

IF A PATENTEE HAS A PATENT ON A PRODUCT, CAN HE PREVENT ANOTHER PERSON FROM IMPORTING THE PRODUCT IN JAMAICA?

Yes. The Patent grants the right not only to exclude others from making but also from using or selling the invention in Jamaica.

SHOULD I ADVERTISE MY INVENTION TO APPLY FOR A PATENT?

Yes. A prerequisite to grant of Patent is that the applicant publish a Notice of Application in the Gazette and a daily newspaper once per week for four (4) consecutive weeks.

MAY ANYONE OBJECT TO THE GRANT OF PATENT?

Yes. Although the law is silent on the making or hearing of oppositions to grant, in practice objections are brought to the attention of the Examiner and the Hon. Attorney General for advice as to whether objection should be allowed.

CAN LETTERS PATENT BE REVOKED?

The grant of Letters patent is revocable by the Supreme Court in the following circumstances:-

- a. If the grant is contrary to law
- b. If the Patentee is not the true inventor
- c. If the alleged invention is proven not to be new

WHICH GOVERNMENT DEPARTMENT HAS RESPONSIBILITY FOR THE PATENT ACT?

The Jamaica Intellectual Property Office (JIPO).

JAMAICA INTELLECTUAL PROPERTY OFFICE

18 Trafalgar Road
Ground Floor, JAMPRO Building
Kingston 10

Phone: (876) 946-1300, 946-0789
Fax: (876) 927-6744
Website: www.jipo.gov.jm

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PATENT PROTECTION



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PAVING THE WAY TO GROWTH AND DEVELOPMENT THROUGH THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

WHAT IS A PATENT?

A patent is a grant by the State of a monopoly in the use of an invention to the inventor, thereby excluding others from making, using or selling the invention within the country of grant for a specified period of time. The inventor must in turn fully describe the invention. The disclosure of the invention allows others to work the invention and also assists in the spreading of technological information.

WHAT IS AN INVENTION?

An invention as described under the Patent Act is any new and useful process, machines, manufacture or composition of matters or any new and useful improvement thereof.

WHAT ARE THE CONDITIONS FOR GRANT OF A PATENT IN JAMAICA?

The conditions for grant of Letters Patent in Jamaica are:-

- i. Novelty – (not known or used in the island before)
- ii. Public utility

HOW LONG IS A PATENT EFFECTIVE?

Fourteen years from the date on which it is issued.

MAY THE TERM OF A PATENT BE EXTENDED?

Yes. The patent Act provides that the Governor General may, if it is considered expedient, extend the Patent for a further term of seven years.

AFTER A PATENT HAS EXPIRED, HAS THE INVENTOR ANY EXCLUSIVE RIGHTS IN HIS INVENTION?

No. After a Patent has expired anyone may use or sell the invention in Jamaica provided other patents are not infringed.

DOES THE GRANT OF A PATENT IN JAMAICA MEAN THAT THE INVENTION IS PROTECTED IN OTHER COUNTRIES?

No. Protection in foreign countries can only be secured by obtaining Patents in such countries.

DO FOREIGN PATENTS PROTECT AN INVENTION IN JAMAICA?

No. Protection in Jamaica can only be secured by obtaining a Jamaican patent

HOW DOES ONE OBTAIN A PATENT

By filing a petition accompanied by a declaration and specification with Jamaica Intellectual Property Office (JIPO)

SHOULD ONE PREPARE HIS OWN PATENT APPLICATION?

If an inventor is confident that he is able to give a clear and detailed description of his invention, he may elect to prepare the Specification himself. However, since the preparation of Patent documents is quite complex it is recommended that an Attorney-at-Law with experience in the specialized field be consulted.

WHAT PAPERS ARE REQUIRED WHEN FILING A PATENT?

Petition, Declaration, Specification in duplicate and Form of Letters Patent. If the application is not being filed by the inventor, the following documents may also be required – Power of Attorney, Assignment and Affidavit.

WHAT IS A PETITION?

This is the formal request to the Governor General for grant of Letters patent. (An example of the form of a Petition is shown in the Schedule (Form A) to the Patent Act.

WHAT IS A DECLARATION?

This a sworn statement made by the inventor or his assignee in the presence of a Justice of the Peace that to the best of his knowledge he is the true and first inventor and that the invention is not in use by any other person or persons. An example of the form of Declaration is shown in the Schedule (Form B) to the Patent Act.

WHAT IS THE SPECIFICATION?

This is the written description of the invention. An example of the Specification is shown in the Schedule (Form C) to the Patent Act. The Specification is a public document and the law requires that it be presented in such detail, that those who use it will be able if the instructions are followed to reproduce the invention. In order that a proper examination and evaluation may be carried out, a Specification must contain a number of elements and usually in the following order:

WHAT DOES THE SPECIFICATIONS CONTAIN?

- A discussion of the prior art, i.e. background information and a statement of the problem to be solved.
- Statement of the object of invention, that is the benefits to be provided
- A summary or definition of the invention, that is the solution to the problem that the invention will provide.
- Detailed elaboration of all aspects of the invention.
- Description of the usefulness of the invention.
- Working examples which support the claims.

WHAT ARE THE CLAIMS?

A claim in a Patent is a distinct and explicit part of what the Patent is. It contains in a condensed form the description of the rights of the inventor which are to be protected by law.

WHAT IS THE FORM OF LETTERS PATENT?

This is the document signed by the Governor General giving permission to an inventor or his assignee to make, use, and vend the invention in Jamaica.

HOW CAN I GET A COPY OF THE PATENT ACT?

A copy of the Act can be purchased from the Jamaica Printing Services Limited, 77½ Duke Street, Kingston **OR** on the Ministry of Justice website www.moj.gov.jm (keyword Patent Act)

ARE DRAWINGS NECESSARY?

Drawings are not compulsory. If the invention can be illustrated in drawing, a drawing should be submitted.

IS A MODEL OF THE INVENTION NECESSARY?

Models are not compulsory. Examiners may however

request that models be submitted. In such cases, it is in the applicant's interest to comply.

WHO ARE THE EXAMINERS OF PATENT APPLICATIONS?

In practice, applications for Patent are referred to the Government Chemist, or the Director of the Bureau of Standards for technical examination.

IS IT ADVISABLE TO CONDUCT A SEARCH FOR PRIOR PATENTS BEFORE APPLYING FOR A PATENT?

Yes. It may be found that the invention is claimed in some prior Patent. In such a case a Patent could not be granted. A search may save the expense of filing an application which would be rejected.

WHERE CAN A SEARCH BE MADE?

At the Jamaica Intellectual Property Office (JIPO), 18 Trafalgar Road Ground Floor, JAMPRO Building Kingston 10

WHAT HAPPENS WHEN TWO INVENTORS APPLY SEPARATELY FOR A PATENT FOR THE SAME INVENTION?

The Registrar will determine based on evidence submitted who is the first inventor. Patent will be issued to the applicant who first filed papers at JIPO.

WHEN SHOULD ONE APPLY FOR A PATENT?

In view of the possibility of another inventor filing an application for the same invention, the application should be filed at JIPO as soon as it is completed.

IF TWO OR MORE INVENTORS WORK TOGETHER TO MAKE AN INVENTION, TO WHOM WILL THE PATENT BE GRANTED?

If each had a share in the ideas forming the invention, they are joint inventors and should file a joint application. The Patent will be issued to them jointly.

MAY A PATENT BE GRANTED IF THE INVENTOR DIES DURING TENDENCY OF HIS APPLICATION?

Yes. a Patent may be granted to the executors or administrators of the invention **MAY AN INVENTOR SELL OR TRANSFER HIS RIGHTS TO HIS PATENT APPLICATION TO SOMEONE ELSE?**

Yes. He may sell all or any part of his interest in his Patent by assignment

DOES JIPO HELP A PATENTEE TO PROSECUTE OTHERS IF THEY INFRINGE THE RIGHTS GRANTED BY HIS PATENT?

No. If a Patent is infringed the owner may sue the infringer in court. It is the owner's responsibility to protect his rights.

IS THERE ANY GUARANTEE THAT A PATENT WILL BE GRANTED?

No. All Patents are legally assumed valid till proven otherwise.

HOW SOON AFTER AN APPLICATION IS FILED WILL IT BE GRANTED?

This will depend on how well the application is prepared and other factors.

WILL THE INVENTION BE DISCLOSED BEFORE THE PATENT IS ISSUED?

No. The personnel in Government Departments working with Patent documents are sworn to secrecy. No information on a Patent application is available to the public until the Patent is issued.

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