



Tanzania mainland (Tanganyika) is separate jurisdiction from Zanzibar as far as registration of patents is concerned. Intellectual Property not being a union matter, each constituent member of the United Republic of Tanzania has its own laws regulating the registration and protection of the same.

An invention is patentable in Tanzania, if it is new, involves an inventive step and is industrially applicable. This is the test for patentability as provided for under S. 8 of the Patent (Registration) Act, Cap 217 (the Act). These three criteria are further elaborated under the provisions of Ss 9, 10, and 11 of the Act respectively.

Application for the registration of a patent in Tanzania is done through filing form no. P 2 which must be accompanied by a patent document in triplicate. Patent document refers to the entire contents of a patent description of an invention that form the basis for an application for Patent right. It is comprised of the title of an invention, general description of the invention, the claim(s), an abstract and technical drawing (if any). The request for registration of a patent must also be accompanied by a power of attorney made in favour of the Agent who will handle the entire process on behalf of the applicant.

All applications are filed at the Tanzania Patent Office which is located at Business Registrations and Licensing Agency (BRELA). After filing the application, there are a number of steps which the patent office has to take before one can be granted a patent; the steps are as follows;

Preliminary Examination

The sole purpose of this is to determine whether the minimum requirements for obtaining a filing date have been met. These requirements include payment of application fees, and whether the patent document is in the required language.

Formal Examination

At this stage the application will be examined to determine whether it complies with the formal requirements. Here, an in depth analysis of the application is conducted to see if the application is in order and all the required details as prescribed by the law have been provided.

Novelty Search

If the formal requirements have been complied with, it follows that the Patent Office will



carry out a novelty search ,and will prepare a novelty search report on the basis of the claims, with due regard to the description and drawings (if any). The Patent Office will cause an examination to be carried out as to whether the application appears to comply with the requirement of unity of invention.

Publication

Irrespective of the course of the procedure of grant, when the decision to grant is made, the applicant will be requested to pay the grant and publication fees within three months from date of notification. Upon payment of the grant and publication fees, the Patent Office allots the patent registration and publication number, in the sequential order of grant, and shall publish a reference to the grant in the Patents Journal.

Substantive Examination

The Act empowers the Minister responsible for patents, by regulations, to direct that applications for patents relating to a specified technical field to be subjected to an examination as to substance. If in the opinion of the Patent Office that the subject matter of an invention for which a patent is sought falls within a technical field covered by the terms of a direction by the Minister, examination as to substance will be carried out to establish whether the claimed invention is patentable, or whether it is excluded from the patentability and whether the description and the claims complies with the prescribed requirements.

The Grant

Within four months from the date of publication of a reference to the grant, the patent will be granted in a prescribed form of grant which contains, apart from information included in the publication of a reference to the grant, the date of publication of the patent and the address of the inventor and the owner of the patent. The patent is deemed to be granted on the date the Patent Office published a reference to the grant. After grant, a patent certificate will be issued in a prescribed form. The grant will be entered in the Patents register.

Opposition

After publication of the grant, the file becomes open to the public for inspection upon payment of search fees. Thus, upon inspection one may find that they have a ground for opposition. In such a situation, an opposition can be made by way of filing a request for



correction of errors in any document filed with the Patent Office. This request can be made by any person within three months after the date of publication in a form of notice of opposition. The notice of opposition must be supported by a statement in duplicate setting out fully the facts on which the opponent relies and the relief which he seeks.

The Patent Office will send a copy of the notice and the statement to the person making the request who, if he desires to proceed with his request for grant of a patent, he must file a counter-statement in duplicate within three months from the date of receiving a notice of opposition. After receiving the counter-statement, the Patent Office will give such directions as it may think fit with regard to the subsequent proceedings.

Applications for Reconsideration and Appeals

If the applicant is dissatisfied with the decision of the registrar he may either apply for reconsideration or he may appeal. A request for reconsideration of the decision may be filed at the patent office whereas the appeal goes to the High Court against the decision of the Patent Office which fixes a filing date, rejects the application, and treats the application as if it had not been filed, considers any of the claims to be withdrawn or refuses to grant a patent. With respect to plant varieties, an appeal shall lie to the Appeals Board from the decisions of the Registrar.

Conclusion

In the upshot, the patent registration procedure in Tanzania mainland is as outlined herein above. From filing an application to grant of patent, it may take up to four months, if all is in order. Furthermore, annual fees are due for the maintenance of patent protection, both in respect of a published application and for a granted patent. The first payment of annuities becomes due on the date of the publication of the patent application. Further annuities are payable on the anniversaries of the filing date.