

KENYA INDUSTRIAL PROPERTY INSTITUTE

AS DESIGNATED (OR ELECTED) OFFICE

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List of abbreviations:

Office: Kenya Industrial Property Institute

KPL: Industrial Property Act of Kenya

KR: Regulations under the Industrial Property Act of Kenya

SUMMARY**Designated
(or elected) Office****SUMMARY****KE KENYA INDUSTRIAL PROPERTY INSTITUTE KE****Summary of requirements for entry into the national phase**

Time limits applicable for entry into the national phase:	Under PCT Article 22(1): 30 months from the priority date Under PCT Article 39(1)(a): 30 months from the priority date
Translation of international application required into: ¹	English
Required contents of the translation for entry into the national phase: ¹	Under PCT Article 22: Description, claims (if amended, as amended only, together with any statement under PCT Article 19), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts has been amended, only as amended by the annexes to the international preliminary examination report)
Is a copy of the international application required?	The applicant should only send a copy of the international application if he has not received Form PCT/IB/308 and the Office has not received a copy of the international application from the International Bureau under PCT Article 20. This may be the case where the applicant expressly requests an earlier start of the national phase under PCT Article 23(2).
National fee: ¹	Currency: US dollar (USD) For patent: National processing fee: USD 150 Annual fees for the second and subsequent years, per year: ² USD 300 For utility model: National processing fee: USD 50 Annual fees for the second and subsequent years, per year: ² USD 50
Exemptions, reductions or refunds of the national fee:	None
Special requirements of the Office (PCT Rule 51 <i>bis</i>): ³	Appointment of an agent if the applicant is not resident in Kenya Furnishing, where applicable, of a nucleotide and/or amino acid sequence listing in electronic form
Who can act as agent?	Any person registered to practice before the Office. A list of registered agents may be obtained from the Office.
Does the Office accept requests for restoration of the right of priority (PCT Rule 49 <i>ter.2</i>)?	Yes, please refer to the Office for the applicable criteria and/or any fee payable for such requests

¹ Must be furnished or paid within the time limit applicable under PCT Article 22 or 39(1).

² Late payment of annual fees is permitted in certain circumstances subject to the payment of a surcharge. The annual fee for the second year is due upon entry into the national phase.

³ If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

THE PROCEDURE IN THE NATIONAL PHASE

- KE.01 FORM FOR ENTERING THE NATIONAL PHASE.** The Office has available a special form for entering the national phase (see Annex KE.II). This form should preferably (but need not) be used.
- KE.02 TRANSLATION (CORRECTION).** Errors in the translation of the international application can be corrected with reference to the text of the international application as filed (see National Phase, paragraphs 6.002 and 6.003).
- KE.03 FEES (MANNER OF PAYMENT).** The manner of payment of the fees indicated in the Summary and in this Chapter is outlined in Annex KE.I.
- KPL Sec. 44
KR Sec. 28 **KE.04 EXAMINATION.** The Office may subject the application to search and/or examination by competent authorities upon the request of the applicant and upon payment of a fee, the amount of which is indicated in Annex. KE.I.
- KPL Sec. 34(2)
(3)
(4) **KE.05 REPRESENTATION.** Where the ordinary residence or principal place of business of the applicant is outside Kenya, the appointment of an agent who is a citizen of Kenya and is registered to practice before the Office must be indicated for the purposes of national processing. This may be done on the form, a model of which is given in Annex KE.II.
- PCT Art. 28
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KPL Sec. 36
KR Sec. 20 **KE.06 AMENDMENT OF THE APPLICATION; TIME LIMITS.** The applicant may amend or correct the claims, description, and drawings in the international application at any time before the grant of the patent, provided that the scope of the subject matter of the application is not broadened thereby.
- KPL Sec. 61
KR Sec. 38 **KE.07 ANNUAL FEES.** For the due date of the first annual fee, see the Summary. A grace period of six months is granted for the payment of the annual fee upon payment of a surcharge. Where the applicant fails to pay the annual fee, the surcharge or both within the six month grace period he may, within a period of six months from the expiration of that grace period, apply to the Managing Director of the Office for the restoration of the patent or the application upon payment of the prescribed fee. The amounts of the annual fees and of the restoration fee are indicated in Annex KE.I.
- KPL Sec. 60 **KE.08 PATENT TERM.** The patent term expires at the end of 20 years from the filing date.
- PCT Art. 24(2)
48(2)
PCT Rule 82bis
KR Sec. 76 **KE.09 EXCUSE OF DELAYS IN MEETING TIME LIMITS.** Reference is made to paragraphs 6.022 to 6.027 of the National Phase. The Managing Director of the Office may, in his discretion, excuse the delay in meeting any time limit subject to such terms and conditions as he considers appropriate.
- PCT Art. 25
PCT Rule 51
82ter
KR Sec. 33(1) **KE.10 REVIEW UNDER ARTICLE 25 OF THE PCT.** The applicable procedure is outlined in paragraphs 6.018 to 6.021 of the National Phase. Where an international application designating Kenya is considered withdrawn or alleged to have been refused a filing date on account of an error or omission by the receiving Office or the International Bureau, the applicant may request the Managing Director of the Office to treat the international application as a national application. Such request should be accompanied by a statement of facts.
- KPL Sec. 47
112
113
114
115 **KE.11 APPEALS.** If, upon review under PCT Article 25, the Office denied an error or omission on the part of the receiving Office or the International Bureau, an appeal against this decision may be lodged with the Office. Appeals against a decision of the Managing Director are made to the Industrial Property Tribunal. Decisions of the Tribunal may be appealed to the High Court of Kenya and from there to the Court of Appeal.

- KPL Sec. 81 **KE.12 UTILITY MODEL.** If the applicant wishes to obtain a utility model instead of a patent in Kenya on the basis of an international application, it must be indicated in the international application (in Box V of the request) when filed. The fees relating to utility models are indicated in Annex KE.I.
- KPL Sec. 83 **KE.13 CONVERSION.** The applicant may at any time before grant or refusal of a patent convert an application for a patent into an application for a utility model and vice versa.

FEES**(Currency: US dollar)****Patents**

National processing fee	150
Request for search	100
Request for substantive examination	250
Annual fees:	
— for the 2nd year	300
— for the 3rd year	300
— for the 4th year	300
— for the 5th year	300
— for the 6th year	300
— for the 7th year	300
— for the 8th year	300
— for the 9th year	350
— for the 10th year	400
— for the 11th year	500
— for the 12th year	600
— for the 13th year	700
— for the 14th year	800
— for the 15th year	900
— for the 16th year	1,000
— for the 17th year	1,500
— for the 18th year	1,750
— for the 19th year	2,000
— for the 20th year	2,500
Surcharge for late payment of annual fees	150
Fee for restoration of an application or a patent	300

Utility models

National processing fee	50
Annual fees for a utility model application	50
Annual fees for a utility model certificate:	
— for the 1st year after grant	50
— for the 2nd year after grant	75
— for the 3rd year after grant	100
— for the 4th year after grant	125
— for the 5th year after grant	150
— for the 6th year after grant	175
— for the 7th year after grant	200
— for the 8th year after grant	225
— for the 9th year after grant	250
— for the 10th year after grant	275
Surcharge for late payment of annual fees	150
Fee for restoration of an application or a utility model certificate	300

How can payment of fees be effected?

The payment of fees to the Office must be effected in US dollars. Payment of fees can be made by cash payment, by bank draft or money order. All payments must give the application number (national if already known; international if the national number is not yet known).

FORM IP 13
Regulation 32

THE INDUSTRIAL PROPERTY ACT, 2001

The Managing Director,
Kenya Industrial Property Institute.

REQUEST FOR NATIONAL PROCESSING OF AN INTERNATIONAL
APPLICATION FOR A PATENT

I/We, the applicants named below, request that our international application identified below be treated as an application under the Act.

Name and address of applicants(s)	
International Application number	
Name and address of agent (if any)	
This application is made by virtue of the fact that the Institute is	<input type="checkbox"/> A designated office under chapter 1 of the Patent Cooperation Treaty
	<input type="checkbox"/> An elected office under chapter 11 of the Patent Cooperation Treaty
Documents accompanying the application	<input type="checkbox"/> Search report
	<input type="checkbox"/> International Preliminary Examination report
	<input type="checkbox"/> Cited Documents
	<input type="checkbox"/> FORM IP 4(statement justifying applicants right to Patent/utility model certificate)
	<input type="checkbox"/> FORM IP 39 (appointment of Agent)
	<input type="checkbox"/> Any other (specify)

Dated atthis.....day of, 20.....

Signature.....