



ARIPO

*African Regional Intellectual
Property Organization*

National Phase Examination at ARIPO and ARIPO's Experience with Work-Sharing

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ARIPO, Harare, Zimbabwe
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Fostering Creativity and Innovation for Economic Growth and Development in Africa

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Introduction



Fostering Creativity and Innovation for Economic Growth and Development in Africa

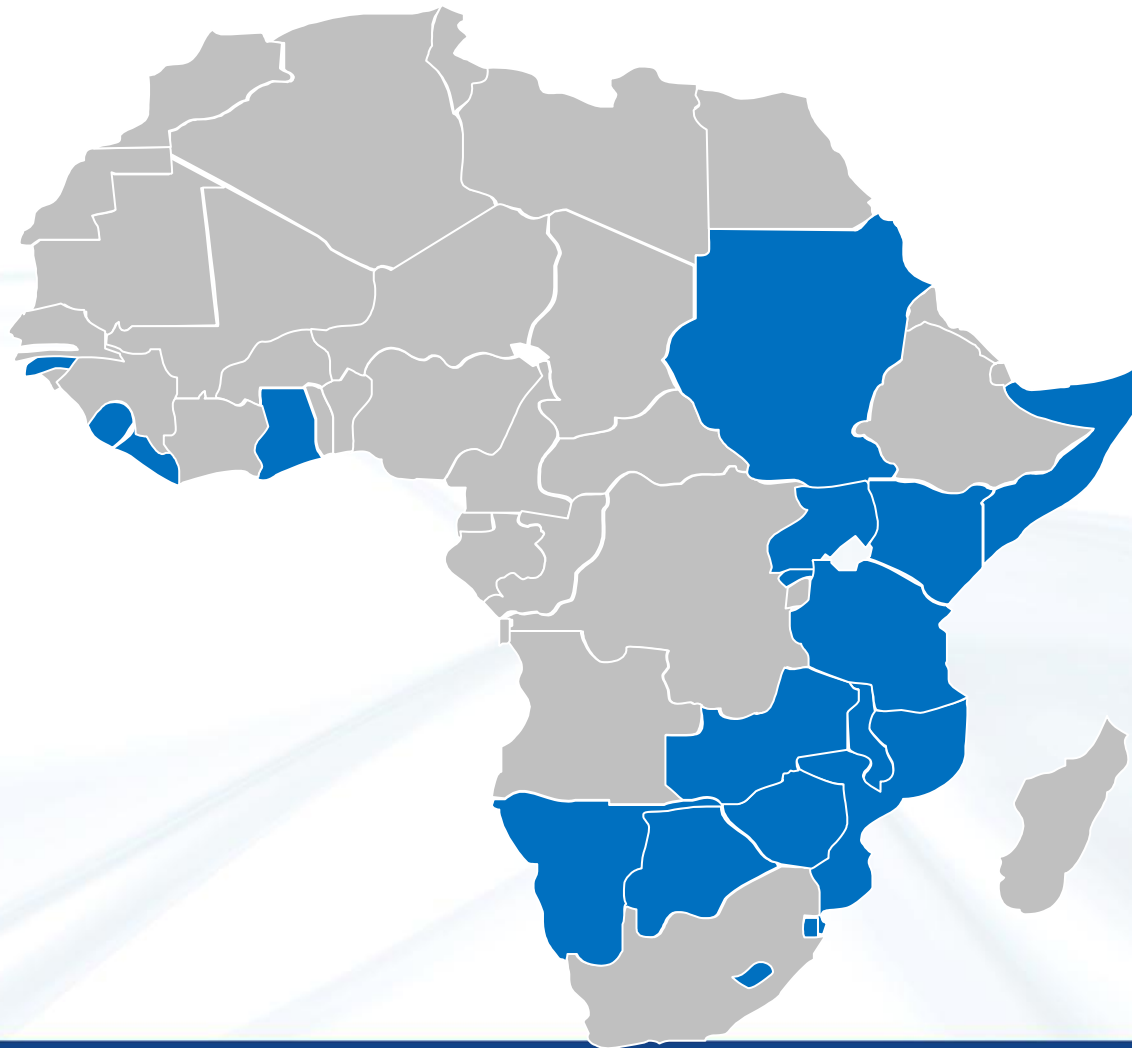
The Organization

- **Established in 1976 under the Lusaka Agreement**
- **Objectives:**
 - Promotion, harmonization and development of IP;
 - **Establish common services and organs for IP coordination, development and harmonization**
 - Establish IP Capacity Building schemes;
 - **Organize conferences, seminars and meetings on IP**
 - Promote exchange of ideas and research on IP;
 - Promote a common view and approach in dealing with IP matters;
 - Support members in acquisition of IP based technologies;
 - Development of IP systems for the economic benefit of its member states.



Membership of The Organization

- Botswana
 - Gambia
 - Ghana
 - Kenya
 - Liberia
 - Lesotho
 - Malawi
 - Mozambique
 - Namibia
 - Rwanda
 - Sao Tome & Principe
 - Sierra Leone
 - Somalia
 - Sudan
 - Swaziland
 - Tanzania
 - Uganda
 - Zambia
 - Zimbabwe
- = 19**



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ARIPO's Mandate

Patents and Utility Models

Harare Protocol (1982)

Industrial Designs

Harare Protocol (1982)

Marks

Banjul Protocol (1993)

Traditional Knowledge (TK) and expressions folklore (EoF)

Swakopmund Protocol (2010)

Copyright

VIII Session Council Min - 2002, Malawi

Access and Benefit Sharing

Guidelines for ABS

Geographical Indications

Regional Framework?

Plant Variety Protection

Arusha Protocol (2015)



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The ARPO Patent System

- **Based on the Harare Protocol (HP). HP adopted in 1982 and entered into force in 1984**
- **HP empowers ARIPO to grant patents; register utility models and industrial designs and to administer such patents, utility models and industrial designs on behalf of Contracting States**
- **HP Membership: All member States of ARIPO (except Somalia) are party to the HP**



The link between the HP and the Patent Cooperation Treaty (PCT) - **(Section 3bis)**

- HP linked to the PCT in 1994
- 18 member States of ARIPO (AP) are PCT contracting states
- Any applicant filing a PCT application automatically designates AP (18 member States)
- AP acts as a receiving office under the PCT
- AP may be elected in any PCT application

**> 95% of
ARIPO
applications
come through
PCT!**

HP Exclusions from Patentability

- The following in particular shall not be regarded as inventions within the meaning of paragraph (10)(a) - **Section 3(10)(h)**:
 - (i) discoveries, scientific theories and mathematical methods;
 - (ii) aesthetic creations;
 - (iii) schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
 - (iv) presentations of information.



Exceptions to Patentability - **Section 3(10)(j)**

- Patents shall **not** be granted in respect of:
 - (i) Inventions the commercial exploitation of which would be **contrary to “ordre public” or morality**; such exploitation shall not be deemed to be so contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;
 - **(ii) Plant or animal varieties or essentially biological processes for the production of plants or animals**; this provision shall not apply to microbiological processes or the products thereof;
 - **(iii) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods** practiced on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods.



ARIPO National phase examination



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Formality Examination

- **Sec. 3(2); Rule 15**
- **Formality Section checks compliance with provisions governing:**
 - **Form and content of application, the description, claims, declaration of priority, authorization of representative and fees to be paid**
- **Formal requirements not met, Applicant invited to correct application**
- **Formal requirements met, designated State and applicant notified of compliance with formal requirements**



Substantive Examination

- **Section 3(3); Rule 18**
- **Carried out upon request**
- **Request filed within 3 years of the filing date**



The Requirements for Patentability

- **Section 3(10)(a)**
- **Patents shall be granted for any inventions, in all fields of technology, provided that they are:**
 - **new**
 - **involve an inventive step and**
 - **are susceptible of industrial application**



Novelty

- **Section 3(10)(b)**
- **An invention shall be considered to be **new** if it is not anticipated by the **prior art****

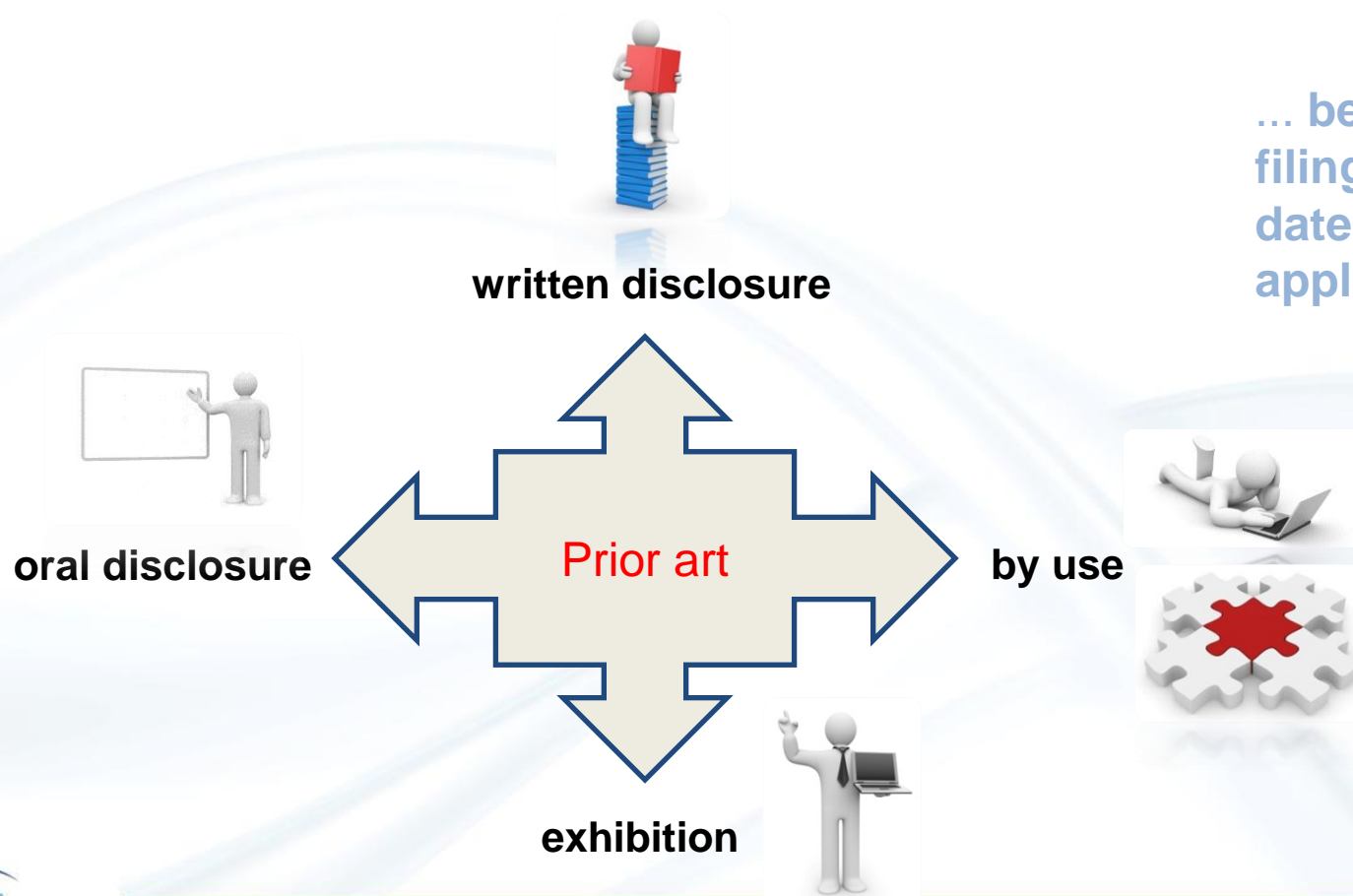


What is "Prior Art"? - Section 10(c)

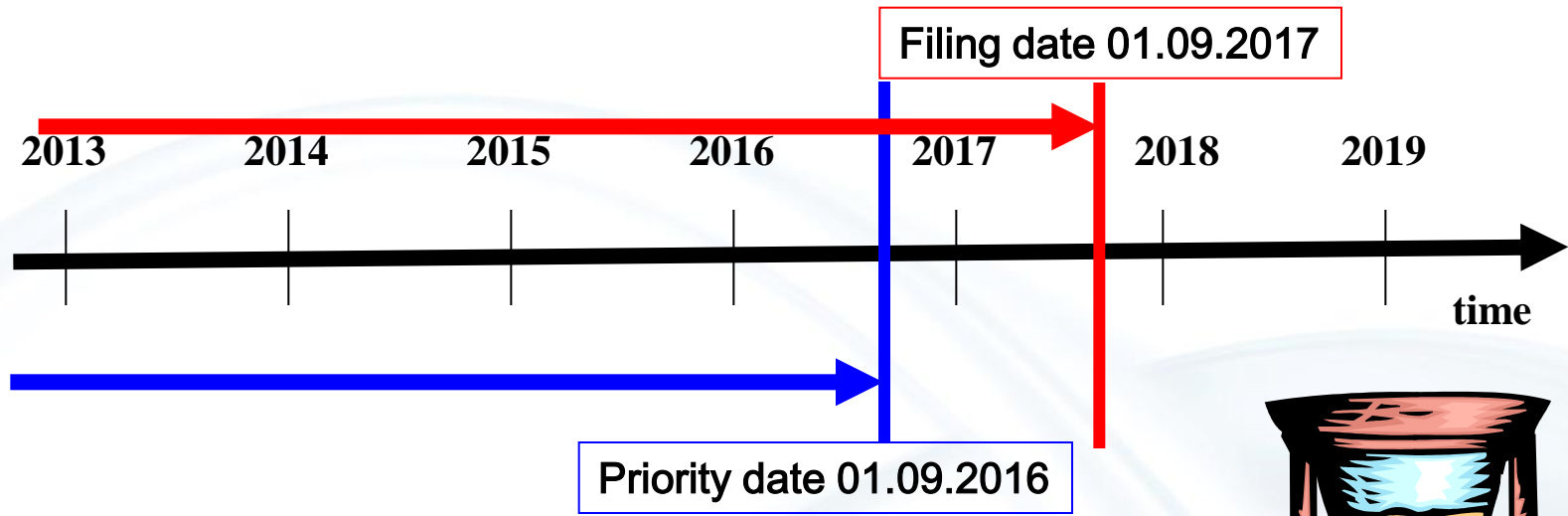
Everything made available to the public anywhere in the world by means of

...

... before the
filing / priority
date of the
application



Which Disclosures Can We Use?

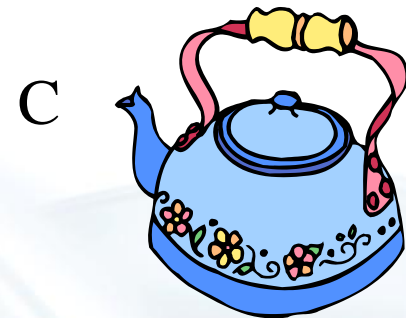
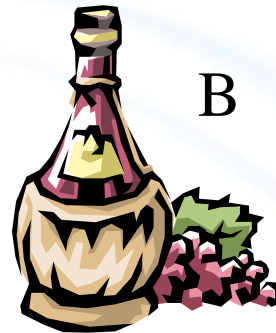
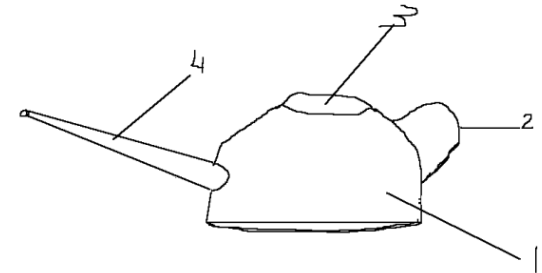


Everything made available to the public **before the date of filing (priority)**



Example – Prior Art

A device for watering plants having a water- containing portion (1), a handle (2), an opening with a lid (3) and a spout (4)*.



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*A projecting pipe or tube, e.g. as in a teapot.

Example of a Search Report

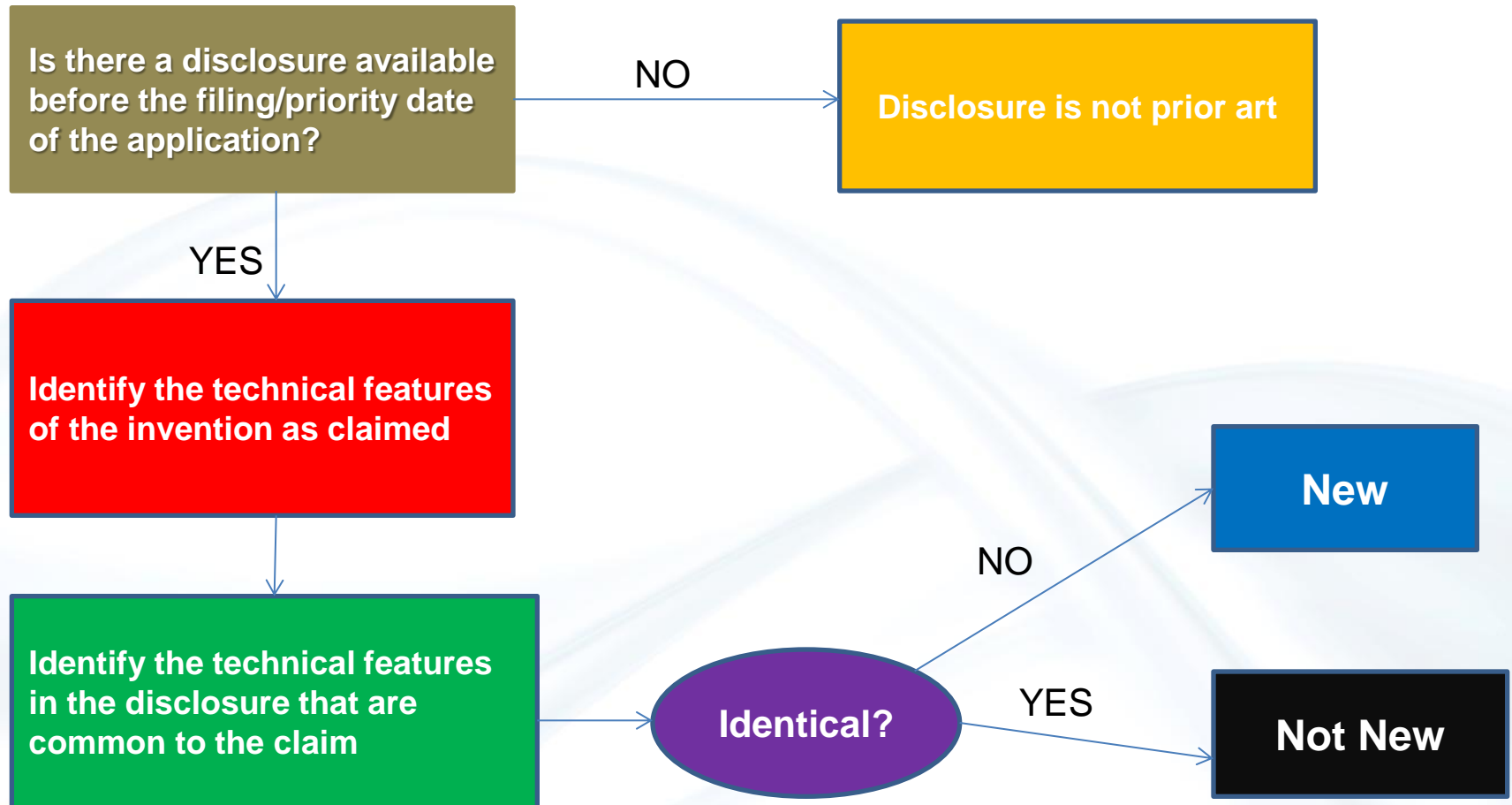
C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27	7-9, 11
X	GB 392415 A (JONES) 18 May 1933 (18.05.33) Fig. 1 page 3, lines 5-7 Fig. 5, support 36	1-3
Y		4, 10
A		11-12
X	GB 2174500 A (STC) 5 November 1986 (05.11.86) page 1, lines 5-15, 22-34, 46-80; Fig. 1	1-3
Y		4
A	US 4322752 A (BIXTY) 30 March 1982 (30.03.82) claim 1	1
A	GREEN, J.P. Integrated Circuit and Electronic Compass, IBM Technical Disclosure Bulletin, October 1975, Vol. 17, No. 6, pages 1344 and 1345	1-5

Symbols indicating which aspect of patentability the document cited is relevant to (for example, novelty, inventive step, etc.)

Documents relevant to whether or not your invention may be patentable

The claim numbers in your application to which the document is relevant

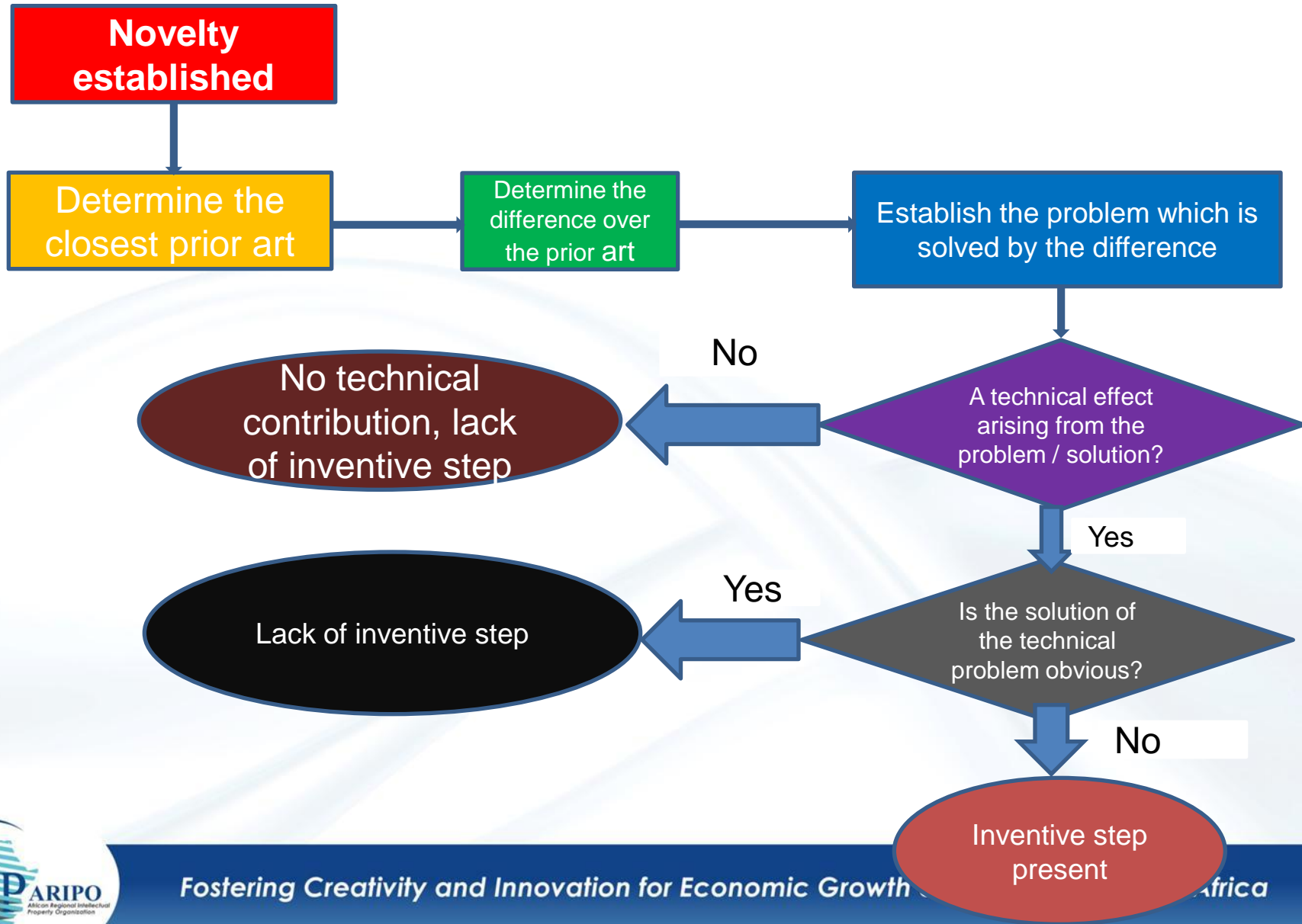
Is The Invention New?



Inventive Step

- **Section 3(10)(e)**
- An invention shall be considered as involving an inventive step if, having regard to the **prior art**, it is **not obvious** to a person **skilled in the art**
- How do we decide on obviousness?

Inventive Step



Industrial Applicability

- **Section 3(10)(f)**
- **An invention shall be considered as susceptible of industrial applicability if it can be made or utilized in any kind of industry, including agriculture**
- **The term “industry” is interpreted in the broadest possible terms**



ARIPO's Experience with Work-sharing

- **Utilization of:**
 - **international search and preliminary examination reports prepared by ISA and IPEA**
 - **patent prosecution information of corresponding foreign applications and patents**
 - **search and examination reports obtained through bilateral arrangements**
 - **International Cooperation for Examination (ICE) service of WIPO**



Benefits of Work-sharing

- Reduction in duplication of work
- Reduction of pendency period
- Reduction of workload
- Enhancing quality and consistency
-





African Regional Intellectual Property Organization

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