



### PATENT REGISTRATION FOR START UPS IN TANZANIA

#### **What is a smart IP strategy for startups?**

For startups, knowing where to start with patents is the hard part. Once you have an IP strategy in place, implementing and tweaking that plan is not as difficult. This is a practical nuts-and-bolts guide for startups thinking of patenting their innovation.

#### **Why should startups care about patents?**

Utility patents take a long time and a lot of money. Patent litigation in court increases those factors exponentially. So why should startups bother with patenting? Smart startups know that patent applications help with funding and provide defensive measures against other patent owners. Here's a detailed post on why startups should consider patenting their technology.

There is one thing a patent cannot do. A patent will not protect your startup from infringing other patents. Patents will give your startup the right to exclude others from practicing your patented invention. Your company might still be liable for infringement even if you own a patent on your technology.

#### **Keep your concepts confidential**

One of the most common pitfalls of startups is the failure to keep otherwise patentable concepts confidential until after applying for a patent. Many entrepreneurs do not realize that Tanzania patent laws provide inventors with a 1-year grace period. This means you have only one year from the earliest date of public disclosure to file a patent application. Most foreign countries do not provide any grace periods, so you would need to secure a patent filing date prior to any public disclosures. Patent rights may significantly boost the value of your startup. A few simple measure can help prevent you from forfeiting these rights.

Even if you decide to launch your product first and file a patent application within a year, the timing is less than optimal since others could beat you to the Patent Office with a patent application for a similar concept.

#### **First steps for startups in obtaining patents**

Before spending any money, it is critical for entrepreneurs to understand how getting a patent is different from infringing a patent. Getting a patent does not mean you automatically have the right to make/sell your product.



It is equally important to understand the differences between utility patents and design patents. Design patents protect how an invention looks while utility patents protect how an invention works. Ask yourself whether you want to protect how your concept looks or how it works, or both. Utility patents cost significantly more than design patents, and involve a much longer prosecution process.

### **Pick the right patent search**

There are different types of patent searches for different purposes:

1. a novelty search (aka patentability search) to determine if your invention may be patentable;
2. an infringement search to determine if your product might infringe other patents; and
3. a validity search to determine if someone's else patent is valid over pre-existing patents, literature and products ("prior art").

For startups on a tighter budget, I generally recommend the patentability search so as to determine if it would be worthwhile to file a utility patent application. While an infringement search may provide some peace of mind, a search may be cost-prohibitive depending upon the technology and number of features included in your product.

### **File patent applications early to beat other startups**

Once you've decided to patent your product, don't delay. It's a race to the Patent Office under the first-to-file rule. Nobody cares about how long ago you came up with an idea. You need to secure an earlier patent filing date before others beat you to it.

Provisional patent applications can be helpful in securing earlier filing dates without spending too much money upfront. But, you'll have only one year to convert your provisional applications to nonprovisional applications.

### **Flat rate patent fees for startups in Tanzania**

Costs for the initial preparation and filing of a utility patent application vary widely, depending upon the law firm and patent practitioner. Our firm offers fixed fees for the drafting and filing of a utility nonprovisional patent application. Our estimate process involves a free preliminary review of your invention disclosures which allows Tanzania to provide a flat rate estimate for drafting and filing the utility application.

Our firm does not sign NDA prior to reviewing invention disclosures to the high number of estimate requests from potential clients. Accordingly, we recommend that any potential



client send only a general description of the invention so that we can provide a ballpark quote for the initial filing. Estimates will only increase if the client changes the scope of the application (e.g., adding new features of the invention). In any event, we will always advise of any additional increases in the estimates and seek preapproval before commencing work on the new features.

### **Should your startup consider an international patent?**

Foreign patents may play an important role in your startup company's manufacturing and licensing activities abroad. If you want foreign patents, you need to do at least two things:

1. Make sure you did not publicly disclose your invention prior to filing a patent application; and
2. File an international application, such as a PCT application, by the relevant deadline.

Expect a long, expensive slog for utility patent protection

Utility patents can be very challenging to obtain, so don't expect a quick and inexpensive process. Instead, anticipate that you to get rejected multiple times if you want a stronger patent with broader claims. Expect a high rate of rejection and years of back-and-forth with the Patent Office.