



INFRINGEMENT OF PATENT IN TANZANIA

A patent is a form of legal protection that gives the owner exclusive rights to make, use, and sell an invention for a certain period of time. In Tanzania, patents are governed by the Patents (Registration) Act No. 1 of 1987, Cap.217. R.E 2002 and The Patents Regulations G.N. 190 of 1994, which provides for the registration and protection of patents.

To protect an application using a patent, the application owner must show that the application is a new and non-obvious invention that has practical applications. The application of the registration of the patent can be done by the innovator or through a qualified agent or a Law firm such as ABC Attorneys in assisting in the process to officiate the legal ownership of the said patent. Once the patent is granted by the Tanzania Patent Office in BRELA, the owner will have exclusive rights to use and license the invention.

Patent protection is particularly useful for protecting the underlying technology or function of the application, but it requires a high level of novelty and non-obviousness. Additionally, the patenting process can be time-consuming and expensive, and the protection offered by a patent is limited in duration.

What is a Patent Infringement?

Patent infringement is a serious offense that can have significant legal and financial consequences. In Tanzania, it is important for individuals and businesses to take steps to protect themselves from patent infringement to avoid any legal or financial troubles. Here are some tips on how one to protect himself/herself from patent infringement in Tanzania.

Necessary steps for Patent Protection:

Conduct a patent search:

Before starting any business activity or launching a new product, it is important to conduct a patent search to ensure that you are not infringing on someone else's patent. The Business Registrations and Licensing Agency (BRELA) offers a patent search service, which allows individuals and businesses to search for existing patents and patent applications.

Conducting a patent search can help you identify any existing patents that may be similar to your invention or product, and can help you avoid infringing on another person's patent.



File for a patent:

If you have an invention or product that you believe is unique and novel, it is important to file for a patent at the official Patents registry office which is the Business Registrations and Licensing Agency (BRELA). A patent gives you exclusive rights to use, manufacture, and sell your invention for a certain period of time, and can protect you from patent infringement claims. To file for a patent in Tanzania, you must submit a patent application to BRELA, which will review your application and grant a patent certificate if the said patent application meets the criteria for patentability.

Monitor patent filings:

To avoid infringing on someone else's patent, it is important to monitor patent filings in your industry. You can do this by working with a law firm such as ABC Attorneys which deals with assisting innovators with the registration of their patents and can help in monitoring the patent filings and identify any potential infringement risks which may tend to occur.

Obtain licenses and permissions:

In circumstances where one wants to use someone else's patented invention, he/she must obtain a license or permission from the patent owner. Failure to do so can result in patent infringement claims and legal action. It is important to work with a patent attorney to negotiate license agreements and ensure that you are complying with all licensing requirements.

Avoid willful infringement:

Willful patent infringement can result in significant legal and financial consequences. To avoid willful infringement, it is important to conduct a thorough patent search, file for a patent if necessary, and obtain licenses or permissions if one needs to use someone else's patented invention. It is also important to work with a patent attorney who can provide guidance on patent laws and help you avoid infringing on someone else's patent.

What are the Legal and Financial Consequences for Patent infringement?

Patent infringement is the unauthorized use, manufacture, or sale of a patented invention. The legal consequences for patent infringement can include:

1. A patent owner can institute a case against a patent infringer when the patent owner



believes that their patent rights have been violated. Patent infringement occurs when someone makes, uses, sells, or imports a patented invention without the permission of the patent owner. In order to institute a case against a patent infringer, the patent owner must typically demonstrate that they have a valid and enforceable patent, and that the infringing activity falls within the scope of their patent claims. The patent owner may also need to show that they have suffered damages as a result of the infringement, such as lost profits or harm to their reputation.

2. **Injunction:** An injunction is a legal remedy by way of a Court Order that is often sought by a patent owner when their patent rights have been infringed upon to stop the infringing activity. The purpose of an injunction is to stop the infringing activity, preventing the infringer from continuing to use, manufacture, or sell the patented invention.
3. **Damages:** The patent owner can seek damages, which are monetary compensation for the harm caused by the infringement. Damages can include lost profits, royalties, and other expenses incurred as a result of the infringement.
4. **A product recall** is a process by which a company removes a product from the market due to safety or quality concerns. In the context of patent infringement, a product recall may be ordered if the infringing product poses a risk to public health or safety, or if it is found to be infringing on a patent.

A product recall can be a costly and time-consuming process for the infringing company. It may involve notifying customers, retrieving and replacing the products, and disposing of or destroying the recalled products. The company may also be required to pay for any damages or injuries that resulted from the infringing products.

In some cases, the court may order the infringing products to be destroyed instead of recalled. This is a more severe remedy that is typically reserved for cases where the infringing products pose a significant risk to public health or safety, or where the infringing activity was particularly egregious. In either case, a product recall or destruction can have serious consequences for the infringing company, including financial losses, damage to reputation, and loss of market share.

CONCLUSION.

In conclusion, patent infringement is a serious offense that can have significant legal and financial consequences. The specific legal consequences for patent infringement will depend on the nature and severity of the infringement, as well as the laws and regulations of the jurisdiction where the infringement took place. By putting into consideration on the above



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steps, it can help to ensure that there is no incidents of infringing on someone else's patent and this advocates in avoiding any legal or financial troubles that may arise from patent infringement.