



## **Filing Trademarks under the ARIPO Trademark System**

The ARIPO trademark system is governed under the Banjul Protocol on Trademarks. The states cosigners to the Banjul Protocol are also known as the Banjul Protocol Contracting States. The ARIPO treaty is currently operational in 12 of the 20 Member States namely; Botswana, Cape Verde, Gambia, Lesotho, Liberia, Malawi, Mozambique, Namibia, Saint Tome and Principe, Swaziland, Tanzania, Uganda and Zimbabwe.

### **Who Can File for the Application of a Trademark in ARIPO?**

An applicant for the registration of a Trademark in ARIPO is a natural person or a legal corporate with authentic or legitimate rights to apply for registration of a mark. An applicant has to have an account to be able to officiate the registration of a Trademark in ARIPO. ABC Attorneys as a registered agents in the ARIPO national Industrial property office, has an ARIPO account that officiates the registration of its clients in the International Jurisdictions.

An ARIPO application may be lodged either in person or through an authorized representative. The Authorized representative is a trademark agent or legal practitioner who is duly recognized by the national industrial property office of the contracting state as having the right to represent the applicant. Where the applicant neither is an ordinary resident nor has a principal place of business in any of the Banjul Protocol contracting states, such applicant must be represented on filing an application. The Good news to our clients is that, ABC Attorneys is one of the well-known registered agents in the ARIPO national Industrial property office for all the applications related to intellectual property being offered there.

### **What are the Contents of an ARIPO Trademark Application Document?**

Application for registration of a trademark should be made on a prescribed form. The application form must contain the following:

1. The applicants name and address.



2. Designation of the Banjul Protocol contracting state(s).
3. Corresponding class/ classes of the goods and / services in accordance with the Nice Classification.
4. Name(s) of colors(s) claimed if any as a distinctive feature of the mark a reproduction of the mark in the form of a two.
5. Dimensional, graphic or photographic reproduction, a declaration of an actual use or intention to use the mark.

**Hereunder are the stages for the Trademark Application in ARIPO.**

**Step 1. Trademark Comprehensive Study/Search:**

A trademark search report has to be conducted by the applicant so as he/she ascertains himself/herself that there is no other Trademark that resembles his/her Trademark in the ARIPO registered Trademarks and obtain an opinion about registration probabilities. In other words, the applicant conducts due diligence for the Trademark before applying for its registration, to avoid occurrences of rejections or oppositions of the Trademark to be applied for.

**Step 2. Trademark Analysis Formality & Substantive Examinations:**

The ARIPO Office will examine the application to analyze its formality and this entails that the scrutiny of the application form is duly completed as per the prescribed requirements. The examination is to see if the application is led by a representative a power of attorney and it is lodged. Further, the requisite application fees has been paid or a statement of commitment to settle them within 21 working days there-from (payable in US dollar) is attached. If priority is being claimed, the applicant will need to lodge a priority document. Such Priority obtained subsists within six months only.

**Substantive Examination**



Substantive examination is conducted by a designated state in accordance with its national laws. Each of the designated states is given nine months within which to notify the ARIPO Office in writing (after the notification by ARIPO Office that the mark shall have no effect in that state registered. The selected state should give reasons for its refusal according to the national laws and this is communicated to the Office.

The office then communicates the refusal to the applicant who is given an opportunity to respond either through the Office or the designated state concerned. The refusal is subject to appeal or review under the national laws of the designated state. The mark application may proceed to registration with respect to other designated states which did not object.

### **Appeals and Conversions.**

The ARIPO Office can refuse an application due to noncompliance with formal requirements. The applicant can request the office to reconsider the refusal once it occurs. If the Office still refuses, the applicant can appeal against the decision to the Office of the AROIO Board of Appeal or may within three months from the date of refusal request that the application be treated in any designated state as an application according to national law of that state (conversion). The decision of the board of appeal on the appeal is final.

### **Step 3. Trademark Registration Request and obtaining the Certificate:**

Once the trademark application has been accepted and approved by the designated states on substantive examination, Trademark will be published in the ARIPO Journal and, three months from the publication, of the Office will register the mark upon payment of a registration fee by the applicant. The Office will then issue a certificate of registration to the applicant.

During the publication of the mark in the journal, any person may give notice of opposition to the Published Trademark not to proceed with its registration and the matter will be dealt with, in accordance with the national laws.

### **Effect of Registration**

The registration of a registered mark has the lifespan of ten (10) years from the date of



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filing. The registration may be renewed for a further ten years on payment of the prescribed renewal fee. Rights conferred by the registered mark are the same in every designated state.