

FIFTY-THIRD REPORT

OF THE

SALARIES REVIEW COMMISSION

OF THE

REPUBLIC OF TRINIDAD AND TOBAGO

November 23 , 1998.

FIFTY-THIRD REPORT OF THE SALARIES REVIEW COMMISSION

Review of the salaries and other terms and conditions of service of the offices of Controller and Deputy Controller, Intellectual Property Office

By letter dated June 16, 1998, His Excellency, the acting President of the Republic of Trinidad and Tobago granted approval for a determination by the Salaries Review Commission of the salaries and other terms and conditions of service of the offices of Controller of the Intellectual Property Office (IPO) and Deputy Controller, IPO which are on the establishment of the Ministry of Legal Affairs.

2. These two new offices were added to the First Schedule to the Judicial and Legal Service Act, Chap. 6:01 by Legal Notice No. 203 dated September 25, 1997, thereby classifying them as legal offices in the Judicial and Legal Service.

Role and Function of the Intellectual Property Office

3. The Commission has noted that in recent times, issues surrounding Intellectual Property have assumed greater importance in the light of expanding trade among countries. In Trinidad and Tobago, the thrust to increase investment, trade and competitiveness, thereby contributing to the economic and social development of the country, has led to the enactment of legislation aimed at making provision for Intellectual Property rights and the legal means for their protection. The laws treating with Intellectual Property rights include:-

The Industrial Designs Act, 1996.

The Layout-Designs (Topographies) of Integrated Circuits Act, 1996.

The Geographical Indications Act, 1996

The Patents Act, 1996.

The Protection Against Unfair Competition Act, 1996.

The Protection of New Plant Varieties Act, 1997.

The Copyright Act, 1997.

The Trade Marks (Amendment) Act, 1997.

4. The Commission has been advised that prior to December 1, 1997, matters concerning Intellectual Property were dealt with by the Intellectual Property Registry which was part of the Registrar General's Department of the Ministry of Legal Affairs. That Registry dealt with the registration of patents and designs as well as the granting of titles to trade mark owners.

5. On December 1, 1997, with the proclamation of the Patents Act, 1996, the IPO was created as a separate unit and given a greater degree of authority in recognition of the need to stimulate research and creativity and for providing greater protection for Intellectual Property rights within Trinidad and Tobago.

6. The major responsibilities with which the IPO is charged are as follows:-

- Granting of Intellectual Property rights.
- Determining opposition hearings.
- Making Intellectual Property information available to the public.
- Receiving international applications under the Patent Co-operation Treaty (PCT).
- Advising the Government on Intellectual Property matters, for example, for negotiation of trade agreements.
- Increasing public awareness.
- Promoting inventiveness among the citizens of Trinidad and Tobago.

The Role and Responsibilities of the Controller and Deputy Controller, IPO

7. The Patents Act provides for the establishment of the offices of Controller and Deputy Controller for the IPO. In our deliberations on the appropriate remuneration packages to be attached to these offices, we gave consideration to the required knowledge, skills and abilities as well as the duties and responsibilities of the holders of the offices.

Controller of the IPO

8. The Controller is the head of the IPO and under the Patents Act performs all the functions and exercises all the powers formerly conferred on the Registrar General in relation to patents under the repealed Patents and Designs Act, Chap. 82:83. The Controller is also responsible for the administration of all laws relating to Intellectual Property and for the promotion of inventiveness among the citizens of Trinidad and Tobago.

9. The office holder must be an Attorney-at-Law who has served eight to ten years in a senior position in a Government Intellectual Property office. He/she is required to function at a highly professional level with a considerable degree of independent professional judgement and initiative.

10. We have been advised that the office holder is required to possess specialised training in Industrial Property, namely trade marks, patents, integrated circuits and geographical indications as well as in Copyright and Neighbouring Rights. He/she must also have in-depth knowledge of the Intellectual Property laws and regulations of Trinidad and Tobago and the International Conventions on Intellectual Property as well as extensive knowledge of the practices and rules of procedure relating to the conduct of proceedings.

11. The major duties and responsibilities of the office holder relate to certifying the grant of Intellectual Property rights. The Controller is also charged with the judicial function of hearing matters which may arise, for example, from objections to the grant of rights and in this connection, he/she has the authority to award costs. Appeals against decisions of the Controller are made to the High Court.

12. The Commission has noted also that, apart from his/her administrative and managerial responsibilities in directing and co-ordinating the activities of the office, the Controller, as head of the IPO, is required to confer with Secretariats for International Conventions on Intellectual Property and related subjects and to represent the country locally and internationally at meetings on Intellectual Property. The office holder can be called upon to give professional advice relating to Intellectual Property to Ministers of Government and Permanent Secretaries/Heads of Departments. The Controller is also required to submit an annual report to the Minister of Legal Affairs for laying in Parliament.

Deputy Controller of the IPO

13. We have been advised that the Deputy Controller performs a supporting role to the Controller. He/she is required to relieve the Controller of the day to day administration of the Office and to supervise experienced professional and clerical staff.

14. Among the office holder's major duties is certifying the grant of Intellectual Property rights and when assigned by the Controller, presiding over hearings. Judicial decisions made by the Deputy Controller are subject to review by the Controller and by the High Court, when contested.

15. We understand that the office holder must be an Attorney-at-Law and must have served in a senior position in a Government Intellectual Property Office for a period of three to five years. He/she is also required to possess specialised training in one or more areas of Intellectual Property and like the Controller, must have sound knowledge of the country's laws on Intellectual Property and the practices and rules of procedures relating to the conduct of proceedings. In addition, the office holder must perform his/her work with some degree of independent professional judgement and initiative, under the general supervision of the Controller.

Existing terms and conditions of service

16. We have been advised that, pending our review on appropriate remuneration arrangements for the offices, interim terms and conditions of employment were approved by Cabinet for the Controller and Deputy Controller before assuming their appointments pursuant to the provisions of the Patents Act. In the case of the Controller, the office is being remunerated in Group II of the Judicial and Legal Service pay classification, while the Deputy Controller is being remunerated in Group IV. No arrangements, however, have yet been made with regard to superannuation benefits for these offices.

Recommendations

Controller of the IPO

17. The Commission is of the view that the salary and other terms and conditions of service to be attached to the office of Controller should reflect the duties and responsibilities vested in this office holder as head of the IPO. These encompass a high level of legal responsibility in the specialised area of Intellectual Property and administrative duties in overseeing the effective implementation of the range of Intellectual Property legislation. The remuneration arrangements must also take account of the knowledge and experience that the office holder is required to possess.

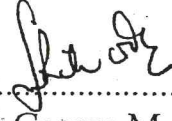
18. Based on those duties and responsibilities as well as the knowledge and experience required, the Commission is of the view that this office is well placed in Group II of the Judicial and Legal Service pay classification. Consequently, we recommend that the office of Controller should continue to be remunerated in Group II.

Deputy Controller of the IPO

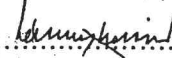
19. In assessing the remuneration which should be applicable to the office of Deputy Controller, the Commission took into account the duties and responsibilities to be performed by the office holder, the required knowledge and experience and the fact that the incumbent performs a supporting role to the Controller. We are of the view that that relationship is similar to the one which exists between other offices in Groups II and IV, for example, between the offices of Registrar and Marshal and Deputy Registrar and Marshal as well as those of Registrar General and Deputy Registrar General. We therefore conclude that the office of Deputy Controller is appropriately placed in Group IV and we so recommend.

20. The recommended terms and conditions of service in respect of both offices are set out in the Appendix. The effective date of implementation should be the date of the establishment of the offices. Any changes which may result from the recommendations in our Fifty-second Report will be applicable.

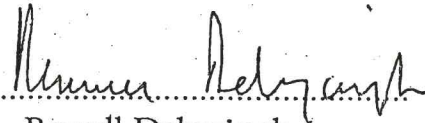
Dated this.....23rd.....day of November, 1998.



.....
Professor George M. Richards



.....
Edward Collier



.....
Rowell Debysingh



.....
Keith Ortiz



.....
Joyce Marshall

APPENDIX

Recommended Remuneration Arrangements for the Offices of Controller and Deputy Controller, Intellectual Property Office

Salary

Controller

\$ per month

9,700

Deputy Controller

7,950-8,100-8,250-8,400

Interim Allowance

\$3,500 per month.

Transport Facilities:-

(i) Vehicle Purchase

A maximum loan of \$75,000 currently at a rate of interest of 6% per annum repayable over six (6) years to facilitate the purchase of either:-

- (a) a locally assembled or imported motor vehicle with exemption from Motor Vehicle Tax limited to the amount payable on a vehicle with an engine capacity of 1799cc and exemption from Value Added Tax (VAT) limited to the amount payable on a vehicle costing \$75,000; or
- (b) a locally assembled motor vehicle using foreign parts or a completely built-up foreign used vehicle with an exemption of a maximum of \$7,196 from Special Registration Fee or Special Motor Vehicles Tax (whichever is applicable) and a maximum exemption of \$11,250 from VAT.

(ii) Insurance Premium Loan

A loan to cover the cost of Motor Vehicle Insurance premium.

(iii) Repair Loan

A maximum loan of \$10,000 at a rate of interest of 6% per annum to effect repairs to a motor vehicle.

(iv) Commuted Travelling Allowance

\$900 per month.

Subsistence Allowance

\$40 per day when travelling beyond a radius of ten (10) miles (16 kilometres) from official headquarters and when in Tobago, \$50 per day.

Vacation Leave

1 - 10 years service - 28 working days per annum
Over 10 years service - 35 working days per annum

Medical Benefits

Entitlement without charge to pathological examinations and physiological treatment and to all incidental services at any hospital or other State institution or with approval, to be paid the cost of such treatment at any other institution in Trinidad and Tobago.

Pension/Gratuity

Appropriate steps to be taken to provide superannuation benefits in accordance with the provisions of the Pensions Act, Chap. 23:52.