



OFFICE MALGACHE
DE LA PROPRIÉTÉ INDUSTRIELLE

Topic 7: Examination in the PCT National Phase

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IP Office overview

- ❖ OMAPI is an autonomous statutory body under the Ministry of economy and industry
- ❖ Missions :
 - Receives applications and grants industrial property right (Patents, Trademarks, Industrial Designs and trade names
 - Screen technology transfer agreements and licenses
 - Fostering and supporting invention and creativity

Law governing the grant of patents in Madagascar

- ❖ Ordinance No. 89-019 Establishing Arrangements for the Protection of Industrial Property in Madagascar (of July 31, 1989)
- ❖ Decree No. 92-993 Implementing Ordinance No. 89-019 of July 31, 1989

The International Treaties and Agreements that Madagascar adhered

- ❖ 1963 : Paris Convention on the Protection of Industrial Property
- ❖ 1978 : Patent Cooperation Treaty (PCT)
- ❖ 1995 : WTO adhesion
- ❖ 2008 : Madrid Agreement Concerning the International Registration of Marks

Staffing at OMAPI Patent Service

❖ There are 3 people in patent service, they are in charge of:

- Advising and assisting applicants for :
 - * Learn about procedures
 - * Guide for the research on the State of the art
 - * The descriptive memory drafting
 - * Proceed to the formal and substantive examination of patent applications

Examination system

❖ Formal examination

❖ Substantive examination

Examination of Application

- The office shall undertake a formal examination of the application
- When, upon formal examination, the application is not in conformity with the requirements laid down in the proclamation and in the regulations, the office shall call upon the applicant to amend the application.
- If the applicant fails to amend as required within a period of two months the application shall be considered withdrawn.
- When the office determines that the application is acceptable, it shall undertake or cause to be undertaken a substantive examination of the invention.

Formal examination

- ❖ Title, abstract, description, claims and figures verification
- ❖ Tax payment verification
- ❖ The invention Unity verification
- ❖ Classification of the application according to International patent classification (IPC)

Substantive examination

- ❖ Each application filed for a patent shall be subject to a state-of-the-art search report

State-of-the-art search report:

- ❖ In accordance of the current law this report shall:
 - either be replaced by an international-type search
 - either be drawn up by an authority other than the Office;
 - either be replaced by a search report drawn up in respect of an application for a patent relating to the same invention.

Technical means at the disposal of the service of the patent:

- ❖ Databases: Patentscope, Espacenet and USPTO, Patbase, Orbit
- ❖ Other sources: ARDI, ASPI
- ❖ In cooperation with WIPO, the database of the Office is administered by IP Administration System (IPAS)

Exclusion of patentability

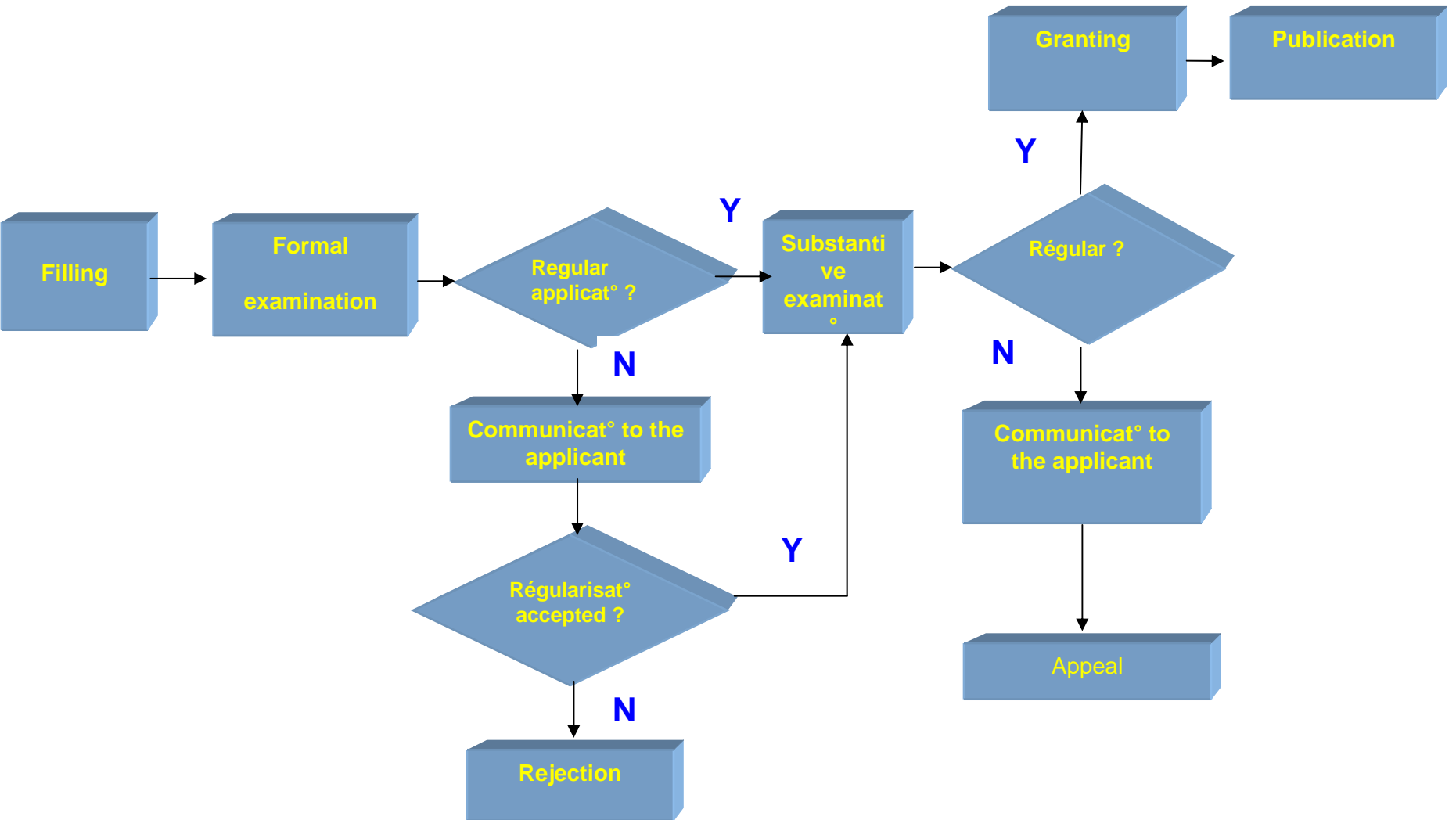
- ❖ inventions contrary to public policy or morality;
- ❖ plant or animal varieties or essentially biological processes for the production of plants or animals;
- ❖ software;
- ❖ methods, systems, schemes, discoveries and scientific theories

Requirements for a patent

The invention must :

1. Be new : the invention must be novel over prior art i.e. must never have been made public in any way, anywhere in the world, before the date on which an application for a patent is filed.
2. Involve an inventive step : an invention involves an inventive step if, when compared with what is already known, it would not be obvious to a person with a good knowledge and experience of the subject.
3. Be capable of industrial application : an invention must be capable of being made or used in some kind of industry.

Patent prosecution





STATISTICS ON EXAMINATION (1994-2012)



FOREIGN AND LOCAL APPLICATIONS

	LOCAL		FOREIGN		TOTAL
	Nb	%	Nb	%	
APPLICATION	175	<i>20,6</i>	672	<i>79,3</i>	847
GRANT	95	<i>16,8</i>	469	<i>83,1</i>	564

PCT AND NON PCT APPLICATION

	PCT		NON PCT		TOTAL
	Nb	%	Nb	%	
APPLICATION	675	79.7	172	20.3	847
GRANTED	454	80.4	110	19.5	564

The national phase examination

- ❖ Check the communication between applicant and PCT service if there were changes first (claims, address etc...)
- ❖ Collection and verification of reports from the international phase: international search, Written Opinion, international preliminary examination report
- ❖ Collection and verification of research reports carried out by other office relating to the same invention (patent family [espacenet, orbit..], claimed priority)
- ❖ Examination of the demand towards the legislation in force

Thank You !