



African Regional Intellectual Property Organization

Regional Workshop on the use of Utility Models and Industrial Designs for Small and Medium-sized Enterprises (SMEs) in ARIPO Member States

INTRODUCTION TO PATENT, UTILITY MODEL AND INDUSTRIAL DESIGN

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Making better use of Intellectual Property for business competitiveness and development in Africa

Types of Intellectual Property Protection



PATENTS

What is a Patent???

A **patent** is an exclusive right to control the use of an **invention** within a **limited area** and for a **limited period of time** by stopping other from, among other things, making, using, or selling the invention without authorization in exchange for detailed public **disclosure of an invention**.



PATENTS *CONT...*

What is an Invention?

- An invention is defined as a **new solution** to a **technical problem**
- An invention can either be **a pioneer inventions** or **any new and useful improvement** of an existing invention
- For an invention to be patented must be:
 - ✓ **Novel**: must be new, first in the world - no one can have already done or used it before
 - ✓ **Inventive**: must not be obvious to someone of average skill in the field of invention
 - ✓ **Industrial Applicability (Useful)**: functional, or operative or can be made.



PATENTS *CONT...*

Why Patent???

The purpose of a patent is to provide a form of protection for technological advances.

- patent protection will provide a reward not only for the creation of an invention, but also for the development of an invention to the point at which it is technologically feasible and marketable,
- and that this type of an incentive would promote additional creativity and encourage companies to continue their development of new technology to the point at which it is marketable, useful to the public and desirable for the public good.



PATENTS *CONT...*

- The patent must be disclosed to the public (usually 18 months after filing/priority date).
- Term of protection limited: usually 20 years from the date of filing (TRIPS), no renewal.
- Requires registration.



PATENTS *CONT...*

Where to register:

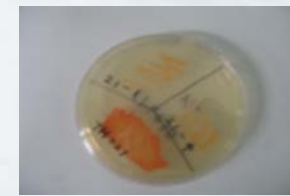
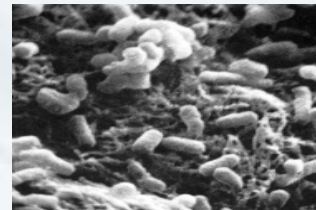
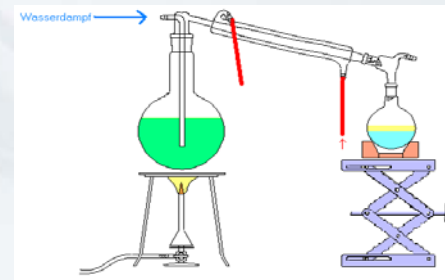
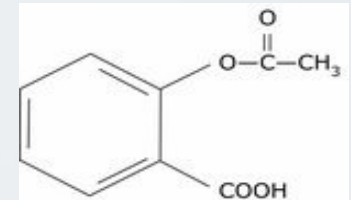
- National applications for national patents with the national Patent Offices.
- Application through a regional patent office:
 - African Regional Intellectual Property Organization (ARIPO)
 - African Intellectual Property Organization (OAPI)
 - European Patent Office (EPO)
 - etc.
- International Patent application through WIPO (148 countries).



PATENTS *CONT...*

What can be patentable???

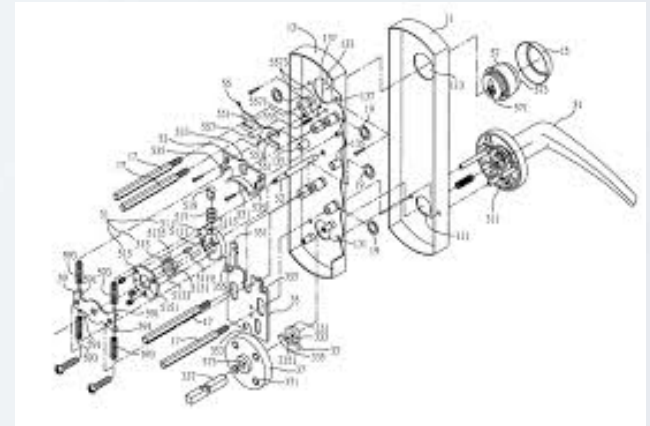
- Technical Invention
- Technical process
- Chemical substances
- Chemical process
- Microorganism



PATENTS *CONT...*

What can be patentable? e.g.

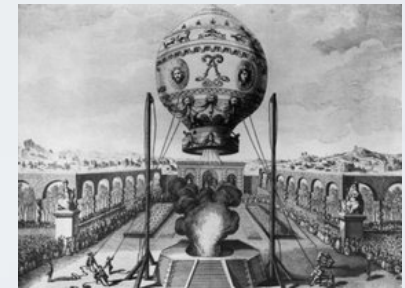
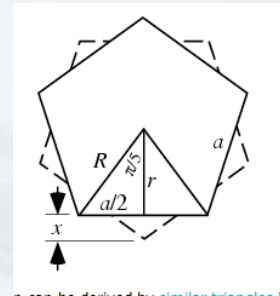
- **A Product:** a door lock
 - **A Composition:** a chemical composition in lubricants for door locks
 - **An Apparatus:** a machine for making door locks
 - **A Process:** a method for making door locks
- ... or an **improvement** on any of these (**90% of patents are improvements of existing patents**)



What can not be Patentable??

- Software as such → copyright
- Discovery → hot air has a lower density lifting force

➤ Mathematic methods,
business methods →



Invention: hot air balloon

➤ Rules of games →



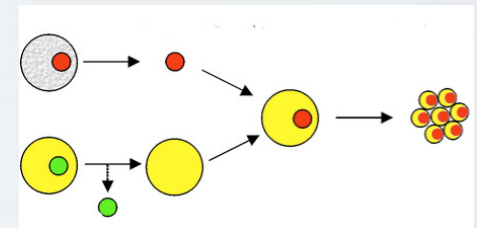
PATENTS CONT...

What can not be Patentable??

- Inventions whose commercial exploitation would be contrary to ordre public or morality.

e.g

- Cloning of human beings
- Manipulation of germline
- Use of embryos



- Surgical or therapeutic treatment of or diagnostic methods practised on **humans** or **animals**

e.g. Methods of surgery on humans



Utility Models ('petty patent')

Section 3ter of HP

“utility model” means any form, configuration or disposition of elements of some appliance, working tools and implements as articles of everyday use, electrical and electronic circuitry, instrument, handicraft, mechanism or other object or any part thereof in so far as they are capable of contributing some benefit or new effect or saving in time, energy and labour or allowing a better or different functioning, use, processing or manufacture of the subject matter or that gives utility advantages, environmental benefit, and includes micro-organism or other self-replicable material, products of genetic resources, herbal as well as nutritional formulations which give new effects



Utility Models ('petty patent')

- similar requirements as patent; need registration
- Less stringent condition for registration- only **novelty and Industrial Applicability**
- Cheaper as a patent
- Shorter period of protection: 3-10 years



INDUSTRIAL DESIGNS

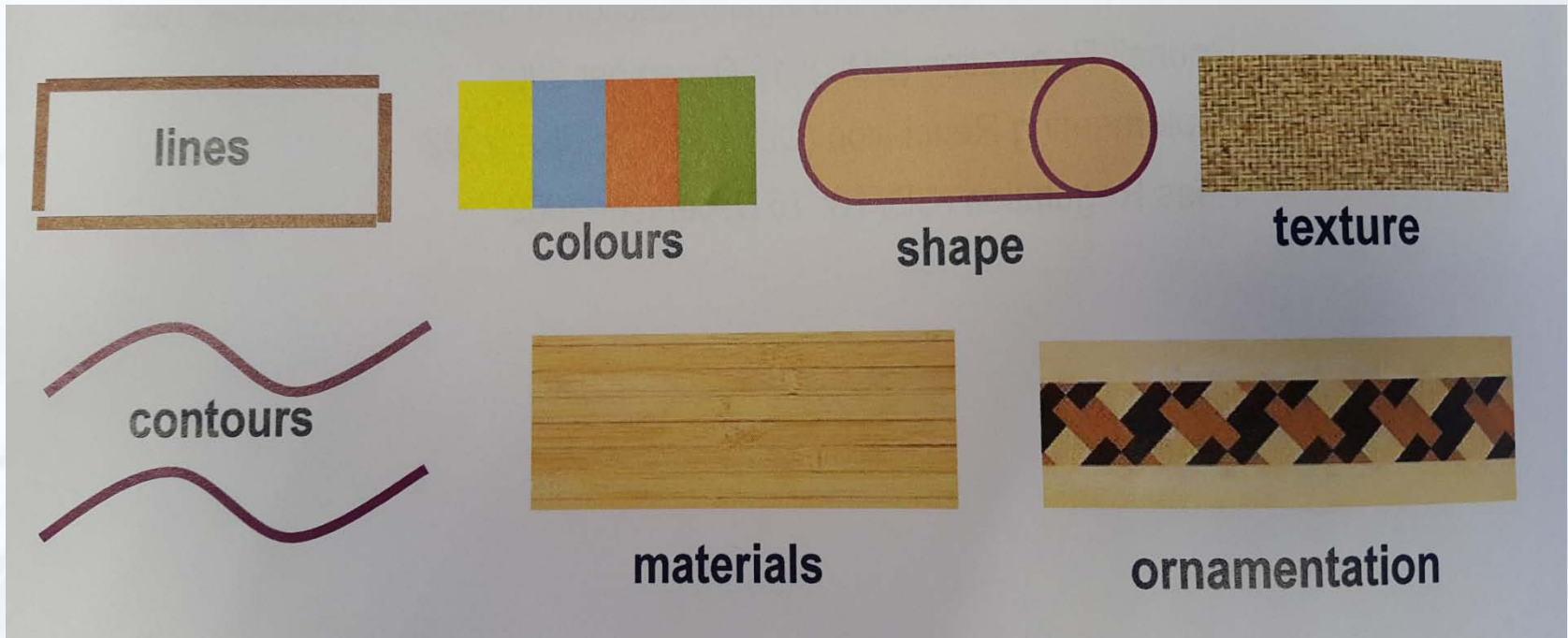
Industrial design is that aspect of a useful article which is **ornamental or aesthetic** made by **hand, tool or machine**.

Designs makes a product attractive and appealing; hence, they add to the **commercial value of a product and increase its marketability**.



INDUSTRIAL DESIGNS

It may consist of **three-dimensional** features such as the shape or surface of the article, or **two-dimensional** features such as patterns, lines or color.



INDUSTRIAL DESIGNS *e.g*



INDUSTRIAL DESIGNS - e.g



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INDUSTRIAL DESIGNS

Why protect Industrial Designs?

- By protecting an industrial design, the owner of the design is given a right against its **unauthorized copying or imitation** by third parties.
- Industrial design protection **benefits the owner, the consumer and the economy** in general.
- They serve to add to the commercial value of the product and facilitate its marketing and commercialization.



INDUSTRIAL DESIGNS

How can Industrial designs be protected?

- In most countries an Industrial Design must be registered in order to be protected.
- the design must be ‘new’ or ‘original’.
- it must be possible to apply it to an article which may be either two-dimensional or three-dimensional.



INDUSTRIAL DESIGNS

How long does any protection last?

- It varies from country to country. 5 years with the possibility of renewal, which may total, in most countries, up to a maximum of 15 to 25 years.
- TRIPS: provides for protection of a minimum of 10 years.
- Under Harare Protocol it is 10 years.



INDUSTRIAL DESIGNS

Can you get worldwide protection for an Industrial Design?

- In accordance with the Paris Convention, industrial design protection is limited to the country where protection is sought
- If protection is desired in several countries, separate national applications must be made
- Hague agreement concerning the International Deposit of Industrial Design helps to facilitate this process





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