Regional Seminar for Certain African Countries on the Implementation and Use of Several Patent-Related Flexibilities

*Topic 7: Flexibilities Related to the Definition of Patentable Subject Matter*
REGIONAL SEMINAR FOR CERTAIN AFRICAN COUNTRIES ON THE IMPLEMENTATION AND USE OF SEVERAL PATENT-RELATED FLEXIBILITIES

TOPIC 7: FLEXIBILITIES RELATED TO THE DEFINITION OF PATENTABLE SUBJECT MATTER

Durban, South Africa
January 29 to 31, 2013
Industrial Property Code | TRIPs Agreement
---|---
1. An invention shall be patentable if it is new, if it involves an inventive activity and if it is capable of industrial application. | 1. subject to the provisions of paragraphs 2 and 3 patents shall be available for any inventions, whether products or processes, in all field of technology, provided that they are new, involve an inventive step and are capable of industrial application.

2. The following are excluded from patent protection: a) That which is contrary to morality, *bonos mores, public safety, public order and public health*; | 2. Members may exclude from patentability inventions that are contrary to *ordre public or morality*…
**Industrial Property Code**

2. The following are excluded from patent protection:

b) All or part of living beings, although microbiological processes and products obtained from such processes are patentable.....

g) Methods of surgical, therapeutic or diagnostic treatment applicable to the human body or animals, although the products, substances or compositions used in any of such methods shall be patentable;

**TRIPs Agreement**

3. Members may also exclude from patentability:

a) Diagnostic, therapeutic and surgical methods (human or animals)

b) Plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.
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<tr>
<th>Industrial Property Code</th>
<th>TRIPs Agreement</th>
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<td>The following shall not be considered inventions for the purposes of this diploma:</td>
<td>Art. 9 (2) Copyright protection shall extend to</td>
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<td>a) Scientific theories and mathematical methods;</td>
<td>expressions and not to ideas, procedures, methods</td>
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<td>b) Discoveries aimed at making known or revealing something which already exists</td>
<td>of operation or mathematical concepts as such.</td>
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<td>naturally, notwithstanding that it was heretofore unknown to man;</td>
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<td>c) Systems, plans, rules and methods for the performance of purely intellectual</td>
<td>Art. 10 computer programs, whether in source or</td>
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<td>activities, playing games or economic activities;</td>
<td>object code, shall be protected as literary</td>
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<td>d) Computer programs;</td>
<td>works under the Berne Convention (1971)</td>
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<td>e) Aesthetic creations and artistic or literary works;</td>
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<td>f) Presentation of information;</td>
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<td>h) Substances, materials, mixtures, elements or products of any type resulting from</td>
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<td>atomic nuclear transformation, as well as the modification of their physical and</td>
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<td>chemical properties and the respective processes for obtaining or modifying them.</td>
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An invention shall be patentable if it is new, if it involves an inventive activity and if it is capable of industrial application.

Requirements of patentability

- Novelty
- Inventive Step
- Industrial Application
1. The following shall not be considered as invention:

a) Scientific theories and mathematical methods;

b) Discoveries aimed at making known or revealing something which already exists naturally, notwithstanding that it was heretofore unknown to man;

c) Systems, plans, rules and methods for the performance of purely intellectual activities, playing games or economic activities;
Patentable Subject Matter- Mozambican Industrial Property Code, Art 30

Not Considered as inventions (cont.):

d) Computer programs;

e) Aesthetic creations and artistic or literary works;

f) Presentation of information;

Protected under copyright law
Patentable Subject Matter- Mozambican Industrial Property Code, Art 30

Not considered as inventions (Cont.):

g) Methods of surgical, therapeutic or diagnostic treatment applicable to the human body or animals, although the products, substances or compositions used in any of such methods shall be patentable;

h) Substances, materials, mixtures, elements or products of any type resulting from atomic nuclear transformation, as well as the modification of their physical and chemical properties and the respective processes for obtaining or modifying them.
2. The following are excluded from patent protection:

a) That which is contrary to morality, public order and public health;

b) All or part of living beings, although microbiological processes and products obtained from such processes are patentable.

Access to Genetic Resources and Benefit Share-ABS Nagoya Protocol & Decree 19/2007
ETHICAL LIMITS TO PATENTABILITY

Inventions

- Excluded from Protection
  - Invention (problem) Kept in Secret
  - Excluded From Patentability Under the IP Law
- Eligible to Protection
  - Solution (Invention)
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