

CONSTITUTION

CODE OF ETHICS AND REGULATIONS

**THE SOUTH AFRICAN INSTITUTE OF
INTELLECTUAL PROPERTY LAW**

**DIE SUID-AFRIKAANSE INSTITUUT VAN
INTELLEKTUELE GOEDEREREG**

CONSTITUTION

THE SOUTH AFRICAN INSTITUTE OF INTELLECTUAL PROPERTY LAW

DIE SUID-AFRIKAANSE INSTITUUT VAN INTELLEKTUELE GOEDEREREG

This Constitution was adopted at the 1975 Annual General Meeting of the Institute held on 26th November 1975, and is as amended at the Annual General Meeting of the Institute held on 17th November, 1979, and at the Annual General Meeting of the Institute held on 8th November, 1984, 24th November, 1990, 28 November 1991, 27 November 1999 and 15 November 2000, 12 November 2002.

THE SOUTH AFRICAN INSTITUTE OF INTELLECTUAL PROPERTY LAW

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1. NAME

The name of the Institute is 'THE SOUTH AFRICAN INSTITUTE OF INTELLECTUAL PROPERTY LAW'.

2. INSTITUTE OFFICE

The office of the Institute shall be the same as that of its Administrative Officer for the time being.

3. DEFINITIONS

3.1 The following words and phrases shall bear the meanings assigned to them unless the context of the Constitution indicates the contrary, namely:

Institute	-	means the South African Institute of Intellectual Property Law.
Republic	-	means the Republic of South Africa.
Profession	-	means the profession of a patent agent, trade mark agent or an attorney specialising in the field of intellectual property law
Patent Office	-	means the Patent Office of the Republic of South Africa, situated in Pretoria.
Register	-	means the register maintained at the Patent Office, in which the names of patent agents and patent attorneys who are registered as such, are entered.
Council	-	means the Council of the Institute as constituted in accordance with this Constitution.
Financial Year	-	means the period specified in Clause 24.
Members	-	means the existing members (of whatever class) of the Institute at the time of adoption of this Constitution, and those persons thereafter admitted to membership.
Regulations	-	means all regulations made by Council or adopted by the Institute in general meeting.
Trade Mark Practitioner		means an attorney who has been recognised as a Trade Mark Practitioner by the Institute or who passes the trade mark examinations prescribed in the Regulations.

- 3.2 In the case of doubt as to the meaning of any clause of this Constitution, the interpretation of the Council shall be binding until such time as the Institute may otherwise determine at a General Meeting.

4. OBJECTS

The objects of the Institute are:

- 4.1 To maintain a body which is representative of Patent Agents, Patent Attorneys and Trade Mark Practitioners in the Republic;
- 4.2 To frame and establish regulations and rulings for the observance of Patent Agents, Patent Attorneys and Trade Mark Practitioners in all matters appertaining to their professional practice and to promote and maintain high standards of ethics among its members;
- 4.3 To originate and promote amendments in the laws of the Republic relating to intellectual property and the administration thereof and to take steps to oppose legislation which is considered to be detrimental to the interests of the owners of intellectual property or of the profession;
- 4.4 To promote an awareness of and to disseminate information to the public in regard to intellectual property and the protection thereof;
- 4.5 To facilitate the acquisition of professional knowledge and information affecting the profession and to promote the interchange thereof among its members;
- 4.6 To collaborate and enter into reciprocal relations with similar Institutes or bodies in other countries;
- 4.7 To provide facilities for social intercourse among its members;
- 4.8 To promote and maintain a standard of professional excellence in the field of intellectual property law and for this purpose:
- 4.8.1 to promote intellectual property law as an area of specialisation;
 - 4.8.2 to support and promote specialist training, examination and assessment in intellectual property law;
 - 4.8.3 to provide or acquire accreditation for training, examination and assessment in intellectual property law.

- 4.9 To do all such other acts or things which are conducive to the attainment of all or any of the above objects or are in the interests of its members or the profession.

5. **INCOME, PROPERTY AND MONIES**

- 5.1 The income, property and monies of the Institute from whatsoever source derived, shall be applied solely towards the promotion of the objects of the Institute as set forth in this Constitution and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to any member;
- 5.2 Nothing contained in sub-clause 5.1 shall preclude the payment to members of travel, subsistence or out of pocket expenses, allowances or other remuneration for services rendered by them to or on behalf of the Institute.

6. **LIABILITY OF MEMBERS**

The Institute shall be a body corporate, not for gain, having an existence independent of its members with perpetual succession and all its assets shall be registered or held in the name of the Institute. The members of the Institute shall not be liable to meet the debts, engagements or liabilities of the Institute, and the liability of members shall be limited to payment by them to the Institute of the entrance and subscription fees due by them.

7. **CLASSES OF MEMBERS**

The members of the Institute shall be divided into the following classes:

- 7.1 Honorary Members;
 7.2 Fellows;
 7.3 Associate Members;
 7.4 Ordinary members; and
 7.5 Student Members.

8. **QUALIFICATIONS FOR MEMBERSHIP**

8.1 **General**

Although the Institute does not and shall not attempt to control the qualifications required to practise in the field of intellectual property law, the Institute shall determine the examinations and qualifications required for different levels of membership within the Institute.

Every person, to be eligible for any class of membership, must be a person of good character and repute; possess adequate educational qualifications; be in all respects a fit and proper person to be admitted to membership, and must agree to adhere to the Code of Ethics of the Institute, and to abide by the rulings and regulations issued by the Council from time to time.

In addition, the qualifications for membership in the different classes of membership, shall be as follows:

8.2 **Honorary Members**

Honorary membership may be conferred on any person, by unanimous vote at a council meeting, who has, in the opinion of the Council, provided extraordinary services or has made extraordinary achievements for or in the name of the Institute or in the field of intellectual property law.

8.3 **Fellows**

The following persons are eligible for election as Fellows:

8.3.1 existing fellows at 15 November; 2000, and

8.3.2 persons approved by the Council who have

8.3.2.1 a high standard of academic and practical experience;

8.3.2.2 been admitted as an attorney; and

8.3.2.3 passed the Patent or Trade Mark examinations prescribed in the regulations, or

8.3.3 persons from previously disadvantaged groups who are approved by Council and who;

8.3.3.1 apply within two years of 15 November 2000;

8.3.3.2 have at the date of application been engaged as an attorney in the field of intellectual property law for not less than three of the previous five years; and

8.3.3.3 have in the opinion of Council acquired a reasonable knowledge of intellectual property law as a result thereof.

8.4 Associate Members

The following are eligible for election as Associates:

8.4.1 existing associates at 15 November, 2000, and

8.4.2 persons approved by the Council and who can establish to the satisfaction of the Council that they have a reasonable knowledge of intellectual property law and that they;

8.4.2.1 have passed the Group 1 Patent or Trade Mark examinations prescribed in the regulations; or

8.4.2.2 have adequate academic, professional and/or practical experience to justify acceptance as an associate.

An application for Associate Membership shall be supported by two Fellows, not being partners, employers, employees or co-employees of the candidate.

8.5 Ordinary Membership

The following shall be eligible for Ordinary Membership:

persons who have an interest in intellectual property law but do not meet the requirements for Fellowship or Associate membership.

8.6 Student Membership

The following shall be eligible for Student Membership:

persons who have a matriculation certificate and who intend to enrol for examinations for the purpose of becoming a Fellow or an Associate.

A student Member shall cease being a Student Member on being elected a Fellow or upon ceasing to be qualified to be a Student Member.

9. REGISTER OF MEMBERS

The Council shall keep a Register of Members in which are set out the various classes of members together with their addresses and the names of their firms.

10. EFFECT OF CHANGE IN QUALIFICATIONS

Each member shall retain his class of membership of the Institute and remain in the class to which he was admitted only so long as he retains qualifications by virtue of which he was qualified to become a member of that class of membership.

11. ADMISSION AND TRANSFER OF MEMBERS

11.1 An application for membership of the Institute or for transfer from one class of membership to another shall be made to the Administrative Officer and shall contain such information as may be required by the Council and shall be accompanied by an undertaking by the applicant to conform to the Code of Ethics of the Institute and to abide by the regulations and rulings issued by the Council from time to time;

11.2 The Council may, in its discretion, accept or reject an application and shall advise the applicant accordingly;

11.3 An applicant whose application has been approved by the Council shall, subject to payment of the prescribed entrance fee and subscription, be enrolled as a member in the Register of Members.

12. ENTRANCE FEE AND SUBSCRIPTION

12.1 An applicant for membership shall pay an entrance fee and each member of the Institute, other than an Honorary Member, shall pay the annual subscription in accordance with the amounts specified by the Council from time to time;

12.2 An applicant for membership shall, upon election as a member, remit the prescribed entrance fee and subscription for the current year. If an applicant for membership is elected more than nine months after the beginning of any financial year, no subscription for that year shall be paid by the applicant;

12.3 Subscriptions shall become due and payable at the beginning of each financial year as determined by Council;

12.4 If any member is in default of payment of his subscription in any year and remains in default for 60 days after the date of registered notice from the Administrative Officer to this effect, his privileges of membership shall thereafter automatically be suspended until such payment be made. If any matter arises during the interval between such suspension and payment in respect of which he would not but for such default have been entitled to seek the assistance of the Institute, he shall, notwithstanding such payment, be in respect of such matter excluded from the privileges of membership unless the Council otherwise resolves.

12.5 The Council may terminate the membership of a member who, without cause, continues for an unreasonable time to be in default of payment of his subscription.

13. PRIVILEGES OF MEMBERSHIP

13.1 All members shall be entitled to receive notices of meetings to take part in the proceedings of the Institute and to benefit from the activities of the Institute

13.2 All Fellows and Associates shall have the right to vote on any matter at any General Meeting, provided that two thirds of the Fellows present or represented by proxy at the meeting shall have the right, at the meeting at which the motion is passed, to veto any decision on any motion changing this Constitution or the Regulations or Code of Ethics of the Institute.

13.3 Only Fellows and Associates may be elected to Council.

14. CERTIFICATES

14.1 All certificates of membership are the property of the Institute;

14.2 When the membership of a member terminates he shall return his Certificate of Membership to the Administrative Officer and shall not thereafter in any way indicate that he is a member of the Institute.

15. TERMINATION OF MEMBERSHIP

Any member may resign from the Institute by giving one month's notice in writing of his intention so to do, and upon the expiration of such notice he shall cease to be a member but shall remain liable for payment of arrears of subscription or other monies (if any) due to the Institute upon his ceasing to be a member.

16. EXPULSION OR SUSPENSION OF MEMBERS

16.1 For good cause shown, the Council may terminate the membership of any member or may suspend any member from the exercise of any or all rights and privileges of the Institute during such period as may be thought fit, or may impose such other sanction as it may, in its discretion, decide. Such good cause may arise from a contravention of the Code of Ethics of the Institute, Regulations or Rulings of Council, or otherwise.

16.2 For purposes of investigating complaints in regard to the conduct of a member, the Council may appoint a Disciplinary Committee whose composition and terms of reference shall be determined by the Council.

16.3 Such member shall have the right to present his case fully to the Disciplinary Committee and/or to the Council, and may be heard in person or by Counsel.

16.4 A member of the Institute whose membership has been terminated in accordance with this clause, shall not be entitled to claim a refund of entrance fee or subscription paid in advance by him.

17. REINSTATEMENT OF MEMBERS

A person whose membership of the Institute has been terminated as hereinbefore provided, may apply for reinstatement of his membership. The Council, upon receipt of such an application may in its discretion, readmit such person to membership upon such terms and conditions, including the payment of an entrance fee, as it may decide.

18. MANAGEMENT OF INSTITUTE - COUNCIL

The affairs of the Institute shall be conducted and administered by the Council acting under the powers conferred on it by this Constitution or by any mandate given to it by the Institute at a General Meeting.

19. **COUNCIL - COMPOSITION OF**

19.1 The Council shall consist of at least 9 but no more than 12 members.

19.2 The Council shall be elected at the AGM from fellows and Associates, provided that at least 7 Council members shall be Fellows.

19.3 The Council shall consist of the following office bearers:

President
Immediate Past President (whose election will be automatic)
Vice-President
Administrative Officer
Treasurer

The President and Vice-President will be elected at the AGM. All other office bearers will be elected at the first Council Meeting.

19.4 No Fellow shall, except with the authority of a General meeting, serve as President for a longer period than two successive years

19.5 Nominations for the President, Vice-President and elected members shall be made as provided for in Clause 28.

20. **COUNCIL - TERMINATION OF MEMBERSHIP**

A member of the Council shall vacate office -

20.1 if he ceases to be a Fellow or Associate of the Institute;

20.2 if he is declared insolvent;

20.3 if he becomes of unsound mind;

20.4 if he is absent from three consecutive meetings of the Council without special leave of absence and he is requested to resign by a resolution passed by a majority of the members of the Council present and voting at a meeting of the Council of which special notice shall have been given of intention to propose the resolution;

20.5 if, by notice in writing to the Administrative Officer, he resigns his office.

21. **COUNCIL - MEETINGS OF**

- 21.1 The Council shall meet as often as it may determine to be necessary;
- 21.2 Meetings of the Council shall be held at such place as may be decided by the Council from time to time;
- 21.3 Minutes shall be kept of Council meetings and these shall be circulated to Council members;
- 21.4 There shall be a quorum at meetings of the Council when there is personally present, a simple majority of the total number of Council members;
- 21.5 The President or, in his absence, the Vice-President or, in the absence of both of the foregoing, a member appointed by the members present at the meeting, shall preside as Chairman at meetings of the Council and he shall have a casting vote as well as a deliberative vote.

22. COUNCIL - POWERS OF

The Council shall have the power to do all things necessary to carry out and promote the objects of the Institute, except such matters as are required by this Constitution to be submitted to a General Meeting of the Institute. Without limiting the powers and duties of the Council, they shall include the following:

- 22.1 To make, amend or rescind Regulations for the administration of the affairs of the Institute, within the scope of this Constitution;
- 22.2 To frame and issue Tariffs of Charges, Codes of Ethics, and Regulations and Rulings on any aspect affecting the profession and from time to time to amend or vary the same;
- 22.3 To appoint Committees from among its members or otherwise for such purpose and upon such terms as may be considered desirable and to delegate such powers thereof as may be necessary;
- 22.4 To summon, at any time, a General Meeting of the Institute;
- 22.5 To suspend or terminate the membership of a member pursuant to Clauses 12.5 and 16 hereof;
- 22.6 To purchase and sell movable and immovable property and to invest any funds not immediately required by the Institute in such manner as it may decide;

- 22.7 To open Banking or Building Society accounts in the name of the Institute and to resolve the manner of operation of such accounts;
- 22.8 To depute and authorise officers of the Institute to act on its behalf in the acquisition and alienation of property or in the investment of its funds and in the conduct of any legal or other proceedings brought by or against the Institute;
- 22.9 To appoint any person to represent the Institute on any other body which the Council considers necessary or expedient;
- 22.10 To make donations and grants to charities or other worthy causes and to make grants in aid and grant bursaries or scholarships to student members or persons associated or connected with the profession;
- 22.11 To arrange and promote lectures, seminars, discussion groups and other meetings for the dissemination of information of interest to members and affecting intellectual or industrial property or the profession;
- 22.12 To establish and maintain a library and a collection of models, designs and other articles of interest to the profession;
- 22.13 To arrange social and sporting functions for members;
- 22.14 To co-opt such Fellow or Fellows as it may decide;
- 22.15 To appoint a Fellow to fill a vacancy on the Council. A person so appointed shall remain in office until the next ensuing Annual General Meeting but shall be eligible for re-election at that meeting.
- 22.16 To exercise all the rights, powers and privileges conferred upon the Institute by the Patents Act 1978 and by the Regulations made in terms of the Act; and without derogating from the generality of such rights, powers and privileges, to appoint one of the members of Council to accept service at a nominated address, of legal process, documents and notices on behalf of the Institute, and also to prosecute any legal proceedings on behalf of the Institute.

23. COUNCIL - REGULATIONS AND RULINGS

23.1 The Regulations and Rulings issued by the Council shall be binding upon members;

23.2 In the interpretation of the Regulations and Rulings, the provisions of Clause 3.2 shall, *mutatis mutandis*, apply.

24. FINANCIAL YEAR OF THE INSTITUTE

The financial year of the Institute shall run from the 1st day of October in one year to the last day of September in the succeeding year, or such other period as Council may from time to time determine.

25. BOOKS OF ACCOUNT

Books of account of the affairs of the Institute shall be kept by the Council and such books, with all other papers and documents connected with or relating to the business or the affairs of the Institute, shall at all times be accessible to Council members, and a statement of the financial affairs of the Institute shall be prepared annually.

26. BANKING ACCOUNT

All monies paid to the Institute shall, as soon as possible after receipt, be deposited with a Bank, Building Society, or other financial institution as the Council may decide and shall be withdrawn therefrom from time to time as may be required. All cheques or forms of withdrawal shall be signed or endorsed by such persons or person as may be authorised by the Council from time to time.

27. ANNUAL GENERAL MEETING - REPRESENTATION THEREAT

An Annual General Meeting of the Institute shall be held at such venue at such time as the Council may decide, in one of the last four months of the calendar year but not more than fifteen months after the preceding Annual General Meeting.

28. PROCEDURE PRIOR TO GENERAL MEETINGS

28.1 At least twenty one days before the date of the Annual General Meeting,

the Administrative Officer shall give written notice to Council members and to members of the Institute, of the date, time and venue of the meeting;

28.2 In such notice the Administrative Officer shall call for nominations for persons to serve as President, Vice-President and elected members on the Council and for any resolutions or any specific matter to be considered thereat;

28.3 Nominations for persons to serve on the Council or notice of any resolution to be considered at the Annual General Meeting, may be made by any Fellow or Associate. Particulars thereof shall be given, in writing, to the Administrative Officer fourteen days before the date of the Annual General Meeting.

28.4 Seven days before the date of the Annual General Meeting, the Administrative Officer shall send to Council members and to members of the Institute:

the agenda for the meeting;

the minutes of the previous Annual General Meeting and of any other General Meetings of which the minutes have not already been confirmed at a General Meeting;

a copy of the Financial Statement for the past financial year;

names of nominations for President, Vice-President and other members for Council.

notice of any resolution which has been proposed for adoption thereat and/or any specific matter which has been proposed for consideration thereat.

29. **BUSINESS TO BE TRANSACTED AT THE ANNUAL GENERAL MEETING**
The business to be transacted at the Annual General Meeting shall be:

- 29.1 to confirm the minutes of the preceding Annual General Meeting and of any other General Meeting (if not already confirmed at a General Meeting) that may have been held since the preceding Annual General Meeting;
- 29.2 to receive and consider the report of the Council on the affairs of the Institute for the preceding year;
- 29.3 to receive and consider the Financial Statement for the past financial year;
- 29.4 to elect the office bearers of the Institute and five persons to serve on the Council as elected members;
- 29.5 to consider any resolution or any specific matter of which notice has been given as hereinbefore provided.

30. PROCEDURE AT ANNUAL GENERAL MEETING

- 30.1 The President or, in his absence, the Vice-President, shall preside as Chairman at Annual General Meetings. In the absence of both of the foregoing, the members present and entitled to vote at the meeting, shall appoint a Chairman.
- 30.2 There shall be deemed to be a quorum at the Annual General Meeting if there is personally present one-quarter of the members entitled to be present and entitled to vote thereat. If a quorum is not present within half an hour of the time for which the meeting has been called, the Chairman shall declare the meeting adjourned to the same day in the following week and at the same time and place, unless such day is a public holiday, when it shall be held on the week day following such day, and those members present at such postponed meeting, shall constitute a quorum, irrespective of their number, and may transact the business of the Annual General Meeting.
- 30.3 No resolution or specific matter of which notice has not been given in terms of Clause 28.4 hereof, shall be put to the vote at the Annual General Meeting, provided that it shall be competent for the Chairman, in his discretion to allow any amendment of the wording of any resolution to be moved notwithstanding that notice has not been given of the intention to move such amendment.
- 30.4 The Administrative Officer shall take minutes of the proceedings of the Annual General Meetings and shall circulate these to Council Members as soon as possible after the Annual General Meeting.

- 30.5 At any General Meeting a member entitled to vote and unable to be present, may be represented for voting purposes by a Fellow provided a proxy signed by the absent member is filed with the Administrative Officer before any vote is cast under its authority. No Fellow shall hold more than one proxy.
- 30.6 Save as is otherwise provided by this Constitution, all resolutions put to an Annual General Meeting shall be passed and shall be held valid and effectual if carried by a majority of votes cast.
- 30.7 Voting at an Annual General Meeting shall be by show of hands unless a poll is demanded by a majority of the members present and entitled to vote. The Chairman shall have a deliberative as well as a casting vote.
- 30.8 Save as is otherwise provided by this Constitution, or by a direction given at any prior Annual General Meeting or General Meeting, the proceedings at the Annual General Meeting shall be conducted in such a manner as the Chairman may determine.

31. PROCEDURE AT GENERAL MEETINGS

- 31.1 The Council may at any time convene a General Meeting of the Institute and it shall do so upon receiving a requisition to that effect, signed by five Fellows.
- 31.2 The Administrative Officer shall give twenty-one days written notice of a General Meeting to members, of the date, time and place of the proposed meeting and of the business to be transacted thereat.
- 31.3 At all General Meetings the provisions of Clause 30 shall, *mutatis mutandis*, apply, provided however, that if a quorum is not present, the General Meeting shall be deemed to be dissolved.

32. NOTICES

- 32.1 All notices to be given to a member in terms of this Constitution, shall be given in writing to such member in accordance with the address in the Register of Members, by the Administrative Officer.
- 32.2 Notices posted to the last known address of any member entitled to receive the same, shall constitute effective notice of anything required to

be done under this Constitution.

- 32.3 The accidental omission to give notice of a meeting, or the non-receipt of a notice of a meeting, shall not invalidate such meeting or decisions taken thereat.

33. AMENDMENT OF CONSTITUTION

Subject to clause 13, the Constitution shall not be repealed or amended except by a Resolution passed at an Annual General Meeting or at a General Meeting called for that purpose, which Resolution shall be passed by not less than two-thirds of the votes cast save that the proviso referred to in the proviso to clause 19.1 shall not be repealed or amended except by such Resolution passed unanimously at such meeting.

34. DISSOLUTION OF INSTITUTE

- 34.1 The Institute may not be dissolved, wound up, or placed in liquidation except by a resolution passed at a General Meeting of the Institute called for that specific purpose, which resolution shall be passed by not less than two-thirds of the votes cast.

- 34.2 If at a General Meeting of the Institute it is resolved that the Institute be dissolved or wound up or placed in liquidation, a liquidator shall be appointed at that meeting. If after payment of all debts and liabilities of the Institute, any property of whatsoever nature remain, the same shall be disposed of or transferred to a non-profit organisation having similar aims and objects.

35. INDEMNITY

- 35.1 Every member of the Council and of any Committee acting on behalf of the Institute shall be entitled to recompense for any reasonable cost or expense incurred on behalf of the Institute in the execution of his office, except where such cost or expense is incurred by his own wilful act in default of his duty.

- 35.2 Neither the Institute nor any member thereof shall be liable for any loss or misfortune sustained by any member referred to in Paragraph 35.1

where such loss or misfortune is not a concomitant part of his duty at the time the loss was sustained.

- 35.3 Subject to the responsibility of the Institute as set out in Paragraph 35.1 hereof, no member of the Institute shall be answerable for any act or default of any other member save insofar as complicity would, in law, render such member answerable.

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**THE SOUTH AFRICAN INSTITUTE OF
INTELLECTUAL PROPERTY LAW**

**DIE SUID-AFRIKAANSE INSTITUUT VAN
INTELLEKTUELE GOEDEREREG**

(Confirmation by the Council at its Meeting on 19th October, 1977 and amended at its Meetings on 28th June, 1978, 13th April 1983, 16th August 1984 and on 8th November 1984, 2nd October 1986, 27th August 1987, 24th November 1990, 28th January 1993 and 15 November 2000, 11 November 2002, 21 May 2003)

SOUTH AFRICAN INSTITUTE OF INTELLECTUAL PROPERTY LAW

CODE OF ETHICS

REGULATIONS AND RULINGS RELATING TO PROFESSIONAL CONDUCT

(Issued by the Council of the Institute under Article 32 of the Constitution of the South African Institute of Intellectual Property Law).

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1. PRELIMINARY

The Constitution of the South African Institute of Intellectual Property Law contains certain provisions relating to the professional conduct of its members, and the Council of the Institute has, from time to time, issued rulings on this subject.

It is the object of this Code to consolidate all earlier rulings and, where necessary to amplify the rules of professional conduct applicable to the profession in South Africa, which members are obliged to observe in the conduct of their practices. Insofar as any earlier ruling is incompatible with this Code, this Code prevails.

2. DEFINITIONS

Words used in this Code of Ethics shall have the meanings defined in the Constitution and the following words and phrases shall, unless the context clearly indicates the contrary, have the following meanings:

Member: a person who is a member of the Institute irrespective of his class of membership and irrespective of where he may be permanently resident or have his practice, and shall include a firm practising the Profession of which such member is a partner.

Intellectual Property: All matters relating to Patents, Designs, Trade Marks, Copyright or allied matters, and shall include the filing of applications in respect thereof, the prosecution of such applications, the maintenance of patents or registrations granted thereon; advice, searches and litigation in connection therewith.

Professional Body: the Institute or any foreign Institute of Patent or Trade Mark Agents, or a foreign equivalent thereof or any local or foreign body the membership of which is principally or exclusively limited to persons practising in the legal and intellectual property professions; or any other body recognised from time to time as a professional body by the Council. (See Schedule 1).

Lay Body: any body which is not a professional body as hereinbefore defined.

- Local Practitioner:** a Patent Agent, Trade Mark Agent or Attorney, in private practice in the Republic.
- Professional Journal:** any journal or publication directed primarily at the legal or intellectual property professions, a professional body, or any other journal or publication recognised from time to time as a professional journal by the Council. (See Schedule 2).
- Lay Journal:** any journal or publication which is not a professional journal as hereinbefore defined.
- This Code:** this Code of Ethics, Regulations and Rulings relating to professional conduct.

3. GENERAL GUIDE LINES

- 3.1 The Council has issued this Code for the assistance of members in their professional conduct, and it is emphasised that a member is expected to act within the spirit as well as the letter of the guidelines set out herein and it is the responsibility of members to adhere thereto.
- 3.2 At all times a member in private practice must be independent and must be seen to be able to exercise his professional independence without being influenced by any other interests.
- 3.3 It is the duty of a member, in carrying out his duties, to maintain high ethical standards in his professional practice, to promote the interests of his clients and of the profession, and, in carrying out his duties, to render a service to the public. A member should refrain from doing any act or sanction any act which is undignified or is likely to bring discredit upon the Institute, upon the profession, or upon any of its members.
- 3.4 A member shall not improperly use or disclose information derived from or obtained on behalf of any client or a prospective client.
- 3.5 Essentially, the Institute accepts that its members must give priority in their conduct to act
- 3.5.1 within the law,
 - 3.5.2 in their clients' best interests, and
 - 3.5.3 in the interests of the profession as a whole, in that order.

- 3.6 A member shall be accountable to the Council for the defaults of any partners of his who are not members of the Institute, and of his staff so far as such acts and defaults relate to intellectual property.
- 3.7 The more important areas wherein unprofessional conduct by members of the Institute may arise, include the following:
- 3.7.1 Advertising; (See 4 below)
 - 3.7.2 Conduct towards colleagues, the Institute, the Profession, and clients; (See 5 below)
 - 3.7.3 Conduct towards Officials and the Patent Office; (See 6 below)
 - 3.7.4 Conflict between clients' interests; (See 7 below)
 - 3.7.5 Conflict with own interests. (See 8 below)
- 3.8 Examples of conduct which the Council has from time to time considered relative to the areas of activities set out above, are given below.

4. **ADVERTISING**

4.1 **In General**

A member shall not do or permit to be done in the carrying on of his practice, any act or thing which can reasonably be regarded as soliciting business or as advertising or as calculated to attract business unfairly.

4.2 **In Particular**

4.2.1 A member shall not make use of any office held in the Institute or in any other body, in his letterhead or in any way in connection with his practice.

4.2.2 Student or ordinary membership of the Institute shall not be reflected in a member's professional letterhead or in connection with his practice. Where a person is entitled to practice as a Patent Agent, Trade Mark Agent, or Attorney, the fact that he is a student member shall not preclude his name from appearing on his firm's letterhead.

4.2.3 A member shall not gratuitously distribute a tariff of charges, forms, books, pamphlets or other information relating to intellectual property matters or practice, or relating to the practice

of the member or his firm.

Provided that:

- 4.2.3.1 A member may use a plain professional card bearing only the member's professional details.
- 4.2.3.2 Notices in the form of professional cards or other form approved by Council may be published in such directories or law lists as the Council may from time to time approve.
- 4.2.3.3 A member may give or send a tariff of charges, forms, books, pamphlets or other information relating to intellectual property to an existing client, to a local practitioner who is an existing correspondent of the member, or to a firm of fellow practitioners outside South Africa.
- 4.2.3.4 A member may give or send to a *bona fide* enquirer such of the material referred to in sub-paragraph 4.2.3.3 as may be considered reasonable to answer an enquiry.
- 4.2.3.5 A member may publish a simple notice of the establishment, or the termination of his practice, or of the reconstitution of his firm, or any other change affecting his firm in any journal or publication recognised by Council for the purpose of this sub-paragraph. (See Schedule 4). A member may also distribute such a notice to the persons referred to in sub-paragraph 4.2.3.3 above.
- 4.2.3.6 A member shall not cause any entry or notice referred to herein, to be made in other than the normal type used for the majority of entries, unless the Council approves another type face for use by all members.
- 4.2.3.7 A member shall not insert or permit the insertion of an entry or notice in a directory or law list not open to other members, or in a professional journal not approved by the Council for this purpose - See

Schedule 5.

4.2.4 A member shall not directly or indirectly advertise, announce or publish offers to sell or to license or to negotiate the sale or licence of intellectual property except upon the *bona fide* instructions of a client.

4.2.5 Publications and Addresses

4.2.5.1 A member shall not directly or indirectly solicit an invitation to give addresses. A member shall not require the Council's prior approval to give an address or to write an article on a legal or intellectual property subject. The Council reserves the right to take such steps as it may deem necessary against a member to prevent any abuse of this privilege.

4.2.5.2 A member may be identified by his name only when giving or writing addresses and articles on non-legal subjects. This includes radio and television broadcasts.

4.2.5.3 In radio or television broadcasts on legal or intellectual property subjects a member may be identified by name and profession.

4.2.5.4 In radio or television broadcasts where legal advice is given a member must remain anonymous although he may be referred to as a Patent Agent or Patent Attorney.

4.2.5.5 A member may be identified by name, firm name, and profession when giving addresses to professional bodies or writing articles for professional journals on legal or intellectual property subjects.

4.2.5.6 A member may be identified in a programme relating to a conference on legal or intellectual property subjects where he is a speaker by his name, firm name and profession, provided this is the form of identification of other speakers as well.

4.2.5.7 A member shall not publish or knowingly permit to be

published anything identifying or likely to identify clients for whom he or his firm acts.

4.2.5.8 A member shall not, with a view to attracting or inviting instructions, enter into correspondence with listeners, viewers or readers of broadcasts or publications given or written by the members who are not already his client.

4.2.5.9 A member may address in-house seminars or workshops of clients where the audience consists entirely of officials or employees of the client, without Council's prior approval. Such approval is however required where any persons will attend who are not officials or employees of the client.

4.2.5.10 A member may write an article on a legal or intellectual property subject for private circulation to clients without Council's prior approval.

4.2.6 A member may publish a textbook under his own name, (with or without mention of his qualifications) but he shall not identify his firm with such textbook unless the book is extended exclusively for private circulation to clients or associates.

4.2.7 A member may take part in his personal capacity in any discussions following upon an address delivered to any professional or lay body.

4.2.8 **Gratuitous Reporting**

A member shall not gratuitously report to a client in regard to the publication or particulars relating to Intellectual Property of third parties in any publication unless the member believes that such particulars are of material interest to the client in relation to a specific matter previously handled or currently being handled by the member on behalf of the same client.

4.2.9 **Business Notices**

A member shall be permitted to affix to or paint on doors or walls of his office premises nameplates or signs of reasonable size and with lettering not exceeding ten centimetres in height and in such form or design as are not, and in such manner as is not, in the opinion of the Council, unbecoming the profession. A member shall not be permitted to display an office nameplate or sign of any other kind in any other way without the express permission of the Council.

4.2.10 **Press and other Media Interviews**

A member shall not directly or indirectly solicit an interview with the press. If interviewed the member shall instruct the interviewer that no more than his name and his profession shall be disclosed or published. Council's approval shall be obtained for any pre-arranged interview.

4.2.11 **Letterheads**

Apart from reflecting the names of partners, or consultants being previous partners of a member's practice, a member's letterhead shall not contain the name of any other person unless such a person is in the full time employ of the practice and the function and position of such a person in the practice is clearly and unambiguously stated in a manner which is in no way misleading.

Alternatively:

No name appearing on a member's letterhead of a person who is not a partner or former partner of such member's practice shall appear in such a manner as to create the impression that such person is a partner or former partner of the practice.

4.2.12 **Lending of Names**

A member shall not allow his name to be used either directly or through a nominal partnership by another practice which does not have a Patent Agent or Patent Attorney as a partner or in its employ in such a way as to mislead others into thinking that the practice has a Patent Agent or Patent Attorney as a partner or in its employ.

4.3 **Touting not Permitted**

Nothing in this Code of Ethics shall be construed as authorising a member to tout, directly or indirectly, for work of a kind commonly performed by a member. For the purposes of this paragraph a member will be deemed to be touting for work if he:

4.3.1 Solicits custom for work directly from any person;

4.3.2 Enters into an arrangement with any person, whether an employee or not, for the introduction of clients to the member, but this will not apply to

4.3.2.1 Any arrangement between a member and a local practitioner who is an existing correspondent of the member or a foreign practitioner outside South Africa, for the referral of work in the normal course of either's practice;

4.3.2.2 Any arrangement for the introduction to a member of local practitioners with a view to their instructing him on an agency basis;

4.3.3 Makes unsolicited visits or telephone calls or sends unsolicited letters or printed material to any person, except to a foreign practitioner outside South Africa in private practice or to an existing client or local practitioner who is an existing correspondent of the member, with a view to establishing a practitioner/client or practitioner/correspondent relationship with such person.

5. **CONDUCT TOWARDS COLLEAGUES, THE INSTITUTE, THE PROFESSION AND CLIENTS.**

5.1 **In General:**

A member shall extend courtesy to the public and to fellow practitioners and shall at all times refrain from doing or saying anything to undermine, or which is to the detriment of, other members.

5.2 In Particular:

5.2.1 A member shall conduct his practice on a strictly professional basis and shall refrain in correspondence or otherwise, from using provocative language.

5.2.2(a) A member shall be entitled to accept an unsolicited mandate from a client even though he is aware that such client had previously been the client of another member; but a member shall not knowingly take over a mandate from a client of another member without advising the other member thereof.

5.2.2(b) When one member (the first member) notifies another member (the second member) that the first member's former client has instructed the second member that he, the client, wishes to terminate his mandate to the first member and wishes the second member to assume the same mandate, the first member should accept the correctness of and act upon advice given him by the second member. The first member should therefore observe the rule of professional etiquette which requires a member not to communicate directly with the client of another member without the other's approval. However, if the first member has or justifiably feels that he has reasonable grounds on which to doubt the correctness of the information given him by the second member regarding the change in mandate, the first member may write to the client, informing him of the advice received by him and at the same time he shall send the second member a copy of his letter to the client. To require the client to "**discuss the matter with him**" is not desirable.

5.2.2(c) In the circumstances set out in Regulation 5.2.2(b) above, the first member has a right to retain documents belonging to the client upon which the first member has a lien until his fees and disbursements have been paid. Although in general it is desirable for the second member not to proceed with the mandate until such time as he is satisfied that the reasonable costs of the first member for the work done by the first

member up to the stage of termination of his mandate, have been paid, there are of course urgent matters in which the interests of the client, which after all are paramount, require that the mandate be proceeded without delay. In such cases, the second member should obtain a sufficient deposit from the client to be able to give the first member an undertaking that the first member's costs i.e. fees and disbursements will be paid, if necessary when the reasonableness thereof has been established. An undertaking should also be given to hold available for inspection by the first member and to return to the first member at a convenient time for the purposes of taxation or preparation of an account such of the documents to be handed over as may be required for such purposes. Having obtained such undertaking(s), the first member should hand over the client's documents to the second member, to enable the second member to proceed with the mandate.

- 5.2.3 A member representing a party in any matter in regard to which another member has received instructions from another party (whether to institute, threaten, or defend proceedings, or otherwise) shall not deal with such other party knowing him to be a client of the other member except with the consent of such other member.
- 5.2.4 A member shall not misrepresent facts to another member or to a client or to anyone at all, in any matter with which he is concerned.
- 5.2.5 A member shall not do any work on the basis that his remuneration for professional services shall be dependent upon the degree of success in carrying out the work.
- 5.2.6 The Council expects a member's conduct towards any recognised practitioner in Industrial Property matters to be the same as that towards his fellow members as prescribed herein.

5.3 **Conducting of Branch Offices**

No member shall have or retain any Branch Office unless it is at all times when practice is being conducted there under the effective supervision

of a person who, if he is not the first mentioned member himself or a partner of that member, shall be an Attorney, or Patent Attorney or Patent Agent employed by a Fellow; provided that in the opinion of Council as to whether or not a Branch Office is at any time under such effective supervision shall be binding and shall, if negative, entitle Council to direct the first mentioned member immediately to rectify his default.

6. **CONDUCT TOWARDS OFFICIALS AND PATENT OFFICE.**

6.1 **In General:**

A member shall at all times maintain high professional standards when dealing with Government Officials (e.g. with officials at the Supreme Court, and the Patent and Trade Mark Offices, and other Government Departments). A member shall not do anything which could place other members at any disadvantage through his personal relationship with any official.

6.2 **In Particular:**

A member shall not make improper use of or disclosure of information derived from or obtained from any official on behalf of a client or prospective client.

7. **CONFLICT OF CLIENTS' INTERESTS**

7.1 **In General:**

A member shall endeavour to avoid situations in which his duty to one client is in conflict with that to another client, and whenever any such conflict becomes apparent, he shall take steps calculated to resolve it and to avoid prejudice to either client.

7.2 **In Particular:**

7.2.1 **Former Client:** Once a member has acted for a client in any matter, he should never act for an adversary in the same matter, or lend such adversary any aid, counsel, or assistance in that or any other matter (even if his relationship with his former client has terminated), if his former client could be prejudiced by the use of confidential or other information obtained from the former client. In this regard, the same matter shall mean the matter in which the particular dispute addressed or to be addressed is the same.

- 7.2.2 **Initial Stages of Litigation:** A member may represent both parties as a mediator in the initial stages of a possible dispute (whether in connection with an opposition, revocation, infringement proceedings or otherwise, including obtaining necessary extensions of time) provided that in so doing the member makes it clear to both parties that he is representing them both and they consent thereto.
- 7.2.3 **Extensions without consent:** A member may grant or agree to the grant of initial extensions of time (whether the member is representing both parties or not) without the prior approval or express consent of the client in respect of whom the extension of time is requested.
- 7.2.4 **Conflicting Rights:** A member may and should accept the instructions of a client to file an application which may lead to conflicting rights, under circumstances where the member considers that failure to do so may result in prejudice to such client.

8. **CONFLICTS WITH OWN INTERESTS.**

8.1 **In General:**

Private Investments and Dealing in Intellectual Property Rights: A member shall not acquire or be associated with the acquisition of any intellectual property right, or substantial interest therein, in such circumstances as would be likely to give rise to a conflict between professional duty and self-interest.

8.2 **In Particular:**

A member shall not undertake work for a client if the member is the owner of an intellectual property right or of a substantial interest therein, and if the circumstances are such as might give rise to a conflict between professional duty and self-interest, unless the member before undertaking the work fully discloses to the client his ownership or interest and obtains written consent.

9. COMPLAINTS

A complaint regarding the conduct of a member shall be submitted to Council through the Administrative Officer in writing setting out full particulars of the complaint. Council will then decide whether or not to refer the matter to the Disciplinary Committee of the Institute.

10 Examination Regulations

The Institute has made the following regulations and prescribed the following syllabuses for its Professional Examinations referred to in clause 8.3.2 of the Constitution:-

Definitions:

1. In these regulations, unless the context otherwise indicates:
 - (i) "Council" means the Council of the South African Institute of Intellectual Property Law;
 - (ii) "Administrative Officer" means the Administrative Officer of the South African Institute of Intellectual Property Law;

Time of Examinations:

2. (a) The examinations shall be held once a year in or about June or at such other time as the Administrative Officer may determine.
 - (b) The examination dates shall be made known to candidates enrolled for the examinations.
3. To be allowed to enrol for the examination, a candidate shall be a Fellow, Associate Member or Student Member of the Institute.
 - (a) be in possession of a matriculation exemption.
4. (a) Every candidate shall, on or before the last day of December of the year before that in which he proposes to sit for any examination, apply to the Council, on a form to be obtained from the

Administrative Officer, to be enrolled as a candidate.

- (b) A candidate shall submit to the Council, on first enrolment, proof of his academic qualifications, an application for any exemption he may consider himself entitled to and his proposed course of study.
- (c) Late entries may be approved by the Council on good cause shown.

Subjects for Examination

- 5. The examinations shall be conducted in the following subjects:

A. Trade Mark Examinations:

Group 1 subjects:

- (1) S A Trade Mark Law and Practice
- (2) S A Patent Law and Practice
- (3) S A Copyright Law and Practice
- (4) S A Design Law and Practice
- (5) Comparative Study of Selected International Trade Mark Laws and Systems.

Group 2 subjects:

- (1) Trade Mark Law and Formalities (written)
- (2) Trade Mark Litigation and Related matters (written)
- (3) Practical Trade Mark and Related Problems (oral)

B Patent Examinations

Group 1 subjects

- 1. SA Patent Law and Practice
- 2. SA Trade Mark Law and Practice
- 3. SA Copyright Law and Practice
- 4. SA Design Law and Practice
- 5. Comparative Study of Selected International Patent Law and Systems.

Group 2 subjects

1. Drafting of Patent Specifications
2. Practical Legal Problems
3. Patent Attorneys Practice (written and oral examinations)
4. Interpretation of Drawings (if required for the examination prescribed in terms of the patents Act)
5. Comparative Study of Selected International Trade Mark Laws and Systems (if required for the examination prescribed in terms of the patents Act)

With the exception of 4 and 5 (which will no longer form part of the Patent Examinations if the examination prescribed in terms of the Patents Act no longer serve as the Patent Examinations prescribed in these Rules), the Group 2 subjects will be practical subjects for which substantial practical experience will be necessary and will be set at a level that requires substantial practical expertise.

With the exception of oral examinations, all examinations shall be of at least 3 hours duration.

The examinations for the group 2 subjects are separate and a candidate will be required to achieve a pass mark of at least 50% for each subject. Such examinations may be attempted and passed in different years but not exceeding a total period of three years unless prior consent is obtained from Council on good cause shown.

In order to qualify for the practical trade mark and related problems oral examinations in Group 2, a candidate shall first have obtained a pass mark of at least 50% in both of written examination in Group 2.

6. In order to enrol for the subjects in Group A2, a candidate: have passed or have been exempted from the subjects in Group A1; provided that Council may, after taking into account any other examination results of a candidate who has passed, or been exempted from, all but one of the Group 1 subjects, permit the candidate to enrol for the Group A2 subjects. Other than in exceptional circumstances, Council shall not permit a candidate to enrol for Group A2 subjects if the candidate has not passed or

been exempted from subject A1 and subject A5

7. The pass mark in each subject shall be 50 percent.
8. If a candidate has obtained at least 45 percent in a subject in any one year, the Council may, after taking into account any other examination results of the candidate, allow him to sit for a supplementary examination in that subject, provided that the Council shall not, except in the case of candidates who have been hindered in their studies by national service or other circumstances beyond their control, allow a supplementary examination in more than one subject.
9. A supplementary examination may be in writing or oral at the discretion of the Council.
10. Supplementary examinations shall be held at a time and place determined by the Administrative Officer.
11. Unless and until the Council or the Institute in General Meeting decides that the examinations prescribed in terms of the Patents Act no longer meet the standards of expertise required by the Institute to justify admission as a Fellow, those examinations prescribed in Group B in sub-regulation 5.
12. The Group 1 Patent Examinations and Group 1 Trade Mark Examinations shall be of a standard consistent with one another.

Syllabuses

13. The syllabuses for the subjects set out in sub-regulation 5 shall be as prescribed in Schedule 6.
14. Except with the permission of the Council, a candidate who has twice failed the same subject in Group A1 or B1 of sub-regulation 5 (excluding supplementary examinations) shall not be allowed to enrol for any examination of the Institute.
15. Except with the permission of the Council, a candidate who has three times failed the same subject in Group A2 or B2 of sub-regulation 5 (excluding supplementary examinations) shall not be allowed to enrol for any examination of the Institute.
16. A candidate who has passed a subject or obtained an exemption

from a subject shall retain credit for that subject for at least five years or such longer period as the Council may allow; provided that, if he does not qualify within the period of five years, the Council may, in view of the performance of the candidate or changes in the law and practice or any other circumstances which it may consider relevant, require the candidate to write that subject again.

Misconduct

17. The Council may, after hearing the candidate, and if the Council is of the opinion that he has misbehaved himself during or in connection with any examination of the Board, debar such candidate from writing this examination.

Certificate

18. The Council may, in its discretion, issue a Certificate in recognition of passing this examination and may recall such certificate at its discretion.

Fee

19. A fee as prescribed in Schedule 7 shall be payable by cheque on application in respect of each subject to be written, each supplementary examination and each exemption requested.

11. MISCELLANEOUS RULINGS OF COUNCIL

11.1 A member shall only accept an instruction from any person to defer any action or to take any action at some future date or during some future period or periods, provided that he disclaims liability to that person for financial loss should such action not be taken timeously. Normally, no charge shall be made for deferring the action or recording the action to be taken.

11.2 In the case of a non-resident member, if there is any conflict between the standards of conduct set forth in this Code and the standard of professional conduct obtaining among reputable Patent and Trade Mark Agents in his own country, compliance by the member with the standards obtaining in his own country but not with the standards prescribed herein shall not be deemed to be unprofessional conduct unless, after due

investigation, Council, by a majority vote at a meeting duly called for the purpose, finds that the conduct of the member reflects discredit on the Institute or its members.

11.3 Any member may ask Council for a ruling as to whether;

11.3.1 any conduct in which he or his firm engages or proposes to engage, or

11.3.2 any publication which he or his firm uses, publishes or proposes to use or publish

complies to this Code, and Council may rule thereon.

11.4 Information by Members for Audit Purposes - re Contingent Liabilities

11.4.1 A member who receives a request to supply information for audit purposes regarding contingent liabilities (e.g. matters which may affect the financial position of a company, or matters which may relate to pending or threatened claims to litigation) shall not comply with such request unless the matter in respect of which the information is required is clearly and unequivocally identified.

11.4.2 When such request is made by an auditor on behalf of a client, and provided a contingent liability has been adequately identified in terms of sub-paragraph 1 above, the member may comply with such request, but only if he is asked to confirm, as reasonable in his opinion, an amount which the client has suggested be provided in respect of such adequately identified contingent liability.

11.4.3 When supplying such information, the member shall qualify his report by stating that although care has been taken in preparing or checking the information, no guarantee can be given that the information is correct in all aspects.

11.4.4 The member shall add any further qualification which he considers appropriate (e.g. disclaimer of detailed knowledge).

12. **Affirmative Action**

12.1 The Institute shall assist previously disadvantaged persons who wish to qualify as Associate or Fellows and, in particular, Fellows of the Institute shall assist in practical training of such persons. To further this training, a committee, which shall operate for so long as Council considers it to be appropriate, shall be established:

12.1.1 to create awareness amongst previously disadvantaged persons of the scope and nature of intellectual property law and the protection thereof;

12.1.2 to encourage education in the field of intellectual property law of those persons who were previously disadvantaged; and

12.1.3 to place previously disadvantaged persons who have enrolled for the Institute's examinations and who wish to qualify as an Associate or a Fellow with Fellows of the Institute in order to obtain practical training

OR

That this Institute authorises the amendments to Clauses 2, 4.2.2, 10 (now 10 and 11) of and the addition of Clause 13 to the Regulations and Code of Ethics set out above with necessary changes to deal with issues referred to the council at this meeting.

SCHEDULE 1

The following bodies are recognised by Council as professional bodies for the purposes of this Code:

	NAME	DATE
1.	The AIPPI (Association Internationale pour la Protection la Propriete Industrielle)	October 1977
2.	The FICPI (Federation Internationale des Conseils en Propriete Industrielle)	do
3.	United States Trademark Association	do

4. Licensing Executives Society do

SCHEDULE 2

The following journals are recognised by Council as Professional Journals for the purpose of this Code:

	NAME	DATE
1.	South African Law Journal	October 1977
2.	Tydskrif vir Hedendaagse Romeins Hollandse Reg	do
3.	Annual Survey of South African Law	do
4.	de Rebus Procuratoriis	do
5.	The Trade Mark Reporter (USTA)	do
6.	Journal of the Patent Office Society	do
7.	CIPA (The Journal of the Chartered Institute of Patent Agents)	do
8.	I.I.C. (International Review of Industrial Property and Copyright Law)	do
9.	Industrial Property (Monthly Review of the World Intellectual Property Organisation) do	
10.	Annual of Industrial Property Law	do
11.	Afrika Recht (African Law)	January 1980
12.	European Intellectual Property Review	do

13.	Les Nouvelles	do
14.	Patent World	October 1987
15.	Trade Mark World	do
16.	Copyright World	do
17.	Modern Business Law	do

SCHEDULE 3

The following journals or publications are recognised by Council for the purpose of sub-paragraph 4.2.3.2:

	NAME	DATE
1.	Hortor's Diary and Law List	October 1977
2.	South African Law Journal	do

SCHEDULE 4

The following journals or publications are recognised by Council for the purpose of sub-paragraph 4.2.3.5:

	NAME	DATE
1.	de Rebus Procuratoriis	October 1977

SCHEDULE 5

The following professional journals are recognised for the purpose of paragraph 4.2.3.7:

	NAME	DATE
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- | | | |
|----|-----------------------------|------------|
| 1. | Hortor's Diary and Law List | April 1984 |
| 2. | South African Law Journal | do |

SCHEDULE 6

The syllabuses prescribed in sub-regulation 11 for the subjects prescribed in sub-regulation 5 of regulation 10.5 shall be as follows:

- (a) The Patents Act, 1952, and the Patents Act, 1978, and relevant Court decisions;
- (b) The Trade Marks Act, 1963; the Merchandise Marks Act, 1941; Sections 41 up to and including 50 of the Companies Act, 1973; the Business Names Act, 1969; and relevant Court decisions and the law of passing-off and relevant Court decisions;
- (c) The Copyright Act, 1916; the Copyright Act, 1965; the Copyright Act, 1978; the Registration of Copyright in Cinematograph Films Act, 1977; the Performers Protection Act, 1967; and relevant Court decisions;
- (d) The Designs Act, 1967, and a study of the relationship with the Copyright Acts referred to in paragraph (c), and relevant Court decisions;
- (e) A study of the trade mark system, including international arrangements and the Trade Marks Registration Treaty and the laws of the United States of America, the United Kingdom, the Federal Republic of Germany, France, Italy, the Benelux countries and Japan;
- (f) Candidates will be tested on their competence to deal with questions of practice in relation to the laws and aspects set out below and will be set practical legal problems in relation thereto;
 - (i) Filing and prosecution of trade marks including registrability, proprietorship, registration procedure, responding to official actions, Section 12 applications, conditions of acceptance, and the like and relevant Court decisions;
 - (ii) Registered users, licensing, assignment, certification marks and defensive registrations, including the drafting of relevant

agreements, statements of case and other supporting documents, relevant Court decisions;

- (iii) General knowledge of trademark law and practice in Transkei, Bophuthatswana, Venda, Ciskei, Botswana, Lesotho, Swaziland and Namibia and other South African homelands that may gain independence in the future.
- (iv) Trade Mark Section 17(3), determination of rights, oppositions, rectification and expungement proceedings, including grounds and procedures; drafting of relevant pleadings and affidavits in relation thereto; applicable Courts and tribunals; appeals; relevant Court decisions.
- (v) Infringement, passing-off and unlawful competition; relevant Supreme Court procedures and rules; drafting of pleadings and affidavits; authentication and legalisation of documents; applicable Courts and tribunals; appeals; relevant Court decisions.
- (vi) Practical aspects of Copyright Law and the registration of copyright in cinematograph films; the interrelationship of Copyright Law with other fields of intellectual property law; relevant Court decisions.
- (vii) Practical aspects of Design Law and its interrelationship with other fields of intellectual property law; relevant Court decisions.
- (viii) Other relevant statutes including procedures and Court decisions in respect of:-
 - (1) The Companies Act of 1973 (as amended) (Sections 41 to 50) including company name objections (grounds and procedures); the Directive of the Registrar of Companies on undesirable names; and defensive company names;
 - (2) The Close Corporation Act of 1984 (Sections 18 to 23) including objections to close corporation names;
 - (3) The Business Names Act of 1960 (as amended);

- (4) The Merchandise Marks Act of 1976 (as amended) with particular reference to Section 9;
- (5) The Trade Practices Act of 1976 (as amended) with particular reference to Section 9;
- (6) The Heraldry Act of 1962 (as amended).

SCHEDULE 7

The fee prescribed in sub-regulation 17 of regulation 10.5 shall be R10,00.