

Opposition systems

Zimbabwe

Section 17 of the Zimbabwe Patents Act (Chapter 26:03) provides that any person interested may file a notice of opposition within 3 months from the date of advertisement of acceptance of a complete specification or at any time before the sealing of the patent on any of the following grounds as provided under Section 17(1):

- (a) that the applicant is not a person entitled under section six to make the application;
- (b) that the application is in fraud of the rights of the person giving such notice or of any persons under or through whom he claims;
- (c) that the invention does not relate to an art, whether producing a physical effect or not, process, machine, manufacture or composition of matter which is capable of being applied in trade or industry;
- (d) subject to section *twenty-six*, that the invention is obvious in that it involves no inventive step having regard to what was common knowledge in the art at the effective date of the application;
- (e) that the invention, in so far as is claimed in any claim of the complete specification, is not useful;
- (f) that the complete specification does not fully describe and ascertain the invention and the manner in which it is to be performed;
- (g) that the claims of the complete specification do not sufficiently and clearly define the subject-matter for which protection is claimed;
- (h) that the complete specification does not disclose the best method of performing the invention known to the applicant at the time when the specification was lodged at the Patent Office;
- (i) that the application form or any other document filed in pursuance of the application contains a material misrepresentation;
- (j) that the matter described or claimed in the complete specification is not the same as that described in the provisional specification, and—
 - (i) in so far as it is not described in the provisional specification, was not new at the date when the complete specification was lodged at the Patent Office; or
 - (ii) forms the subject of a pending application made in Zimbabwe for a patent the effective date of which is prior to the date on which the complete specification was lodged at the Patent Office;
- (k) in the case of a Convention application, that the specification describes or claims matter other than that for which protection has been applied for in the Convention country and that such other matter either—
 - (i) forms the subject of an application for a patent in Zimbabwe which, if granted, would bear a date in the interval between the lodging of the application in the Convention country and the effective date of the application in Zimbabwe; or
 - (ii) is not an invention as defined in this Act;
- (l) that the invention was not new at the effective date of the application;
- (m) that the specification includes claims which, in terms of subsection (1) of section *thirteen*, should have been refused.

If the applicant wishes to contest the opposition, he shall, within the time prescribed or further time as the registrar of the Tribunal may allow, lodge with him a counter-statement setting out particulars of the grounds upon which the opposition is to be contested.

After receiving a notice of opposition under Section 17(1) and compliance with any other provisions of that section which are applicable, the registrar of the Tribunal shall arrange for the matter to be heard by the Tribunal in the manner prescribed and the Tribunal may make such order therein as it considers just (Section 17(8)).