

## Opposition systems

# Zambia

Section 22 of the Patents Act provides for a pre-grant opposition.<sup>1</sup> The provision states:

(1) Any person interested, including the State, may, within three months from the date of the advertisement of the acceptance of a complete specification or within such further period as the Registrar, on application made to him within the said period of three months, may allow, or, with the consent of the applicant, at any time before the sealing of the patent, oppose the grant of a patent in accordance with the provisions of this section by giving written notice to the Registrar of opposition to such grant on any of the following grounds and no others, namely:

- (a) that the applicant is not a person entitled under section eleven to make the application;
- (b) that the application is in fraud of the rights of the person giving such notice or of any persons under or through whom he claims;
- (c) that the invention does not relate to an art; (whether producing a physical effect or not), process, machine, manufacture or composition of matter, which is capable of being applied in trade or industry;
- (d) subject to the provisions of section thirty-one, that the invention is obvious in that it involves no inventive step having regard to what was common knowledge in the art at the effective date of the application;
- (e) that the invention is not useful;
- (f) that the complete specification does not fully describe and ascertain the invention and the manner in which it is to be performed;
- (g) that the claims of the complete specification do not sufficiently and clearly define the subject-matter for which protection is claimed;
- (h) that the complete specification does not disclose the best method of performing the invention known to the applicant at the time when the specification was lodged at the Patent Office;
- (i) that the application contains a material misrepresentation;
- (j) that the invention described or claimed in the complete specification is not the same as that described in the provisional specification, and
  - (i) in so far as it is not described in the provisional specification, was not new at the date when the complete specification was lodged at the Patent Office; or
  - (ii) forms the subject of a pending application made in Zambia for a patent the effective date of which is prior to the date on which the complete specification was lodged at the Patent Office;

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<sup>1</sup> The Patents Act, Chapter 400 of the Laws of Zambia.

(k) in the case of a convention application, that the specification describes or claims an invention other than that for which protection has been applied for in the convention country and that such other invention either -

(i) forms the subject of an application for a patent in Zambia which, if granted, would bear a date in the interval between the lodging of the application in the convention country and the effective date of the application in Zambia; or

(ii) is not an invention as defined in this Act;

(l) that the invention was not new at the effective date of the application;

(m) that the specification includes claims which, in terms of subsection (1) of section eighteen, should have been refused.