

NATIONAL AND REGIONAL LEGAL FRAMEWORKS WITH RESPECT TO PROTECTION OF MICROORGANISMS



Contents

- What is IP?
 - Forms of IP
 - Definition of patents
 - Basic Patentability criteria
 - Exclusions from patentability
 - Patentability of microorganisms
 - Regional Protection microorganisms
 - Conclusion
- 

What is IP?

- A work or invention that is the result of creativity, to which one has rights and for which one may apply for a patent, copyright, trademark, etc. (*Oxford online Dictionary*)



Forms of IP

CREATION	FORM OF IP PROTECTION
Literary and artistic works	Copyright
Improvements to existing inventions	Utility models
New products/processes providing solutions to existing problems	Patents
Product/Service identifiers in the market	Trademarks/Service marks
Business secrets	Trade secrets

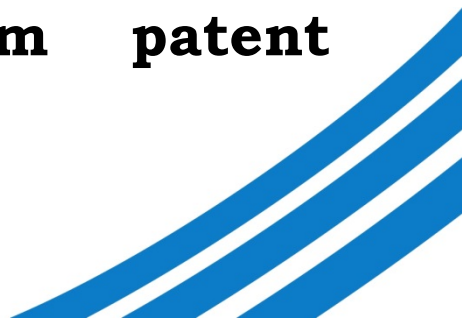
Definition of Patents

- No precise definition in the Industrial Property Act, 2014 and the Harare Protocol, 2019 as Amended.


A patent is an exclusive right granted by government, for a limited period of time, for an invention; which could be a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem (WIPO)

e.g. process of fermenting beer, use of bacteria in bakery, wine and anti-biotic industry, bacteria for the manufacture of vaccines,

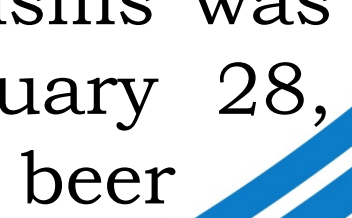
Basic Patentability Criteria

- **The threefold requirements of patentability are set out in the Industrial Property Act, 2014.**
 - The invention must be new, must involve an inventive step; and that it must be capable of industrial application. Sec.(9) of the Industrial Property Act, 2014.
 - **Article 27 of TRIPS stipulates that patents shall be available for any invention, whether products or processes, in **all fields of technology**, provided they are new, involve an inventive step and are capable of industrial application.**
 - **Sec. 8(3) of the Industrial Property Act, 2014 listed the different aspects excluded from patent protection.**
- 

Exclusions from patentability- Sec 8(3)

- a) Discoveries, scientific theories and mathematical methods;**
 - c) Diagnostic, therapeutic and surgical methods for the treatment of humans or animals**
 - e) Plants and animals other than microorganisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes**
 - f) Pharmaceutical products.....**
 - g) Natural substances, whether purified, synthesized or otherwise isolated from nature; except the process of isolating those substances from their original environment; and**
 - h) The human body and all its elements in whole or in part**
- 


Patentability of microorganisms

- Bacteria, fungi and viruses constitute the major group of microorganisms that have been exploited extensively by biotechnologists worldwide
 - The genetic material of these microorganisms serving as raw materials are converted into desirable forms using sophisticated techniques of genetic engineering
 - First patent based on microorganisms was made by Louis Pasteur on January 28, 1873, for the process of fermenting beer
- 


Patentability of microorganisms

▪Sec.(16) of the Industrial Property Act, 2014.

(1) Where an invention concerns a microbiological process or the product of that process and involves the use of microorganisms which is not available to the public and which cannot be described in the patent application in such a manner as to enable the invention be carried out by a person skilled in the art, the invention shall only be regarded as disclosed if-




Patentability of microorganisms

- **Sec.(16)(1)(a)**- a culture of the micro-organism has been deposited with a depository institution not later than the filing date of the application;
 - **Sec.(16)(1)(c)**- the depository institution and the file number of the culture deposit are stated in the application.
 - **Sec.(16)(6)**- In this section “depository institution” means a place where biological organisms are stored.
- 


Regional Protection of microorganisms- ARIPO

Rule 6bis Harare Protocol Patent Applications Relating to Micro-organisms

6bis. 1. Applications (1) The description of an invention in an application for a patent which requires for its performance the use of a micro-organism— (a) which is not available to the public at the date of filing the application; and (b) which cannot be described in the application in such a manner as to enable the invention to be performed by a person skilled in the art shall be regarded as disclosing the invention only if—



Regional Protection of microorganisms- ARIPO

- (i) not later than the date of filing of the application, a culture of the micro-organism has been deposited with an international depository institution;
 - (ii) the name of the depository institution, the date when the culture was deposited and file number of the deposit are given in the application, and, where a new deposit is made under paragraph 6bis.4 below, the applicant or proprietor makes a new deposit in accordance with that paragraph.
- 

Regional Protection of microorganisms- ARIPO

(ii) the name of the depository institution, the date when the culture was deposited and file number of the deposit are given in the application, and, where a new deposit is made under paragraph 6bis.4 below, the applicant or proprietor makes a new deposit in accordance with that paragraph.

Annex L- Deposits may also be made for the purposes of patent procedure before ARIPO with any depository institution.

<https://www.OMPI.int/budapest/en/idadb/>



Conclusion:

- System available for Ugandan applicants at both the national and regional level to protect microorganisms
- Office offers guidance on how to acquire protection of inventions in this area



Thank you!

www.ursb.go.ug

Email: ip@ursb.go.ug

Face book: URSBHQ

WhatsApp: +256712448448

Headquarters

Plot 5 George St. Georgian House

P.O Box 6848

Kampala

Regional Offices

- Mbarara- Plot 1, Kamukuzi Hill
- Gulu: Plot 6B Princess Road
- Arua: Plot 42/44 Packwach Road
- Mbale: Plot 3, Park Crescent

Branch Offices

- Posta Uganda: Kampala Road
- UIA: Lumumba Avenue
- Nakivubo Branch: Sekaziga House