



PATENT by Intellectual Property Association Nigeria IPLAN

A patent is an exclusive right granted in respect of an invention, which may be a product or a process that provides a new and inventive way of doing something, or offers a new and inventive technical solution to a problem.

Examples of patents range from electric lighting (patents held by Edison and Swan) and plastic (patents held by Baekeland), to ballpoint pens (patents held by Biro), microprocessors (patents held by Intel, for example) telephones (patents held by Bell) and CDs (patents held by Russell).

An invention must, in general, fulfill the following conditions to be protected by a patent:

- It must be new or novel, that is, it must show some new characteristic which is not known in the body of existing knowledge (called “prior art”) in its technical field.
- It must be non-obvious or involve an inventive step, that is, it could not be deduced by a person with average knowledge in the technical field.
- It must be useful or capable of industrial application;
- Finally, the invention must be part of the so-called “patentable subject matter” under the applicable law. In many countries, scientific theories, mathematical methods, plant or animal varieties, discoveries of natural substances, commercial methods, or methods for

medical treatment (as opposed to medical products) are not considered to be patentable subject matter.

Inventions that fall within the following categories cannot be patented in Nigeria:

- A scientific or mathematical discovery, theory or method
- A literary, dramatic, musical or artistic work
- A way of performing a mental act, playing a game or doing business
- The presentation of information, or some computer programs
- An animal or plant variety
- A method of medical treatment or diagnosis
- Against public policy or morality.

Protecting Your Invention

The most common and efficient way of protecting an invention is by obtaining a patent. A patent is granted by the patent office of the country in which you wish to protect your invention. Patent rights are granted in return for the inventor's full disclosure of the technology to the public in the patent application. Patent registration and administration in Nigeria is managed by the Patent Registry.

Patent Registration in Nigeria

The first step in securing a patent is the filing of a patent application. The patent application generally contains the title of the invention and a brief statement of the technical field in which the invention lies, as well as the background and a description of the invention in a manner sufficiently clear for it to be evaluated and carried out by a person having ordinary skill in the arts.

Such descriptions are usually accompanied by visual materials such as drawings, plans, or diagrams to better describe the invention. The application also contains various "claims", that is, information which determines the extent of protection granted by the patent.

The patent rights are usually enforced in a court, which, in most systems, holds the authority to stop patent infringement. Conversely, a court can also declare a patent invalid upon a successful challenge by a third party.

The owner of a patent may, in principle, exclude others in the territory covered by the patent from **making, using, offering for sale, importing or selling** the invention **without his or her consent**. Furthermore, the patent owner may give permission to, or license, other parties to use the invention on mutually agreed terms. The owner may also sell the right to the invention to someone else, who will then become the new owner of the patent.

Benefits of Patent Registration

Patents provide incentives to individuals by offering them recognition for their creativity and material reward for their marketable inventions. These incentives encourage innovation, which assures that the quality of human life is continuously enhanced.

Furthermore, patent owners are obliged, in return for patent protection, to publicly disclose information on their invention. Such an ever-increasing body of public knowledge promotes further creativity and innovation by future researchers and innovators.

About Us (IPLAN)

IPLAN is the frontline association of lawyers focusing on intellectual property issues of both national and international impact. IPLAN is constituted by lawyers, judges, policymakers, academics, practitioners and Law Students involved directly or indirectly in the practice of patent, industrial design, trademark, copyright, trade secret, and unfair competition law; as well as other fields of law affecting intellectual property.

MEMBERSHIP

Membership of IPLAN is open to Lawyers interested in Intellectual Property law in Nigeria. Intending members must be of good character and in good standing within the legal profession.

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