



ARIPO

*African Regional Intellectual
Property Organization*

PROCESSING OF ARIPO PATENT APPLICATIONS

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Fostering Creativity and Innovation for Economic Growth and Development in Africa

The ARIPO Patent System

- Based on the ARIPO patent law and regulations:
 - Harare Protocol (HP)
 - Regulations under the HP
 - Administrative Instructions under the HP
 - Guidelines for Examination at ARIPO (published 2018)



The Harare Protocol

- Adopted in 1982; entered into force in 1984
- Empowers ARIPO (AP) to grant patents and to register utility models and industrial designs; and to administer the same on behalf of Contracting States (**Section 1(1)**)
- Contracting States: All member States of ARIPO (except Somalia) are party to the HP

**36 years
of Harare
Protocol!**



HP Contracting States

- Botswana
- Gambia
- Ghana
- Kenya
- Liberia
- Lesotho
- Malawi
- Mozambique
- Namibia
- Rwanda
- Sao Tome & Principe
- Sierra Leone
- Sudan
- Swaziland
- Tanzania
- Uganda
- Zambia
- Zimbabwe

= 18



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HP and the Patent Cooperation Treaty (PCT) - (Section 3bis)

- HP linked to the PCT in 1994
- 18 member States of AP are PCT contracting states
- Any applicant filing a PCT application automatically designates all the 18 HP Contracting States
- However, upon entry into the national phase, Applicant decides the HP Contracting States to designate
- AP acts as a receiving office (RO) under the PCT

97% of ARIPO
applications
filed through
PCT!

Filing of ARIPO Applications

(Section 2; Rule 10)

- Applications as:
 - ARIPO direct filing;
 - ARIPO filing under the Paris Convention or
 - PCT filing

- Where to file ARIPO application:
 - Directly with ARIPO or
 - With the industrial property office of a Contracting State

- Who can file:
 - The applicant or
 - Authorized representative of the applicant



Contents of an ARIPO Patent Application (Section 3(1); Rule 5)

- A request;
- A description;
- One or more claims;
- One or more drawings (where necessary);
- An abstract;
- A designation of the Contracting States for which a patent is to be granted;
and
- Sequence listing (where necessary);



Examination of Application on Filing

(Sec. 3(2); Rule 14)

- Upon receipt of application, the Office examines whether application can be accorded filing date (FD)
- FD accorded if application documents contain:
 - A request,
 - A description and
 - One or more claims
- FD requirements not met, applicant invited to correct deficiencies
- FD requirements met, applicant and designated States notified of filing date (FORM 12)



Formality Examination

(Sec. 3(2); Rule 15)

- If FD has been accorded, the Office checks compliance with provisions governing:
 - Form and content of application, the description, claims, declaration of priority, authorization of representative and fees to be paid
- Formal requirements not met, Applicant invited to correct application
- Formal requirements met, designated State and Applicant notified of compliance with formal requirements (Form 13)



Publication of ARPO Application (Rule 19bis)

- Application published promptly after expiry of 18 months from filing date or if priority is claimed, from the priority date
- Application withdrawn or abandoned before expiry of 18 months from filing date not published

Note:

- No re-publication of PCT applications entering national phase (read ARIPO phase). Why? Publication would have been done by the International Bureau of WIPO (IB) during the international phase



Substantive Examination

(Section 3(3); Rule 18)

- Substantive examination not automatic after filing
- Carried out upon request
- Request should be filed up to 3 years from the date of filing
- In addition to request for examination, possible to request for expedited / accelerated examination



Search and Search Report

(Section 3(10)(c); Rule 18)

- Search performed to establish relevant prior art
- Search conducted on the basis of the claims, with due regard to the description and drawings if any
- Search report drawn upon conclusion of the search
- Search report indicates prior art documents considered necessary for evaluation of novelty and inventive step



Example of a Search Report

C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27	7-9, 11
X	GB 392415 A (JONES) 18 May 1933 (18.05.33) Fig. 1	1-3
Y	page 3, lines 5-7	4, 10
A	Fig. 5, support 36	11-12
X	GB 2174500 A (STC) 5 November 1986 (05.11.86) page 1, lines 5-15, 22-34, 46-80; Fig. 1	1-3
Y		4
A	US 4322752 A (BIXTY) 30 March 1982 (30.03.82) claim 1	1
A	GREEN, J.P. Integrated Circuit and Electronic Compass, IBM Technical Disclosure Bulletin, November 1975, Vol. 17, No. 6, pages 1344 and 1345	1-5

Symbols indicating which aspect of patentability the document cited is relevant to (for example, novelty, inventive step, etc.)

Documents relevant to whether or not your invention may be patentable

The claim numbers in your application to which the document is relevant

Substantive examination (1)

(Sections 3(3), 3(10); Rule 18)

- Carried out to determine whether the invention meets patentability requirements
- Patentability requirements:
 - Novelty (new)
 - Inventive step (non-obvious) and
 - Industrial applicability
- Other matters considered:
 - Exclusions from patentability, unity of invention, sufficiency of disclosure, public *ordre* and morality

Substantive examination (2)

(Sections 3(3), 3(10); Rule 18)

- Patentability requirements not met, Applicant notified of non-compliance and invited to submit observations and or amendments (Form 18)
- Patentability requirements met, Applicant and each designated State notified of decision to grant (Form 21)
- Designated State has 6 months to respond whether the invention complies with the requirements of its national law



Grant, Recordal and Publication

(Sections 3(6), 3(7); Rule 20)

- Upon expiry of 6 months from the notification of decision to grant, and subject to payment of grant and publication fees:
 - patent granted;
 - certificate of grant and copy of patent issued to Applicant;
 - reference to grant published in the ARIPO Journal;
 - patent recorded in the Patents Register; and
 - copy of certificate and granted patent transmitted to each designated State



Effect of an ARIPO Patent (Sections 1(3), 3(11), 3(12))

- Provided it is maintained, patent granted by ARIPO have the same effect as patent registered or granted or otherwise having effect under the applicable national law
- Patent is subject to applicable national law of each designated state
- Duration of ARIPO patent - 20 years from filing date



Renewal Fees

(Section 3(11); Rule 21)

- Annuity fees required to be paid in respect of ARIPO patent application / patent
- Annuities payable to ARIPO
- Fees fall due on the eve of each anniversary of the date of filing
- Fees may still be validly paid up to 6 months after due date, provided that a surcharge of the belated renewal fee is paid within the same period
- Fees payable in USD
- Failure to pay annuities and any additional fee due in time, application deemed to be withdrawn / abandoned; patent deemed to lapse



Re-establishment / Restoration of Rights (Section 5bis; Rule 24)

- Loss of rights due to applicant or proprietor of an application / patent being unable to observe a time limit
- Rights could be re-established upon written request subject to meeting certain requirements



Appeals

(Sections 3(5), 4bis)

- Appeals may be filed before the ARIPO Board of Appeal
- The Board:
 - Considers and decides on any appeal lodged by the applicant;
 - Reviews any final administrative decision of the Office in relation to the implementation of the HP
- The Board's decision is final





African Regional Intellectual Property Organization

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