a person other than the patentee of an innovation patent, for examination of the complete specification relating to the innovation patent:

(a) payable by the person making the request; and
(b) payable by the patentee $180

[6] **Schedule 7, Part 2, item 210, column 3**

*omit*

$1 300

*insert*

$800

[7] **Schedule 7, Part 2, items 211, 212 and 213**

*substitute*

211 Continuation fee under paragraph 142 (2) (d) of the Act, or renewal fee under paragraph 143 (a) of the Act, for:

(a) the fifth anniversary $250
(b) the sixth anniversary $250
(c) the seventh anniversary $250
(d) the eighth anniversary $250
(e) the ninth anniversary $250
(f) the tenth anniversary $400
(g) the eleventh anniversary $400
(h) the twelfth anniversary $400
(i) the thirteenth anniversary $400
(j) the fourteenth anniversary $400
(k) the fifteenth anniversary $900
(l) the sixteenth anniversary $900
(m) the seventeenth anniversary $900
(n) the eighteenth anniversary $900
(o) the nineteenth anniversary $900
(p) if an extension of the term of a standard patent is granted under section 76 of the Act:
   (i) the twentieth anniversary $2 000
   (ii) each subsequent anniversary during the period of extension $2 000

and, in addition, if the fee is not paid on or before the anniversary but is paid within 6 months after the anniversary $100 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid

212 Renewal fee under paragraph 143A (d) of the Act for:
   (a) the second anniversary $100
   (b) the third anniversary $100
   (c) the fourth anniversary $100
   (d) the fifth anniversary $160
   (e) the sixth anniversary $200
   (f) the seventh anniversary $230

and, in addition, if the fee is not paid on or before the anniversary but is paid within 6 months after the anniversary $100 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid

213 Acceptance of a patent request and complete specification under section 49 of the Act:
   (a) for acceptance; and $140
   (b) if more than 20 claims are contained in the specification at acceptance $100 for each claim in excess of 20
[8] Schedule 7, Part 2, item 214, column 3
omit
$550
insert
$600

[9] Schedule 7, Part 2, item 217, column 3
omit
$550
insert
$600

[10] Schedule 7, Part 2, item 218, column 3
omit
$150
insert
$500

omit
$500
insert
$600

[12] Schedule 7, Part 2, item 220, column 3
omit
$500
insert
$600
[13] **Schedule 7, Part 2, item 222**

*substitute*

<table>
<thead>
<tr>
<th>222</th>
<th>Filing a request for leave to amend: $250</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) a complete specification relating to an application for a standard patent, before a request for examination is filed or after the complete specification is accepted; or</td>
</tr>
<tr>
<td></td>
<td>(b) a complete specification relating to a standard patent</td>
</tr>
</tbody>
</table>

[14] **Schedule 7, Part 2, item 224, column 3**

*omit*

<table>
<thead>
<tr>
<th></th>
<th>$200</th>
</tr>
</thead>
</table>

*insert*

|     | $250 |

[15] **Schedule 7, Part 2, item 229, column 3**

*omit*

<table>
<thead>
<tr>
<th></th>
<th>$500</th>
</tr>
</thead>
</table>

*insert*

|     | $600 |

[16] **Schedule 7, Part 2, item 230, column 3**

*omit*

<table>
<thead>
<tr>
<th></th>
<th>$500</th>
</tr>
</thead>
</table>

*insert*

|     | $600 |
### [17] Schedule 7, Part 2, item 231

*substitute*

231 Appearing at a hearing:

(a) for the first day $600 less any amount paid under item 219, 220, 229 or 230 in relation to the hearing

(b) if the hearing runs for more than a day $600 for each day, or part of a day, after the first day

### [18] Schedule 7, Part 2, item 233, column 3

*omit*

$25

*insert*

$50

### [19] Schedule 7, Part 2, item 234

*substitute*

234 Requesting the supply of a copy of a document other than a patent specification:

(a) for more than 6 documents from a single source and supplied at the same time $200 plus $1 per page for each document in excess of 6 documents

(b) otherwise $50 per document

### [20] Schedule 7, Part 2, item 235, column 3

*omit*

$25

*insert*

$50
[21] Schedule 7, Part 2, item 236, column 3

omit
$1 000

insert
$1 400

[22] Schedule 7, Part 2, item 238, column 3

omit
$1 000

insert
$1 300

[23] Schedule 7, Part 3, item 301, column 3

omit
$100

insert
$150

[24] Schedule 7, Part 3, item 302, column 3

omit
$1 200

insert
$1 600

[25] Schedule 7, Part 3, item 303, column 3

omit
$1 200

insert
$1 600
[26] Schedule 7, Part 3, item 304, column 3

omit
$1,000

insert
$780

[27] Schedule 7, Part 3, item 306, column 3

omit
$25

insert
$50

[28] Schedule 8, Part 1

substitute

Part 1  Costs

<table>
<thead>
<tr>
<th>Column 1 Item</th>
<th>Column 2 Matter</th>
<th>Column 3 Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Notice of opposition</td>
<td>$200</td>
</tr>
<tr>
<td>2</td>
<td>Statement of grounds and particulars</td>
<td>$750</td>
</tr>
<tr>
<td>3</td>
<td>Receiving and perusing statement of grounds and particulars</td>
<td>$500</td>
</tr>
<tr>
<td>4</td>
<td>Evidence in support</td>
<td>$1,500</td>
</tr>
<tr>
<td>5</td>
<td>Receiving and perusing notice of opposition</td>
<td>$200</td>
</tr>
<tr>
<td>6</td>
<td>Receiving and perusing evidence in support</td>
<td>$750</td>
</tr>
<tr>
<td>7</td>
<td>Evidence in answer</td>
<td>$1,500</td>
</tr>
<tr>
<td>8</td>
<td>Receiving and perusing evidence in answer</td>
<td>$750</td>
</tr>
<tr>
<td>9</td>
<td>Evidence in reply</td>
<td>$750</td>
</tr>
<tr>
<td>10</td>
<td>Receiving and perusing evidence in reply</td>
<td>$350</td>
</tr>
<tr>
<td>11</td>
<td>Preparation of case for hearing</td>
<td>$1,000</td>
</tr>
<tr>
<td>Item</td>
<td>Matter</td>
<td>Amount</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------------------------------------</td>
<td>------------------------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>Attendance at hearing by registered patent attorney or solicitor without counsel</td>
<td>$260 an hour, but not more than $1,170 a day</td>
</tr>
<tr>
<td>13</td>
<td>Attendance at hearing by registered patent attorney or solicitor instructing counsel</td>
<td>$200 an hour, but not more than $900 a day</td>
</tr>
<tr>
<td>14</td>
<td>Counsel fees for attendance at a hearing</td>
<td>$300 an hour, but not more than $1,350 a day</td>
</tr>
</tbody>
</table>

[29] Schedule 8, Part 2, paragraph 2 (b)

*omit*

$405

*insert*

$700

[30] Schedule 8, Part 2, paragraph 3 (b)

*omit*

not less than $95, or more than $475,

*insert*

not less than $140, or more than $700,

[31] Schedule 8, Part 2, paragraph 4 (b)

*omit*

not less than $54, or more than $89,

*insert*

not less than $80, or more than $130,
Schedule 3 Amendment of *Plant Breeder’s Rights Regulations 1994* (regulation 5)

[1] Schedule, items 13 and 14

*omit*
Schedule 4 Amendments of *Trade Marks Regulations 1995*
(regulation 6)

[1] Schedule 8, Part 1

Substitute

### Part 1 Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Matter</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Notice of opposition</td>
<td>$200</td>
</tr>
<tr>
<td>2</td>
<td>Evidence in support</td>
<td>$700</td>
</tr>
<tr>
<td>3</td>
<td>Receiving and perusing notice of opposition</td>
<td>$130</td>
</tr>
<tr>
<td>4</td>
<td>Receiving and perusing evidence in support</td>
<td>$300</td>
</tr>
<tr>
<td>5</td>
<td>Evidence in answer</td>
<td>$700</td>
</tr>
<tr>
<td>6</td>
<td>Receiving and perusing evidence in answer</td>
<td>$210</td>
</tr>
<tr>
<td>7</td>
<td>Evidence in reply</td>
<td>$350</td>
</tr>
<tr>
<td>8</td>
<td>Receiving and perusing evidence in reply</td>
<td>$130</td>
</tr>
<tr>
<td>9</td>
<td>Preparation of cases for hearing</td>
<td>$525</td>
</tr>
<tr>
<td>10</td>
<td>Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor without counsel</td>
<td>$260 an hour, but not more than $1 170 a day</td>
</tr>
<tr>
<td>11</td>
<td>Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor instructing counsel</td>
<td>$200 an hour, but not more than $900 a day</td>
</tr>
<tr>
<td>12</td>
<td>Counsel fees for attendance at a hearing</td>
<td>$300 an hour, but not more than $1 350 a day</td>
</tr>
</tbody>
</table>
[2] **Schedule 8, Part 2, paragraph 2 (b)**

*omit*

$405

*insert*

$700

[3] **Schedule 8, Part 2, paragraph 3 (b)**

*omit*

not less than $95, or more than $475,

*insert*

not less than $140, or more than $700,

[4] **Schedule 8, Part 2, paragraph 4 (b)**

*omit*

not less than $54, or more than $89,

*insert*

not less than $80, or more than $130,

[5] **Schedule 9, items 1, 2 and 3**

*substitute*

1. Filing an application to register a trade mark under subsection 27 (5) or 45 (1) of the Act in respect of goods or services in 1 or more of the prescribed classes:

   (a) by an electronic means approved by the Registrar for this paragraph and, in addition, if the goods and services are specified in the application otherwise than by using the official Goods and Services pick list

   $120 for each class

   $40 for each class

   (b) by AFS request mentioned in regulation 4.2A

   $90 for each class

   (c) by another means

   $180 for each class
3 Filing an application to register 2 or more trade marks as a series under section 51 of the Act:
   (a) by an electronic means approved by the Registrar for this paragraph: and, in addition, if the goods and services are specified in the application otherwise than by using the official Goods and Services pick list $270
   (b) by other means $330

[6] Schedule 9, item 4, column 3
   omit
   $150 for each class
   insert
   $180 for each class

[7] Schedule 9, item 7
   substitute
   7 Filing a notice of opposition under:
      (a) section 52 of the Act; or $250
      (b) section 96 of the Act (including section 96 as applied by regulation 17A.48); or $150
      (c) subsection 224 (6) of the Act; or $250
      (d) regulation 17A.29 $250

[8] Schedule 9, items 9, 10, 11 and 12
   substitute
   9 Single registration of a trade mark under section 68 of the Act in respect of goods or services in 1 or more of the prescribed classes $250 for each class
10 Renewal of a single registration of a trade mark under section 75 of the Act in respect of goods or services in 1 or more of the prescribed classes

$300 for each class

and, in addition, if the request for renewal is made within 12 months after the expiry date to which section 79 of the Act refers

$100 for each class for each month, or part of a month, after the expiry date

11 Each potential renewal period requested by a person under section 80D of the Act in respect of goods or services in 1 or more of the prescribed classes

$300 for each class

12 Each potential renewal period requested by a person under paragraph 80G (1) (b) of the Act in respect of goods and services in 1 or more of the prescribed classes

$300 for each class

and, in addition, if the request for renewal is made within 10 months after the end of the prescribed period, regardless of the number of potential renewal periods requested

$100 for each class for each month, or part of a month, after the end of the prescribed period

[9] Schedule 9, item 13, column 3

*omit*

$150

*insert*

$250

[10] Schedule 9, item 21, column 3

*omit*

$25

*insert*

$50
[11] Schedule 9, after item 21

insert

21A Supply of a duplicate of a certificate signed by the Registrar under section 211 of the Act $250

[12] Schedule 9, item 22, column 3

omit $25

insert $50

[13] Schedule 9, item 24

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the Legislative Instruments Act 2003. See www.frlj.gov.au.