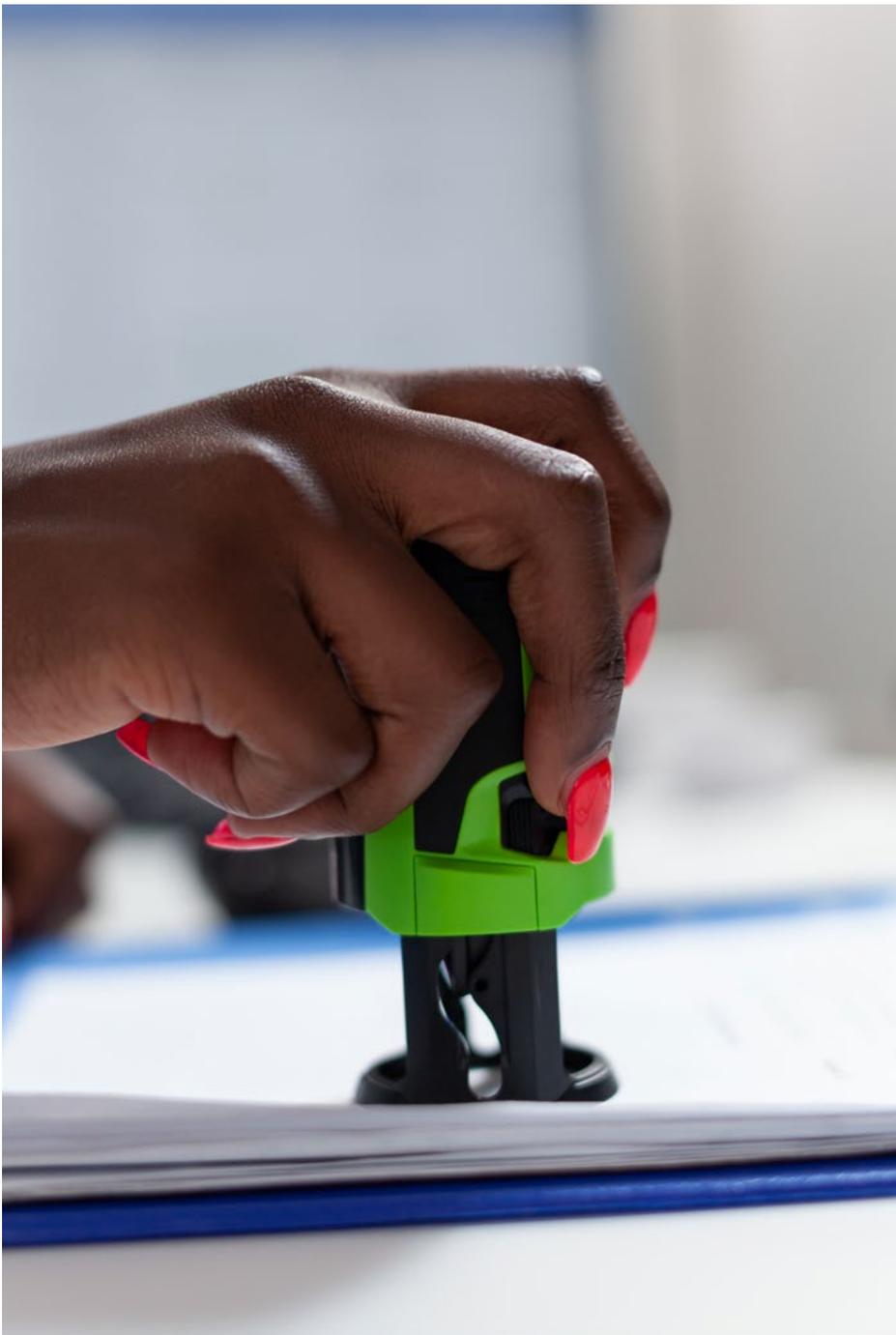




UGANDA REGISTRATION
SERVICES BUREAU

Intellectual Property Examination Guidelines

1st Edition – 2025



Disclaimer:

These Guidelines are solely intended to provide general guidance on the examination of Intellectual Property applications. They do not have the force of law and should not be construed as creating any legal rights or obligations beyond those provided for under the applicable laws and regulations.

The Registrar retains the discretion to determine each application on its own merits in accordance with the applicable laws. Accordingly, reliance on these Guidelines shall not be a valid ground for challenging, disputing, or appealing a decision of the Registrar, including the rejection of an application.



Trademarks

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1. INTRODUCTION

These guidelines provide a standardized approach for trademark examiners at URSB when conducting substantive examination of applications filed under the Trademarks Act, Cap. 225 and the Trademarks Regulations, 2023. The guidelines are provided to ensure legal compliance, consistency, transparency, protection of consumer interests and support of business certainty.

These Guidelines are intended to provide practical direction to trademark examiners in conducting the examination of trademark applications for registration. They aim to ensure examination is conducted with consistency, transparency, and adherence to applicable laws, regulations, and in alignment with International standards and best practices.

The Guidelines shall apply to all trademark examiners and serve as a working reference tool.

2. GENERAL GUIDELINES

Examiners should ensure to follow the general guidelines in the examination of applications:

- a) Every application shall be examined in accordance with the relevant trademark laws and regulations.

- b) Examiners shall maintain impartiality and consistency in decision-making.
- c) Examination shall be both formal and substantive.
- d) Each decision shall be supported by clear reasoning and appropriate legal provisions.
- e) Examiners shall keep an accurate record of the examination process on the register.
- f) Every application shall ultimately be considered based on its own circumstances and merits.

3. TRADEMARK APPLICATION PROCESS

The registration of trademarks in Uganda is governed by the Trademarks Act, Cap 225 and the Trademarks Regulations, 2023 administered by the Uganda Registration Services Bureau (URSB).

The procedure for registering a trademark is briefly outlined below:

- 1) Search
The first step in registering a trademark is to conduct a search. The applicant files a search application to determine whether the proposed mark is available and not identical or confusingly similar to any existing registered or prior right.
- 2) Filing the Application:
Upon receipt of the search

report issued by the Examiner, the applicant shall proceed to file the trademark application and pay the prescribed application fees.

3) Examination

The Registrar conducts an examination of the application to ensure that it complies with all formal requirements and meets the substantive legal conditions for registration

4) Publication

If the application is accepted, it is published in the Uganda Gazette for a period of sixty (60) days, during which any interested or affected party may file an opposition on valid legal grounds.

5) Registration and Certificate

Upon successful completion of the publication process, the trademark is entered into the Register, and a Certificate of Registration is issued to the proprietor. The registered mark enjoys protection for a period of seven (7) years from the filing date.

6) Renewal

The registration is renewable every ten (10) years thereafter, upon payment of the prescribed renewal fees.

4. PRE-APPLICATION STAGE

The pre-application stage in trademark registration entails conducting a search on the register and/or preliminary advice and issuance of a search report.

4.1 Search

A trademark search is the first step to be conducted by an applicant in the registration process as provided under Section 5 of the Trademarks Act.

The applicant submits a request for search. The purpose of the search is to enable the applicant identify potential conflicting marks and their statuses on the register.

The office shall issue a search report detailing the results of the search. The report shall have the following details:

- Trademark as claimed by the applicant and/or registrant;
- Classes covered in the application or registration as well as the goods and/or services protected;
- Full name of the applicant and/or registrant;
- Application filing date and date of registration; and
- Status of the application or registration.

4.2 Preliminary Advice

The Trademarks Act allows an applicant to seek preliminary

advice from the Registrar before filing a full application.

This advice helps an applicant determine whether a proposed mark appears **distinctive or capable of distinguishing** goods or services of one person from those of another. In simple terms, preliminary advice helps one establish whether their proposed mark is registrable.

Upon receipt of such a request, the Examiner shall:

- Review the proposed mark and intended class(es);
- Identify potential issues under the law (e.g., descriptiveness, conflict, or deception);
- Provide a written preliminary opinion indicating whether the mark is likely to be accepted or refused

Preliminary advice is not binding on the Registrar during formal examination but provides guidance to applicants to refine their applications before submission.

5. APPLICATION

Under this stage, the applicant makes a formal application using the prescribed forms under the law. URSB has reconfigured most application forms into an online trademark application system.

5.1. Filing

All trademark applications should therefore be filed electronically through the URSB Online Trademark Application System (Front Office). In exceptional circumstances, paper or email filings may be accepted if the online service is unavailable.

Once the application is received, the Examiner should capture the information into IPAS and allocate an application number and indicate the filing date as these are critical for determining priority rights.

5.2. Response time

Examiners should handle all applications expeditiously. As a best practice, initial examination should be completed and a decision (acceptance, objection, or clarification) recorded within 48 working hours.

Where deficiencies or objections arise, the Examiner shall issue a written report to the applicant. The applicant must respond within 30 days as provided under Regulation 23 (4) of the Trademarks Regulations.

Extensions of time within which to reply may be granted by the Registrar upon submission of a written

request by the applicant, stating justifiable reasons.

6. TRADEMARK EXAMINATION

This section addresses the processes and steps involved in examination of trademark applications. It highlights the steps to be taken in conducting the formalities and substantive examination.

6.1. Stages of Trademark Examination

The examination of a trademark application consists of two distinct stages:

- i. **Formality Examination** – the stage at which the Examiner verifies whether the application meets the procedural and formal legal requirements.
- ii. **Substantive Examination** – the stage at which the Examiner determines whether the mark satisfies the legal criteria for registrability.

Both stages must be conducted in sequence and documented.

6.2. Formality Examination

The Formality Examination is the first and foundational step in evaluating a trademark application. At this stage, the Examiner ensures the application meets all statutory and legal requirements prescribed under the Trademarks Act and Regulations.

Formality examination ensures that the application is within conformity with all the necessary legal requirements. No application shall proceed to substantive examination unless it has successfully passed formality examination.

6.2.1. Key Elements of formality examination:

The Examiner shall verify the following aspects step-by-step:

- (a) The correct application form is used and properly completed.
- (b) Prescribed fees are duly paid in accordance with the Trademarks Regulations. The Examiner should verify that the amount matches the applicable schedule for local and foreign applicants.
- (c) Applicant's details are clear, complete, and accurate.
- (d) The representation of the mark is legible and consistent across all uploaded materials.
- (e) Any accompanying documents (e.g., Form of authorization) are attached.
- (f) The correct application form has been used for a particular application
- (g) The correct class and goods or services for a particular class is provided
- (h) All mandatory fields (applicant name, address, class, representation of mark) are filled in;

- (i) The applicant is an individual or legal entity

All checks should be marked on the official Formality Checklist in IPAS before proceeding to the next stage.

6.2.2. Recognized Applicants

Under the Trademarks Act only a “person” may apply for a trademark. In accordance with the law, a person includes either a natural person or a legal person.

- **Natural persons** – individuals filing in their own name.
- **Legal persons** – incorporated entities such as companies

For Government bodies, agencies, or authorities, an examiner should first confirm if that entity has been given the status of a “Body Corporate”. This should be checked in the governing law of that body. If it is not a “Body Corporate” then it has to apply through its governing Ministry.

For Kingdoms or cultural institutions, these are recognized under Article 246 of the Constitution of Uganda as corporations and can apply for trademarks. However, the signatory should be the head of a cultural institution or someone authorized to act on behalf of that kingdom/cultural institution. Please note that, the cultural leader can assign his powers to another person through a duly executed

power of attorney.

Business names are not considered legal entities. The natural person can apply and state their name and include T/A (Trading As (business name))

Partnerships in Uganda do not have legal personality, this includes limited liability partnerships. Applications by partnerships should therefore be filed by the individual persons of the partnerships. If the applicant is a foreign partnership, the examiner should confirm whether the country of origin of that partnership, recognizes partnerships as legal entities or not.

Applicant's details should be clear and proper. Common areas of issue is the Applicant's address. Refer to Regulation 8 of the Trademarks Regulations for the correct format of the address. In instances where an agent is filing the application on the Applicant's behalf, both the agent's address and that of the Applicant should be provided clearly and should not be the same.

6.2.3. Filing through agents

Foreign applicants must file through a registered trademark agent in accordance with Section 10 of the Trademarks Act. A foreign applicant is any person who is not a citizen of Uganda.

An agent is an Advocate of the High court who has been duly registered as a trademark agent, in accordance with Regulation 11 of the Trademarks Regulations, 2023. Note that trademark agency is to a person (Advocate) and not to a law firm or company.

It is not mandatory for local applicants to file through an agent, however, if they choose to do so then they have to comply with the requirements for agent filing.

If an application is filed by a trademark agent on behalf of an applicant, the application should contain TM 1- Form of authorization or a Power of attorney that is notarised from the country of origin.

The examiner should check and confirm that the Agent listed in the application is a registered trademark agent and that their registration is up to date. The examiner can check the Trademark Agent register which is publicly accessible on the URSB website.

A local applicant is deemed to be a person who is a citizen of Uganda and holds a National Identification Card of Uganda. Take note that Refugees are treated as Ugandans and can apply as local applicants in accordance with Section 29 (2) of the Refugees Act. However, a refugee shall need to provide their

refugee card as proof of their refugee status.

6.2.4. Classification system for goods and services

The Nice Classification (officially called the International Classification of Goods and Services for the Purposes of the Registration of Marks) is an international system used to classify goods and services when registering trademarks.

It was established by the Nice Agreement of 1957 and is used by more than 150 countries, including Uganda, to ensure consistency in how goods and services are categorized worldwide.

The applicant should clearly describe the goods or services in a manner consistent with this classification.

The Examiner shall verify that:

- The class indicated corresponds to the nature of goods/services described;
- The description used conforms to the Nice Classification terms; and
- Each application should only cover one class, and the goods stated in the application should belong to that selected class. Applications with mixed goods or classes should be separated into distinct applications, as Uganda operates a single-class

system. This means each class applied for is considered to be a separate application.

- The goods and/or services in an application should be described clearly, so it can be readily understood which goods/services are sought to be protected.

If the classification is not correct, the Registrar under Section 8 (2) of the Trademarks Act has the power to direct for proper classification of the application.

6.2.5. Representation of the Mark

The representation of a mark must be clear, precise, self-contained, and easily understandable so that the scope of protection is identifiable to the Examiner and ultimately, to the general public.

The Examiner shall ensure that:

- The mark image or depiction is clearly visible, not blurred or pixelated;
- The representation corresponds exactly to the description provided in the application form; and
- The image is uploaded in the required format (e.g., JPEG/PDF/PNG) with acceptable resolution.

Where the representation is unclear, the Examiner shall issue a Formality Report requesting a fresh and clear representation within 30

days.

6.2.6. Types of marks

This section outlines and explains the various types of trademarks that an applicant may submit or seek to register in their application.

A. TRADITIONAL MARKS

6.2.6.1. Word marks

A word mark is a type of trademark that consists only of words, letters, numbers, or a combination of these elements, without any specific design, font style, color, or logo claims.

It protects the word itself, meaning the owner has rights to the wording regardless of how it is stylized or displayed. A word mark is not registrable if it describes the nature or character of the goods being provided.

6.2.6.2. Combination of Words

A descriptive term can be registrable when combined with an additional word or element if the overall impression produced by the combination of such elements is distinctive.

6.2.6.3. Phonetic Equivalents

Phonetic equivalents are words or phrases that, while spelled differently, sound the same or remarkably similar when spoken aloud.

In trademark law these are considered highly likely to cause consumer confusion, even if their visual appearance or meaning is different e.g. Krazy glue vs Crazy glue, Lynx vs Links, Foresight vs 4sight, Wright vs Write etc.

The fundamental principle is that trademarks are often communicated verbally, therefore if two marks sound identical, a consumer is likely to be confused about the source of the goods or services, regardless of the spelling or meaning.

An examiner is required to examine such marks with careful as the likelihood of confusion with such marks is highly probable.

6.2.6.4. Slogans

Like any trademark, a slogan must function as a “source identifier” in order for it to be registrable. This means it must be capable of identifying the source of the goods or services and distinguishing them from those of others. It cannot be merely informational or a common phrase in the industry.

6.2.6.5. Device Marks

A device mark is a mark consisting of images or a combination of words and images, or other graphical elements.

The image of the device mark

should be included in the application showing all its elements and, where applicable, its color(s).

Where color is claimed as a feature, the color(s) must be specified in words (e.g., “The mark appears in red and gold”). If the colors form part of the mark, this shall be recorded as a limitation in the Register. If the mark is filed in black and white, protection shall extend to all color variations.

6.2.6.6. Series Marks

The Trademarks Act allows registration of a series of marks where the marks resemble each other in material particulars and differ only in non-distinctive elements (e.g., color, numeral, or minor description).

A series mark refers to two or more trademarks that are substantially similar but differ in certain non-distinctive elements, such as numbers, letters, colors, or other minor variations, and are registered as a single application because they belong to the same proprietor.

If a mark appears as a series mark, the description of the marks shown in the series should be provided in the application.(Section 30).

The Examiner must verify that:

- Each mark in the series appears in the same

- application form;
- The description explains the variation among the marks; and
- The differences are trivial and do not alter the distinctive character of the series.

If the variations exceed what qualifies as a series, the Examiner shall require the applicant to file separate applications for each mark.

6.2.6.7. Certification Marks

A certification mark is a type of mark that indicates a product, service, or producer meets certain standards of quality, origin, or other characteristics.

Such characteristics may include geographic origin, materials used, mode of manufacture, methods used, handling, quality, accuracy, or that the work or labor on the goods or services was performed by members of a union or other organization.

The certification mark is owned by a proprietor that is a competent authority, organization, or association that sets and enforces the standards.

Examples of certification marks include; UNBS Q-mark, BUBU mark.

Unlike ordinary trademarks, which identify the commercial origin of goods or services, a certification mark signifies that:

- The goods or services have been inspected, tested, or verified to meet particular standards; and
- The mark owner (the certifier) is not the producer or provider of those goods or services.

The Examiner shall verify that:

- The proprietor is competent and authorized to certify such characteristics;
- The proprietor does not itself trade in the certified goods or services;
- The application is accompanied by rules governing use (including eligibility, testing, supervision, and penalties for misuse); and
- The regulations are detailed enough to prevent misleading use. Where rules are missing or insufficient, the Examiner must issue a deficiency report requesting submission or amendment within the prescribed period.

6.2.6.8. Laudatory Marks

Laudatory marks are trademarks that praise or hype the quality, excellence, or superiority of goods or services being provided. They typically consist of common, promotional words or phrases such as “super”, “deluxe”, “premium”, “no.1”, “ultimate” etc.

They describe positive attributes of the products rather than indicate a

specific commercial source. They are therefore not inherently distinctive because consumers are unlikely to perceive such words as an indicator of the source of goods or services.

Laudatory marks are further considered descriptive and thus not registrable. They may be registrable if there is evidence of acquired distinctiveness, however the words will have to be disclaimed. A mark that is wholly or purely laudatory is not registrable.

6.2.6.9. Generic Terms

A generic term is the common, everyday word used to refer to a product or service itself. It does not distinguish the source of the goods (one company from another) but rather identifies the nature or category of the product.

Because all producers need to be able to use the word to describe what they are selling, generic terms can never function as a trademark and are never registrable.

The fundamental principle is that no single entity can have an exclusive rights to the common name or word of the product it sells.

6.2.6.10. Names

A name of a person is capable of registration as a trademark if it is represented in a special or particular manner. This representation

should be unique and capable of identifying the goods of one producer from those of another.

Surnames on the other hand are not considered registrable under Section 9 of the Trademarks Act. This is because surnames are typically common and many people share the name, consumers may therefore not see it as a source identifier. Additionally, it may unfairly limit others with the same surname from using it in business.

However, surnames can be registrable if one is able to prove acquired distinctiveness through use of the surname in that particular line of business or market.

It can also be registered if it forms part of a larger mark that creates a distinctive overall impression (e.g., stylized logo, additional wording, device elements)

Surnames can also be considered for registration if the surname is disclaimed. This ensures that other persons can use the name without limit from the registered right.

6.2.6.11. Scandalous Marks

A “scandalous mark” is a trademark that contains elements which shock the conscience, evoke feelings of condemnation, or are offensive to the general public. This includes marks that are vulgar, profane, sexually explicit, or

disparaging toward certain groups of people.

In Uganda, trademarks that are contrary to morality or public order are excluded from registration.

A refusal on that ground should carefully balance the right of traders to freely employ words and/or images in the signs they wish to register as trademarks against the right of the public not to encounter scandalous, disparaging, or immoral trademarks.

Where the Examiner believes that the mark falls within the above definition, the Examiner should issue an objection and provide reasons for deeming a term immoral or against the public order and the applicant should be permitted to submit arguments and/or supporting evidence to the contrary to overcome the objection.

B. NON-TRADITIONAL MARKS

Non-traditional trademarks are types of trademarks that do not consist of a standard word, logo, or slogan. Instead, they protect other sensory aspects of a brand experience, such as colors, sounds, shapes, smells, textures, and even motions.

Additionally, under most trademarks laws, including Uganda, one of the basic requirements for

a trademark is that it should be capable of graphical representation. Because non-traditional marks are based on other sensory aspects, they tend to be difficult to be qualified as trademarks and examination of such marks can also be challenging.

However, the fundamental principle remains the same as for traditional marks, that is, it must be able to function as a source identifier. This means the public must perceive the non-traditional feature as a badge of origin that distinguishes the goods or services of one company from those of another.

Non-traditional marks may include colour, shape, sound, scent or smell, textures, poses and motions. The primary hurdle for registering a non-traditional mark is that these features are often perceived by consumers as functional or ornamental, rather than as an indicator of source.

For example, a unique product shape might be seen as just part of the product’s design, or a scent might be perceived as a natural feature of the product (e.g., the smell of perfume). Therefore, the applicant must provide strong evidence that the mark has acquired distinctiveness (also known as “secondary meaning”). This means proving that in the minds of the

consuming public, the primary significance of the feature is to identify the source of the product, not just the product itself.

Examiners must ensure that the representations provided of such marks are clear, precise, and understandable.

Marks that are functional in nature or fail to meet distinctiveness thresholds shall not be accepted.

6.2.6.12. Three-Dimensional (3D) Marks

A 3D mark is a type of trademark that consists of the three-dimensional shape or configuration of a product or its packaging. This can include the shape of the product itself, its container, or the overall packaging design and configuration.

Unlike word or logo marks, 3D marks rely on shape as the source identifier. They may protect the shape of the product itself e.g the contour bottle of Coca-Cola and the triangular peak shape of the chocolate bar by Toblerone.

They are registrable if the shape itself functions as a trademark i.e. consumers associate the shape with a particular source.

In most cases, 3D marks are not inherently distinctive and must acquire distinctiveness through

use (also known as secondary meaning). For example, the Coca-Cola bottle became distinctive because of long and exclusive use.

A 3D mark must be graphically represented in a way that clearly and precisely defines and shows the shape to be protected. This can be achieved by:

- Submitting photographs or drawings from different angles (front, side, top, and bottom perspective) to identify the shape clearly
- Providing a 3D model or file (in jurisdictions that allow it).
- A written description of the shape.

Where the 3D mark is unclear, the Examiner shall request additional graphical views or explanations from the applicant. Preferably the claimed parts of the shape should be in solid lines and the unclaimed parts in broken lines.

A 3D mark consisting of the shape of a product is not registrable if the shape results from the nature of the goods or is necessary to achieve a technical result, i.e., if it is purely functional. For example: a bottle shape designed to make pouring or grip easier (functional) or a chocolate shape designed for easy breaking into smaller pieces (functional).

An examiner should keep in mind

that registration of 3D marks should be only if the mark is capable of acting as an identifier of the source of goods. Where the mark appears to be more aesthetical or functional, the examiner should reject the application and advise the applicant to consider industrial design protection.

6.2.6.13. Hologram Marks

A hologram mark is a type trademark where a holographic image, which changes appearance depending on the angle of view, is used to identify and distinguish the goods or services of a particular business.

A hologram is a three-dimensional, dynamic image created using light diffraction. The distinctive element lies in the holographic effect itself, not just a static image.

Hologram marks are increasingly used in security labeling, packaging, and branding of high-value goods.

The hologram must function as a source identifier, not merely as a decorative or security feature.

If the hologram is commonly used in an industry (e.g., standard security stickers), it may require evidence of acquired distinctiveness.

A hologram mark must be represented clearly and precisely in the

application so that its scope of protection is understood. Acceptable formats of representation may include:

- Series of still images showing the hologram from different angles.
- Multimedia file (e.g., MP4, GIF) in jurisdictions that allow digital filing.
- Written description explaining how the hologram appears and changes.

The hologram cannot serve a purely functional or technical role (e.g., as an anti-counterfeiting device). If the holographic effect is essential for security, functional or technical performance, it may not qualify as a trademark e.g holograms on security tags for products in supermarkets or stores.

6.2.6.14. Colour Marks

A color mark is a type of non-traditional trademark where a specific color or combination of colors is used to identify and distinguish the goods or services of one producer from those of others. It does not include logos, words, or shapes—just the color itself (or a defined combination).

The threshold for registration of colour marks is higher because colors alone are not inherently distinctive. To successfully register a color mark, the applicant must demonstrate that the color

has acquired secondary meaning or distinctiveness in the minds of the public. This means that when consumers see the color, they immediately associate it with a particular source or brand. e.g. Yellow for MTN.

The applicant must provide a precise and clear depiction of the color. Often done by using colour codes or other standardized color systems to avoid ambiguity.

The application must clearly define where and how the color is applied e.g. the color of the product packaging, the product itself, or a combination of colors.

A color cannot be registered as a trademark if it is functional, meaning it is essential for the product's use, quality, or purpose e.g. the red color of brake lights cannot be trademarked because it serves a functional purpose.

A colour will not be registrable if it represents the natural colour of the goods. (e.g. yellow for bananas).

6.2.6.15. Sound Marks

A sound mark is a trademark where a distinctive sound or sequence of sounds is used to identify and distinguish the goods or services of a particular enterprise.

Unlike logos or words, a sound mark relies purely on audio perception. It can include musical jingles,

tones, spoken words (that are not descriptive), or other sounds uniquely associated with a brand.

Like other trademarks, sound marks must identify the source of goods/services and distinguish them from competitors.

To register a sound mark, an applicant generally must satisfy the examiner that the sound can uniquely identify the source of goods or services. Often Evidence of secondary meaning is often required if the sound is not inherently distinctive.

Traditionally, trademarks require graphical representation, however sound marks can be represented either as:

- Musical notation (sheet music)
- Graphical representations of the waveform (less common)
- Audio file submissions (modern practice, e.g. EUIPO allows digital audio files).

The applicant should also include a description of the sounds and overall effect and impression it seeks to evoke.

The sound cannot be functional, i.e., essential to the operation of the product rather than identifying the brand. For example: The beeping sound of a microwave timer is functional and cannot be registered.

Examples of sound marks include: MGM Roaring Lion sound for movie and film production, and Nokia ringtone for phones.

A sound will not be registrable if it performs a purely functional role in relation to the goods or services e.g. bell chimes sound for bell-making.

6.2.6.16. Scent and Flavour Marks

A scent mark is a type of non-traditional trademark where a specific smell or fragrance is used to identify and distinguish the goods or services of a particular enterprise.

Unlike logos, words, or sounds, scent marks rely purely on olfactory perception. They are rare because smells are difficult to represent graphically and prove as distinctive. Furthermore, smells tend to produce different olfactory responses in people and thus it is difficult to establish whether they have acquired distinctiveness.

The registration requirements for scent marks are stricter due to the difficulty in defining and reproducing the scent. To register a scent mark, the applicant must satisfy the examiner that the scent can uniquely identify the source of goods or services.

Proving acquired distinctiveness is often required, as consumers must be able to associate the smell with a particular brand.

A key challenge for scent marks is how to represent the smell in writing or visually.

Options may include:

- Chemical formula or description of the scent.
- Written description of the fragrance (e.g., "smell of fresh cut grass").

A scent or flavour will not be registrable if it is functional in respect of the goods or services e.g. lemon scent in a cleaning product used primarily to mask odors.

Lastly, common or naturally occurring smells cannot be registered.

6.2.6.17. Touch or Texture Marks

A texture mark (sometimes called a tactile mark) is a trademark where a distinctive surface feel or tactile characteristic of a product or its packaging is used to identify and distinguish the goods or services of a particular business. It relies on the sense of touch rather than sight or sound.

Texture marks are extremely rare and usually applied to products where the tactile sensation is unique and non-functional.

Governed by the same principles as other trademarks that is, it must identify the source of goods or services and distinguish them from other producers.

Ordinary, natural or functional textures cannot be registered e.g bumpyish smooth texture of leather.

Evidence of acquired distinctiveness shall be required, showing that consumers associate the texture with a particular brand.

The Applicant should provide a clear and precise description of the texture e.g., “raised dot embossing in a grid pattern”) together with photographs, diagrams, or 3D representations that accurately convey the texture.

The texture cannot be essential for the product’s function or quality. For example: Grip patterns on tools may be functional (to prevent slipping) and usually cannot be registered.

In most cases, applications for texture marks are usually advised to apply for industrial design protection.

6.2.6.18. Moving Image or Motion Marks

Motion marks are trademarks where a moving image, animation, or sequence of movement is used to identify and distinguish the goods or services of a particular business.

Unlike static logos or shapes, motion marks rely on movement to create brand identity. They are commonly used in digital media, advertising, product packaging, and multimedia content.

They are treated like traditional trademarks but require special representation because they are dynamic rather than static. The applicant should therefore provide a clear and precise depiction of the motion.

This can be achieved through providing:

- Series of images/frames showing the sequence of movement.
- Video or GIF file submission in jurisdictions that allow digital formats (e.g., EUIPO).
- A detailed written description of the movement.

To register a motion mark, an applicant must satisfy the following:

- The motion must uniquely identify the source of goods or services.
- Ordinary or generic movements cannot be registered.

Evidence of acquired distinctiveness is required if the motion is not inherently distinctive.

Examples of motion marks include: Columbia Pictures torch-bearing lady intro for movies, MGM lion

animation for Films, animated Netflix “N” logo for movie streaming, The Microsoft Windows flag logo unfolding for computers.

6.2.6.19. Position Marks

A position mark is a type of trademark where the specific placement or positioning of a sign on a product, rather than the sign itself alone, is used to identify and distinguish the goods or services of a particular business.

The distinctiveness lies in where the mark is placed, not just what it looks like e.g Adidas three stripes placement on sneakers.

Position marks are especially common in the fashion, footwear, and luxury goods industries.

The applicant must show that the particular positioning enables consumers to identify the source of goods or services. Position marks should provide evidence of acquired distinctiveness through use over time.

Generic or commonplace placement (e.g., a label on a standard location) is not registrable without evidence of acquired distinctiveness.

The position must not be dictated by technical function or product necessity. For example; a mark placed on a shoe for better grip or structure is functional and not

registrable as a position mark.

6.2.7. Priority claims

Uganda recognizes priority rights under the Paris Convention. An applicant who has filed an earlier application in another Convention country may claim priority for the same mark and class, provided the Ugandan application is filed within six months of the first filing.

Priority claims, if any, should be properly supported by priority documents. The applicant who relies on a priority claim should provide proof of application in a member state to the Paris Convention. The application being relied on for a priority claim should therefore have been filed in the said country within six months.

The Examiner must ensure that:

- A priority document (certified copy of the earlier application) is submitted;
- The document identifies the same mark, applicant, and goods/services; and
- The date of the earlier application falls within the six-month priority window. Where the document is missing or inconsistent, the Examiner shall issue a deficiency report requiring correction. Priority claims must be recorded on IPAS and the Register to preserve the applicant’s rights.

6.2.8. Translation and Transliteration

Where a mark contains words, characters, or scripts in a foreign or non-Latin alphabet, the Examiner shall request an English translation or transliteration as stipulated under Regulation 22 of the Trademarks Regulations.

The purpose is to ensure that the meaning or pronunciation of the mark does not contain offensive, deceptive, or prohibited terms.

Where there are doubts as to the meaning, the examiner can request for an official translation/transliteration from the Makerere School of Languages. The Examiner shall verify that the translation provided is certified or signed by a competent translator.

Further more, examiners may consult reliable online or official language sources to verify translations provided.

6.2.9. Fees

Every application must be supported by evidence of payment of the prescribed fee as set out in the Trademarks Regulations.

The Examiner shall confirm that the payment corresponds to:

- The correct application type (local or foreign); and
- The correct number of classes applied for.

6.2.10. Formality Examination Outcome

Once all formal requirements are met, the application shall proceed to Substantive Examination.

Where deficiencies are identified, the Examiner should issue a Formality Report listing all issues precisely and indicating the corrective steps required.

The applicant has 30 days within which to respond to the queries raised. If the applicant fails to respond within the prescribed period, and does not seek an extension of time, the application shall be treated as abandoned in accordance with the Trademark Regulations.

6.2.11. Amendment to Application

An Applicant should be permitted to amend the formalities data, which may be administrative or substantive in nature, and may be in the form of a change, an addition, a deletion, or a correction of small typographical errors.

Where simple corrections such as typographical errors, unclear marks or missing information is required. The applicant may file a trademark correspondence with the required information through the online filing system.

Where the amendment is for core corrections such as change

of class or change of the mark entirely, the applicant shall be required to file for correction or amendment of an application through the online filing system, and attach the corresponding amendment fees.

The Examiner shall ensure that the change has been requested by the applicant or authorized representative to ensure that fraudulent persons do not alter applications of their competitors without the knowledge of the applicants. Where everything is in order the amendment should be accepted.

6.3. Substantive Examination

Substantive examination is the next and most critical stage in the trademark registration process. Unlike formality examination, which focuses on compliance with procedural and filing requirements, substantive examination involves a legal and technical assessment of whether the mark meets the registrability requirements under the law.

The objective of substantive examination is to ensure that only marks that comply with the legal standards for registration are accepted, thereby safeguarding the trademark register from invalid or conflicting rights and protecting the interests of consumers and rights holders.

This stage determines whether the mark meets legal requirements for registrability and it is at this stage that the examiner can absolutely accept, accept with conditions or reject the application.

Under substantive examination, a mark is accepted or rejected based on the following;

- i. Absolute grounds
- ii. Relative grounds

6.3.1. Absolute grounds for refusal

Acceptance or rejection of a mark on absolute grounds involves the examination of the inherent registrability of the mark. Inherent registrability simply means, that on the face of the mark itself, is it capable of distinguishing the goods or services of one entity from those of another.

6.3.1.1. Distinctiveness

This is first basis of substantive examination. Distinctiveness is the core of registrability. The mark must be inherently capable of performing the essential function of a trademark i.e. identifying the source of goods or services.

Inherent distinctiveness refers to the natural ability of a trademark to identify and distinguish the goods or services of one business from those of others, without needing to show prior use or acquired reputation.

A mark is considered inherently distinctive when, on its face, it is capable of functioning as a source identifier.

Distinctiveness is assessed in accordance with the requirements provided under Section 9 of the Trademarks Act. Under Section 9 marks that contain the following are not registrable:

- Words or images that have a direct reference to the character or quality of the goods or services being provided,
- Words or marks of ordinary signification,
- Marks that contain a geographical name or a surname.

6.3.1.2. Descriptive Terms

Descriptive terms are those that describe the kind or nature of an ingredient, quality, characteristic, feature, purpose, function or use of the specified goods or services. The reason for assessing whether a term is descriptive for purposes of registration is that, in the course of trade, anyone should be able to use words which describe a product or service.

6.3.1.3. Imagination

A trademark is not descriptive when applied to the goods and services at issue if it requires imagination to determine an ingredient, quality, characteristic, feature, purpose, function or use of the specified goods or services.

6.3.1.4. Test

The test to be applied is: Does the average consumer of the goods and services at issue understand the term to clearly describe an ingredient, quality, characteristic, feature, purpose, function or use of those goods or services?

- The degree of recognition among relevant consumers;
- Duration and geographical extent of use;
- Advertising and reputation evidence; and
- Whether the mark's use on other goods would likely indicate a false connection.

6.3.1.5. Marks Consisting of or Containing Geographical Terms

Geographical names, locations or terms are not registrable. This is because geographical names or terms usually point to the source of the goods, whose protection is provided for under Geographical Indications.

However, in exceptional circumstances, certain geographical names or terms can be considered for registration.

In evaluating whether to register a term demonstrably having geographical significance, the Examiner must initially evaluate whether the average consumer in Uganda would connect the term with the geographical origin

of the goods/services claimed in the application.

In some instances, geographical terms are registered on proof of acquired distinctiveness e.g. Rwenzori water, Windhoek beer, Amazon. Further, a geographical term can be considered where the mark does not show indicators of where the goods/services originate from e.g. Amazon for online shopping platform. This mark however, still had to provide evidence of acquired distinctiveness.

6.3.2. The Mark must be Examined as a Whole

The general principle is that a mark should be examined as whole. A mark should not be dissected and the elements of which it consists should not be examined separately.

Certain elements of the mark may be disclaimed (where allowed), but it is the overall impression of the mark that should be examined.

6.3.3. Examination of Goods or Services

A mark should not be examined in the abstract but in light of the goods and services applied for.

6.3.4. Acquired Distinctiveness

Where the Registrar questions the distinctiveness of the mark, the

Registrar can either require the applicant to provide evidence of acquired distinctiveness in accordance with Section 9 (3) (b) (e.g., advertising records, market surveys, turnover figures).

OR

The Registrar can advise the applicant to consider registration under Part B of the register in accordance with Section 7 (3) of the Trademarks Act.

In such cases, the Registrar should examine the application carefully and thoroughly before granting a mark, in order to ensure the integrity and quality of the register.

6.4. Relative grounds of refusal

Examination on relative grounds is undertaken to ensure that the proposed mark does not conflict with any earlier marks or rights already on the Register. This step prevents confusion in the marketplace and preserves the integrity of existing registrations.

Section 25 of the Trademarks Act prohibits registration of marks that are identical or similar to earlier marks for identical or similar goods or services, where such similarity may cause confusion or association. The Examiner shall:

- Conduct a comprehensive search of the Register (both pending and registered marks) using IPAS;
- Identify earlier marks that are identical or confusingly similar to the mark under examination;
- Compare the marks based on visual, phonetic, and conceptual similarity; *Sabel BV v Puma AG (C-251/95) [1997] ECR I-6191* – established the “likelihood of confusion” test based on overall impression.
- Compare the similarity of goods/services, guided by the Nice Classification and actual trade practice; and
- Assess whether the average Ugandan consumer, exercising ordinary care, would likely be misled or assume a connection between the two marks.

6.4.1. Determining Similarity

- a) Visual Similarity: Compare the marks as they appear in print or logo form. Small differences (e.g., punctuation or font) are often insufficient to distinguish marks.
- b) Phonetic Similarity: Assess how the marks sound when spoken.
- c) Conceptual Similarity: Evaluate whether the ideas or meanings conveyed by the marks are alike (e.g., “LION” and “KING OF THE JUNGLE”).

6.5. Consideration of Consumer Perception

The Examiner should apply the “test of imperfect recollection” i.e., whether the average consumer, recalling one mark, might confuse it with the other.

The examiner should further:

- Ensure that coexistence agreements or consent letters between owners are genuine and do not create public confusion.
- Record all conflicting marks in the Examination Report.

Example: In some jurisdictions, two marks may coexist if clear market distinction is evident e.g., “EAGLE PAINTS” for paints vs. “EAGLE ENERGY” for fuel.

The examiner retains discretion to allow or refuse such cases taking into consideration all relevant factors possible such as nature and similarity of the goods, possible similar channels of trade, sale and advertisement, likelihood of association, complementary goods etc.

6.6. Unprotectable subject matter

Substantive examination shall also ensure that a mark does not fall within prohibited categories under the Trademarks Act and Regulations, such as:

- a) A mark that is contrary to law, immoral or likely to deceive as to the source, origin, quality, affiliation etc. (Section 23 (a) of the Trademarks Act.
- b) Words or symbols commonly used and accepted as a name of a single chemical element or compound, relating to goods in respect of a chemical substance or preparation. (Section 23 (b) of the Trademarks Act)
- c) Consists exclusively of a functional shape or feature (Section 23 (5) of the Trademarks Act)
- d) Marks that contain protected emblems, flags, a combination of national colours or official signs (Reg. 13 of the Trademarks Regulations)
- e) Marks that contain elements that are internationally recognized as protected e.g. the Olympics symbol, the Red cross symbol, emblems and flags of other nations, currency or legal tender of nations.

6.7. Examination Outcomes

The outcome of every substantive examination must be clearly recorded and communicated in writing to the applicant or agent.

In accordance with section 7(4) of the Trademarks Act, the Registrar is required to notify applicants of

acceptance or refusal and provide reasons for the decision.

6.7.1. Types of Outcomes

- (a) Acceptance: The mark satisfies all statutory requirements and proceeds to publication in the Uganda Gazette.
- (b) Conditional Acceptance: The mark may be accepted subject to conditions such as a disclaimer, amendment, limitation or amendment of goods/services.
- (c) Rejection: The mark fails to meet the requirements for registrability.

6.7.1.2. Examiner’s Report

Upon rejection or failure of the application to meet substantive requirements, the Examiner shall prepare a written examination report that states:

- The reasons for refusal,
- Relevant legal provisions cited (e.g., Sections 9, 23, or 25); and
- A summary of conflicting earlier marks, if any, including application numbers, classes, and proprietors.
- Any other relevant information necessary for the applicant to make a decision.

Where a mark is refused under absolute or relative grounds, the Examiner shall issue a written Examination Report explaining the reasons for refusal, citing relevant

legal provisions and any conflicting earlier marks.

In cases of lack of distinctiveness, the Examiner may advise the applicant to:

- a) Amend their application and provide a mark that is distinctive and suitable for registration.
- b) Apply for registration under Part B of the Register in accordance with Section 7(3) of the Trademarks Act;
- c) Provide evidence of acquired distinctiveness through continued use as provided under Section 9(3)(b) of the Trademarks Act.

Note that options (b) and (c) should only be provided to applicants in exceptional circumstances.

6.7.1.3. Conditional Notice

Where the examiner is not rejecting the application but requires additional information or action to be taken, a conditional notice can be issued to the applicant.

This notice shall:

- Specify the conditions to be fulfilled or amendments required;
- Provide clear reasoning and reference to the applicable legal provisions; and
- Indicate the time frame within

which the applicant must comply or respond, failing which the application shall be treated as abandoned or refused in accordance with the Trademarks Regulations.

Conditional notices can pertain to requirements such as; providing a disclaimer on certain words or images, associating similar marks owned by the same person among others.

Note: A Conditional Notice should only be issued in circumstances where the Registrar is satisfied that, once the stated conditions are fulfilled, the application will be acceptable for registration.

However, where there remains a possibility of refusal for instance, in cases requiring translation, clarification, or further evidence it is advisable that the Examiner should instead issue an Examination Report.

6.8. Guidance to Applicants

Examination reports may also include guidance to applicants such as:

- Suggest amendments to overcome objections;
- Invite the applicant to disclaim descriptive elements; or
- Indicate the possibility of registering under Part B of the Register in accordance with Section 7 (3) of the Trademarks Act.

6.9. Right to Respond

Applicants shall be given an opportunity to respond within 30 days from the date of receipt of the report.

Acceptable responses from an applicant may include:

- Written arguments or clarifications;
- Requests to be heard to clarify matters
- Amendment of the mark or class or goods specification;
- Disclaimers where applicable
- Consent agreements; or
- Evidence of acquired distinctiveness through use.

6.10. Disclaimers

A disclaimer is a statement that clarifies that no exclusive rights are granted over certain non-distinctive components of a mark that may otherwise be part of a distinctive whole.

Disclaimers are typically required for generic terms, descriptive words or elements, common trade phrases, geographical names, or surnames etc.

6.10.1. The Effect of Disclaimers

The inclusion of a disclaimer:

- Does not cure a fundamentally unregistrable mark e.g., one that is wholly descriptive, deceptive, or scandalous or confusingly similar to an earlier mark.

- Does not prejudice the registrant's right to defend the mark under passing off or unfair competition; and
- Does not allow one to seek registration, without disclaimer, of a previously disclaimed common element.
- May later allow another applicant to seek registration of the previously disclaimed element if it acquires distinctiveness.

A disclaimer is a concession that the disclaimed component is not per se inherently distinctive, and is one factor to be weighed in determining confusion. However, in an infringement or similarity analysis, it is the totality of the components of a mark that must be considered, including any disclaimed components.

6.10.2. Format of Disclaimer

Where permitted or required, disclaimers should be entered in the following or a similar format:

“Registration of this trademark shall not grant exclusive rights to the use of the word/device..... except as represented.”

7. Post-Examination Actions

Once an application is successfully examined, a gazette notice shall be issued which should then be dispatched to the Applicant.

The Applicant then has the duty to have the mark published in the Uganda Gazette for a period of 60 days as required under Section 11 of the Trademarks Act.

7.1. Effect of Publication:

The purpose of publication is to put the public at notice of the application. Upon publication, any member of the public can object or oppose the registration of the application within the 60 days publication period.

If no opposition is filed, or if opposition is resolved in the applicant's favor, the mark proceeds to registration.

Note that where an applicant does an amendment to their application after publication, the application should be published again. Any request for amendment shall be made in writing, accompanied by justification and/or supporting documents.

7.2. Opposition Management

If an opposition is filed within the 60-day period, the Registrar should receive it and record it immediately on the application in IPAS.

The opposition files should thereafter be forwarded to the hearing officer in charge with all relevant documentation.

The Examiner should not engage further unless called upon for clarification by the Registrar or Hearing Officer.

7.3. Appeals

The right of appeal applies to any decision made by the Registrar, including rejections, conditional notices or decisions on oppositions.

Applicants may appeal against the Registrar's decision to the High Court in accordance with Section 7 (5) and Section 12 (5) of the Trademarks Act.

When an appeal is lodged, the Examiner must:

- Ensure the full examination record, including reports, correspondences, and any other necessary information is complete and accurate; and
- Refrain from engaging in further correspondence with the applicant concerning the subject of appeal.

7.4. Unopposed Applications:

If no opposition is received after

the publication period, the Applicant should apply for registration of the mark. Upon receipt of the registration application from the Applicant, the Examiner shall:

- Ensure that the prescribed fees have been paid,
- A copy of the publication has been provided, this should have the first page of the gazette which reflects the date of the gazette and the volume number and also contain the actual page on which the mark appears,
- Confirm that there are no extensions of time or oppositions received on the application file.

Once the application is in order, the examiner shall proceed to generate a registration certificate and update the Register with the registration date and status.

Upon valid registration, the mark is protected for an initial period of 7 years and is granted 10 years of protection upon every successful renewal.

8. Record Keeping and Reporting

Accurate record keeping ensures accountability and traceability of decisions. Examiners must therefore document each step of the process to maintain a complete examination trail.

URSB shall provide dedicated staff, tools and equipment to ensure proper and correct records of all applications on the register.

9. Examiner's Responsibilities & Duties

The examiner shall have the following responsibilities and duties:

- a) Examiners must apply the law consistently and ensure accuracy in examination.
- b) Examiners should communicate clearly and with legal basis.
- c) Examiners should always maintain the integrity of the register.
- d) Examiners should always balance the protection of legitimate trademark rights with the public interest.
- e) Examiners shall maintain impartiality, professionalism, and integrity in the carrying out of their work and duties.
- f) Examiners must exercise due care in handling information and data received, ensuring compliance with the Data Protection and Privacy Act. Personal data of applicants shall be accessed, processed, or shared only as necessary for official purposes.
- g) Examiners must uphold confidentiality of applicant information, trade secrets and sensitive data except as

- required by law.
- h) Examiners should strive for consistency, fairness, and timeliness in examination.
 - i) Examiners should seek guidance from colleagues and senior examiners in complex cases and continuously

- j) Examiners should refer to previous decisions and internal practices and administrative procedures where necessary.

10. References and Tools

- Trademarks Act, Cap. 225
- Trademarks Regulations, 2023
- Nice Classification 11th Edition
- The Trademarks register
- Industrial Property Administration System (IPAS)
- Front Office System (F.O)
- The Companies Act, Cap. 106
- The Partnerships Act, Cap. 110
- The International Trademarks Association (INTA) Guidelines
- Data Protection and Privacy Act, Cap. 97
- The Refugees Act, Cap. 312
- Relevant Case law.



Patents

1. Introduction

These guidelines provide a standardized approach for Patent examiners at URSB when conducting examination of applications filed under the Industrial Property Act, Cap. 224 and the Industrial Property Regulations, 2017 of Uganda. The guidelines align with international best practices, drawing insights from the World Intellectual Property Organization (WIPO) and other jurisdictions adapted to the Ugandan context.

These Guidelines are intended to provide practical direction to patent examiners in conducting patent examination. They aim to ensure examination is conducted with consistency, transparency, and adherence to applicable laws, regulations, and in alignment with International standards and best practices.

The Guidelines shall apply to all patent examiners and serve as a working reference tool. These guidelines will be revised at regular intervals to take account of developments in international patent law and practice.

1.1 General Guidelines

g) Every application shall be examined in accordance with the applicable patent laws and regulations.

- h) Examiners shall maintain impartiality and consistency in decision-making.
- i) Examination shall be both formal and substantive.
- j) Each decision shall be supported by clear technical reasoning and appropriate legal provisions.
- k) Examiners shall keep an accurate record of the examination process in the system.
- l) Every application shall ultimately be considered based on its own circumstances and merits.

1.2 Principles of Examination

An examiner should conduct examination of an application to determine whether or not a patent should be granted or refused without any bias and strictly on technical terms. The examiner is required to make fair determinations based on their expertise in the technical field.

To ensure grant of high quality patents the examiner shall make an effort to ensure and further improve the quality of examination with respect to prior art search and determination on the requirements for patentability. The prior art search and the determination on patentability should be made taking into consideration the complex nature and advancement of the technology by fully utilizing accumulated expertise of each

examiner.

2. Legal Framework

Examiners shall apply the following laws and instruments in carrying out industrial design examination:

- a) The Industrial Property Act Cap.224.
- b) The Industrial Property Regulations, 2017;
- c) The Paris Convention for the Protection of Industrial Property;
- d) The Patent Cooperation Treaty (PCT) system
- e) The Harare Protocol on Patents and Industrial Designs.

3. Definitions, Objectives and Unprotectable subject matter

3.1 Definitions

A Patent is an exclusive right granted by the government for a solution to a technical problem (invention) which can either a product or a process.

A Utility Model is an exclusive right granted by the government for a new technical solution related to the modification of existing solution.

3.1 Objectives of Examination

The purpose of Patent examination is to ensure that patent protection is granted to inventions that meet the criteria of

novelty, inventiveness and industrial applicability. This ultimately ensure that granted patents meet a specific quality standard. Quality is a fundamental pillar of the patent system, playing a pivotal role in fulfilling its primary objectives of promoting innovation.

3.2 Unprotectable Subject Matter
Certain subject matter is excluded from patent protection under the Industrial Property Act. These include:

- Discoveries, scientific theories, and mathematical methods.
- Aesthetic creations and literary or artistic works.
- Schemes, rules, or methods for doing business, performing mental acts, or playing games.
- Diagnostic, therapeutic, and surgical methods for treatment of humans or animals.
- Plant and animal varieties and essentially biological processes for their production (except microbiological processes and their products).

4. Stages of Examination

The examination process includes:

1. Formality Examination
2. Substantive Examination
3. Publication
4. Grant and Issuance of Certificate

4.1. Formality Examination

At this stage the Examiner should ensure that the application contains:

- (a) An express or implicit indication that the granting of a patent is sought;
- (b) A technical title;
- (c) Indications allowing the identity of the applicant to be established.
- (d) A part which, on the face of it, appears to be a description of an invention.
- (e) One or more claims identifying the characteristic elements of the invention.
- (f) The prescribed fees have been duly paid. Each application has a prescribed fee, therefore the Examiner should ensure that the fees provided by the applicant correspond to those in the law for that specific application. Please note that fees for foreign applicants and local applicants are different and the examiner should crosscheck that the correct fees for each type of applicant has been duly paid.
- (g) Applicant's details have been provided clearly and in full.

4.1.1. Recognized Applicants

The Examiner should keep in mind that an applicant under the Industrial Property Act is stated as a "person". In law there are only two types of persons. i.e. natural person and legal person. A legal person is

deemed to be a registered entity.

The applicant should be sufficiently identified whenever it is possible to establish the identity of the applicant beyond reasonable doubt on the basis of all data contained in the documents filed. Where there is more than one applicant, each applicant must be similarly identified.

Applicant's details should be clear and proper. In instances where an agent is filing the application on the Applicant's behalf, both the agent's address and that of the Applicant should be provided clearly and should not be the same.

4.1.2. Filing through agents

Foreign applicants are by law required to file through a local agent. For purposes of clarity, a foreign applicant is any person who is neither a citizen of Uganda nor domiciled in Uganda at the time of filing.

It is not compulsory for local applicants to file through an agent, however, if they choose to file through an agent then they have to comply with the requirements for filing through an agent.

If an application is filed by a local representative or agent on behalf of an applicant, then it should

contain a duly signed form of authorization or a duly signed Power of Attorney.

A local applicant is deemed to be a person who is a citizen of Uganda and holds a National Identification Card of Uganda, Passport, or a Birth certificate or a person legally domiciled in Uganda.

4.1.3. Statement Justifying Applicant's Rights

Naming of inventor is mandatory as the inventor is entitled to recognition for their ingenuity and substantial inventive input. An inventor must be natural person as

The inventor shall be named as such in the patent, unless, at any time during the pendency of the application, he/she addresses to the examiner in a written declaration signed by him/her, indicating that he wishes not to be so named. If the named applicant (s) is different from the inventor, then the application should be accompanied by a statement justifying the applicant's rights to the invention.

4.1.4. Outcome of Formality Examination

If the application meets all formal requirements, it proceeds to substantive examination. However if deficiencies that prevent the application from being accorded a date of filing are discovered, the examiner communicates them

clearly through a formality report to the applicant and invites him to remedy them within a non-extendable period of time stipulated in the law otherwise the application will be considered abandoned.

Failure by the applicant to correct the deficiencies within the set time may lead to abandonment of the application in accordance with the Regulations.

The output of this stage of examination is a formality report.

4.2. Substantive Examination

Substantive examination is the detailed and critical assessment of the patent application to determine whether the claimed invention meets the substantive requirements for patentability.

It involves an analysis of the description, claims, drawings, and any amendments to ensure that the application complies with the Industrial Property Act, the Harare Protocol, and international best practices.

The process ensures that only inventions that meet the criteria of:

- a) **Novelty:** The claimed invention must not be anticipated by prior art. Any disclosure made available to the public anywhere in the world before the filing or priority date of the application forms part of the

prior art.

- b) **Inventive Step:** The invention must not be obvious to a person skilled in the relevant field in light of the prior art. The inventive step is determined by analyzing whether the technical solution proposed would have been obvious to a skilled person at the filing date.
- c) **Industrial Applicability:** The invention must be capable of being made or used in some kind of industry, including agriculture. The claimed invention must produce a reproducible result when carried out as described.

Note:

- i. For Utility Models only novelty and industrial applicability are assessed.
- ii. Examiners must also ensure that the invention is not excluded from patent protection (**Refer to 3.2 above**).

4.2.1. Classification

Classification is the process of categorizing a patent application under the International Patent Classification (IPC) system. This assists in organizing prior art, simplifying searches, and aligning with international practice.

The examiner assigns IPC symbols to reflect the technical features

of the invention. Where an invention spans several technical fields, multiple classifications may be assigned.

The principal classification should correspond to the main inventive concept of the application.

4.2.2. Prior Art Search

A prior art search identifies all publicly available documents that may affect the novelty or inventive step of the claimed invention.

The examiner conducts searches in relevant databases, including:

- WIPO PATENTSCOPE: <https://patentscope.wipo.int/search/en/search.jsf>
- Google Patents: <https://patents.google.com/>
- Espacenet: https://worldwide.espacenet.com/advanced-search?locale=en_EP and
- National patent collections, as well as non-patent literature.

4.2.2.1. Search strategy:

The examiner shall develop a search strategy in respect of the invention.

A sample search strategy is provided as follows:

1. Identify the invention to be searched (subject matter of the claims).
2. Determine the appropriate IPC classification and keywords.
3. Search the most relevant technical field first, then

4. Review cited references, literature, and search reports from URSB or other patent offices, if available.

The examiner records all sources, databases, and search parameters used.

The search concludes once sufficient prior art is found to evaluate novelty and inventive step or when additional searching is unlikely to yield relevant results.

4.2.2.2. Categorization of Closest Prior Art and Search Report

The closest prior art is the single prior art reference most similar to the claimed invention. It serves as the starting point for evaluating inventive step. The examiner compares the features of the invention with those of the closest prior art to identify differences and determine whether the claimed invention provides a non-obvious technical solution.

The examiner prepares a search report containing:

- Identification of the closest prior art document(s).
- Classification of cited documents (e.g., X for novelty-destroying, Y for inventive-step relevant, A for general background).
- A summary of the search strategy, including IPC

symbols, keywords, and databases consulted.

- Comments or recommendations on the relevance of each reference.

The search report forms the basis for the subsequent examination report and serves as evidence of the examiner's diligence and transparency in evaluating patentability.

4.2.3 Claim Analysis

During substantive examination, claim analysis determine whether the claims provide meet the requirements of clarity, unity, sufficiency, novelty, inventive step, and industrial applicability. The examiner must ensure that the claims are supported by the description and conform to accepted drafting standards.

4.2.3.1. Assessment of Clarity

Clarity requires that the wording of the claims distinctly defines the matter for which protection is sought. The claims should be precise, unambiguous, and understandable to a person skilled in the art. Ambiguous expressions or relative terms like "thin", "strong", or "about" should be avoided unless their meaning is clear from the description. Where necessary, the examiner should invite the applicant to clarify or amend unclear terms.

4.2.3.2. Assessment of Unity of the Invention

An application should relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. The examiner evaluates unity by identifying the special technical features that define the contribution over the prior art. If lack of unity is found, the applicant should be invited to restrict the claims to one invention or file divisional applications for the others.

4.2.3.3. Assessment of Sufficient Disclosure

The description must disclose the invention in a manner sufficiently clear and complete for a person skilled in the art to carry it out. It should provide enough detail to enable reproduction without undue experimentation. Where biological material or specialized processes are involved, reference to deposits or standard procedures should be included. Insufficient disclosure constitutes a ground for refusal.

4.2.4. Assessment of Novelty

Novelty is assessed by comparing each claimed invention against prior art identified during the search. If all essential features of a claim are disclosed in a single prior art document, the claim lacks novelty.

The examiner must identify the specific passages of prior art that

anticipate the claim and record them in the novelty table. Only disclosures made before the filing or priority date are considered relevant.

4.2.4.1 Novelty/Feature Table

At this stage the Examiner uses the closest prior art gotten to draw a novelty table used to conduct claim analysis. The purpose is to determine which technical features of a claim are disclosed in any prior art reference in order to ascertain the relevance of the document to assessing the novelty or inventiveness of the claim. This process is repeated for all identified prior art documents in respect to all claims starting with the independent claims first.

4.2.5. Assessment of Inventive Step

The examiner shall determine whether, in view of the identified prior art available prior to the filing date, the claimed invention would have been obvious to a person skilled in the art.

The steps shall involve involve:

1. Determining the objective technical problem the invention seeks to solve.
2. Determining the distinguishing features the invention uses to solve the objective technical problem
3. Assessing whether the claimed solution would have

been obvious to a skilled person in view of the available knowledge in the prior art and common general knowledge prior to the filing date in the specific technical field.

If the solution is non-obvious, the claim satisfies the inventive step requirement. The examiner must document the reasoning process clearly to ensure objectivity and consistency.

4.2.6 Assessment of Industrial Applicability

An invention is considered industrially applicable if it can be made or used in any kind of industry, including agriculture.

The description should indicate at least one practical application/use of the invention. The examiner shall ensure that the claimed invention has a clear and reproducible industrial application.

4.2.7 Examination Report

At the conclusion of substantive examination, the examiner prepares a written examination report summarizing findings on all patentability criteria. The report should identify objections, prior art references, and reasoning for each ground of refusal. It may also include suggestions for amendment to overcome objections. The report forms the basis for communication with the applicant and subsequent decisions on grant or

refusal.

4.2.8. Non-Substantive Grounds for Rejection

Rejection of the application may also arise where the invention is:

1. Contrary to public order, morality, public health, or environmental safety.
2. Prejudicial to national security

The examiner should ensure that the claimed invention complies with ethical and safety standards applicable under national and international law.

4.2.9 Examination Outcomes

Following substantive examination, the application may result in one of the following outcomes:

1. **Grant of Patent:** where all patentability requirements are met.
2. **Refusal:** where objections remain unresolved after due process.
3. **Abandonment:** where the applicant fails to respond to communications within prescribed time limits.
4. **Withdrawal:** where the applicant voluntarily withdraws the application.

4.3. Publication

Patent applications are published after 18 months from the filing or priority date or upon request for early publication. Upon publication, the details become available

to the public through the official gazette or electronic register. The examiner should verify that all bibliographic data are accurate before publication.

Also upon successful examination, a notice of a patent or utility model is published in the Uganda Gazette.

4.4. Grant

The Examiner shall, if satisfied that application meets the requirements under the law, issues a certificate of grant of a patent to the applicant.

Grant confers exclusive rights for twenty years for a patent and ten years for Utility Model.

5. Post-Grant Actions

The granted patent file should be updated with grant details, bibliographic data, and payment of maintenance fees. For refused or abandoned applications, reasons for refusal and supporting documentation must be recorded and communicated to the applicant.

5.1. Appeals

An applicant dissatisfied with the decision of the Examiner may appeal to the Registrar General or an appropriate appellate authority in accordance with the Industrial Property Act. Appeals must be filed within the prescribed time, and the appellant must specify the

grounds of objection. The decision of the appeal authority is final unless further recourse is provided by law.

6. References and Tools

Examiners shall use credible databases and resources, including: WIPO PATENTSCOPE, Espacenet, USPTO, EPO, and scientific literature databases. Proper referencing of all sources enhances transparency and facilitates verification.

7. Record Keeping and Reporting

Each examiner must maintain accurate and up-to-date records

of all examination actions, search results, communications, and decisions. Reports should be filed in the official examination system to ensure traceability and institutional memory.

8. Review and Updates

These Guidelines shall be reviewed periodically to incorporate developments in patent law, international treaties, and examination practice.

Revisions should be informed by feedback from examiners, applicants, and URSB recommendations to ensure continued relevance and effectiveness.



Industrial Designs

1.0 Introduction

These Industrial Design Examination Guidelines are developed to aid examiners in the assessment and registration of industrial designs under the Industrial Property Act Cap.224 and the Industrial Property Regulations, 2017 of Uganda. The guidelines align with international best practices, drawing insights from the World Intellectual Property Organization (WIPO) and other jurisdictions adapted to the Ugandan context.

1.1 Legal Framework

Examiners shall apply the following laws and instruments in carrying out industrial design examination:

- a) The Industrial Property Act Cap.224 (Part IV – Industrial Designs);
- b) The Industrial Property Regulations, 2017;
- c) The Paris Convention for the Protection of Industrial Property;
- d) The Hague Agreement Concerning the International Registration of Industrial Designs (for guidance purposes); and
- e) WIPO's Model Guidelines for Industrial Design Examination.

2. Definition of an Industrial Design

Section 70 of the Industrial Property

Act (hereinafter referred to as the IPA) defines an industrial design in simple terms to cover any composition of lines or colours or any three-dimensional form, whether or not associated with lines or colours, provided that the composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.

3. Objectives of Examination

The purpose of design examination is to ensure that only registrable, new, and original designs are granted protection. Examination ensures that the design meets the substantive and formal requirements, avoiding conflicts with prior rights and maintaining the integrity of the register.

4. Stages of Examination

The design examination process includes:

1. Formality Examination
2. Substantive Examination
3. Publication
4. Registration and Issuance of Certificate

5. Formality Examination

This stage verifies compliance with procedural requirements under the Regulations, including:

- a) Properly completed application form;

- b) Representation of the design (drawings, photographs, or graphic reproductions);
- c) Payment of prescribed fees;
- d) Indication of the applicant and creator;
- e) Power of attorney, if filed by an agent; and
- f) Statement of novelty, where applicable.

5.1 Prescribed Form

The first task for the examiner is to determine whether the application meets the requirement for according the filing date. Although the exact wording and format of the prescribed form do not have to be followed, it is unacceptable to deviate from it in any way that is misleading or affects its substance.

The application must be wholly in **English** and contain the following:

- a) **Applicant Name/Address**
The name and complete address of the applicant(s) must be included in the application.
Where the applicant is not the creator, the request shall be accompanied by a statement justifying the applicant's right to the registration of the industrial design.
- b) **Agent Name/Address**
If the applicant has an agent, the agent's name and address is required and the application shall be accompanied by a power of attorney.

- c) **Ugandan Representative For Service**

If the applicant's residence and place of business is not in Uganda, the name and address of a representative for service in Uganda is required.

- d) **Title Identifying the Article to Which the Design is Applied**

The title should clearly identify the complete finished article as commonly known and used by the public.

Limited references to function, construction, or material are acceptable if:

- (a) the common name of the article is stated, and
- (b) such references are brief and not excessive.

Protection is confined to the article as titled, in line with s. 73 of the IPA. The title must refer to one finished article, not its parts or multiple designs.

When a design is embodied in an article having multiple functions or multiple independent parts that assemble to form one finished article, the title must clearly identify a single entity. Any title that implies that the application includes more than one design will not be accepted.

Where a design covers several

similar articles usually sold or used together, the title should include the word “set,” e.g., “set of cups.”

For designs applied to electronic displays, the title should specify the device in which the icon appears, e.g., “mobile phone screen.”

6. Substantive Examination

Substantive examination ensures compliance with s. 72 & 73 of the IPA, covering:

- a) Novelty: The design must not have been disclosed to the public prior to the filing or priority date;
- b) Originality: The design must result from independent creative effort;
- c) Industrial applicability: The design must be capable of being applied to an article by industrial means; and
- d) Exclusions: Designs dictated solely by technical function, contrary to public order or morality, or containing official symbols are excluded from protection.

6.1 Classification

Designs shall be classified according to the Locarno Classification system. Examiners shall verify the class and subclass claimed by the applicant and correct it if necessary to ensure consistency with the product to which the design applies.

6.2 Classification

Each industrial design shall be classified according to the Locarno Classification System. The Locarno classification provides a structured means of search and examination based on the type of article to which the design is applied.

Applicants are encouraged to indicate, at the time of filing, the appropriate class and subclass under the Locarno Classification that correspond to their product. Where the application contains multiple products, these must be grouped according to their classes and subclasses, each group clearly marked with the relevant class number and arranged in the proper order.

If no classification is provided by the applicant, the Examiner will assign one based on the nature and intended use of the article. Similarly, if the applicant’s proposed classification is found to be inaccurate, the examiner shall correct it and record the appropriate classification.

Where a product cannot be readily categorized under the available classes or alphabetical list, the examiner may request the applicant to clarify the article’s nature or function.

This system ensures uniformity in

examination and facilitates efficient public search and record keeping of registered designs within Uganda’s Industrial Property Office.

6.3 Search

In order to assess the originality of a design, the Examiner will conduct a search of registered designs and published art in the appropriate class(es) according to the Locarno Classification System.

A search will only be conducted if it is clear from the title, description and drawings what the design is. A preliminary examination of the application will determine whether or not the design is clear. If it is not, the examiner will issue a report notifying the applicant that the search will be delayed until an amended application is received that is clear as to what the design consists of. Any deficiencies in formal requirements will also be brought to the attention of the applicant.

6.4 Description Identifying Features Constituting the Design Applied to the Entirety or a Portion of the Article

The description must indicate whether the design relates to the appearance of the entire article or to the appearance of a portion of the article. Further, if the design relates only to a portion, that portion must be clearly identified.

Which visual features

The description must make clear which of the visual features shown in the drawings comprise the design. For example, does the design consist of all of the visual features of the article or only certain specific features, e.g., only shape.

Any feature of the design referred to in the description must be visible in the drawings or photographs.

An application may include a more detailed description provided that the additional detail accurately describes design features visible in the drawings or photographs.

Highlighting important features

It is acceptable to highlight a particular feature that is considered to be an important feature of the design.

Words or letters

When letters or words are included in the drawings or photographs as features of the design, any description of those features must relate to their visual appearance. Words and letters per se are not registrable subject matter of industrial design.

Variants

An application must relate to one design or to designs that constitute variants. To be accepted as variants, the designs must be very

similar and possess the described features without substantial variation.

Sets

It should be clear in the description when the design applies to a set and the description should refer only to the design features common among all pieces of the set, e.g., the identical design or variants applied to each piece of the set. It is acceptable to indicate the location of these features on each piece of the set.

Figure reference

It is recommended that a figure reference be inserted at the end of the description when more than one drawing or photograph has been provided. The figure references should be restricted to describing the views seen in the drawings, i.e., perspective, front, back, top, bottom, left side, right side.

When an article is shown in an opened and closed position or in an extended and retracted position, the figure references should also make that clear, e.g., Figure 1 is a bottom view of the kettle and Figure 2 is a top view of the kettle showing the kettle with the lid in open position.

6.5 Examples Of Acceptable Descriptions

Entire Article

The design relates to the overall shape and appearance of the entire article as illustrated in the drawings.

Example: The design consists of the visual features of shape and configuration of the entire kettle shown in the drawings.

Portion of the Article

The design applies to a specific part of the article as illustrated.

Example: The design consists of the features of ornament applied to the handle of the spoon shown in the drawings.

Portion Indicated in Solid Lines

Where only part of the article is claimed, the design applies to the portion shown in solid lines in the drawings.

Example: The design consists of the shape of the backrest portion of the chair shown in solid lines, the remainder being in broken lines for illustration only.

All Features Applied to the Entire Article

The design covers all visual features of the article, including shape, configuration, pattern, and ornamentation.

Example: The design consists of the features of shape, pattern, ornament, and configuration of the

entire bookcase as shown in the drawings.

Highlighting Key Features

Where specific visual aspects are of particular significance, they should be mentioned briefly.

Example: The design consists of the shape of the kettle shown in the drawings, with the spout forming the most distinctive feature.

Variants

Where the application includes more than one version of the same design differing only in minor details, this must be indicated.

Example: The design consists of the ornamentation applied to the handle of the spoon as shown in the drawings. Figures 1 and 2 show the first variant, and Figures 3 and 4 show the second variant.

Sets

Where the design is applied to multiple articles ordinarily sold or used together, the title and description should reflect that the design forms a set.

Example: The design consists of the ornamentation applied to the handles of a set of cutlery items as shown in the drawings.

6.6 Novelty Assessment

According to s.72 of the IPA, a design must be new in order to be entitled to registration. S. 72(2)

qualifies this to mean that there has been no disclosure to the public, anywhere in the world, by publication, or in tangible form or, in Uganda, by use or in any other way, prior to the filing date.

The Examiner shall determine novelty by comparing the claimed design with prior disclosures, including local and international publications, exhibitions, and online databases (e.g., National Designs Register, WIPO Global Design Database).

If a search discloses the existence of an identical or substantially similar design, the examiner will issue a report raising an objection on the basis of lack of originality. A copy of the cited design and its title and description will be forwarded to the applicant. Unless the applicant can establish that the new design has original design features beyond those seen in the cited design, the objection will be maintained and a final report will be issued.

6.7 Representations and Views

Applicants must submit clear and consistent representations that disclose all relevant views of the design (front, back, sides, top, bottom, perspective). Examiners shall ensure that all representations correspond to the same article and are consistent with each other.

6.8 General Requirements

Show entire article

The drawings/photographs must show the entire finished article to which the design is applied, even though the design may relate to the appearance of only a portion of the article.

Show fully-assembled article

Only the fully assembled view of the finished article will be accepted. Parts that are not visible in the completely assembled article are not registrable and should not be shown or labelled.

Show article in isolation

The article must be shown in isolation. The only subject matter that will be accepted aside from the illustration of the article are figure numbers, the names of the views, and the applicant's name/signature. Such written matter must not hinder the clear disclosure of the article (see also section below entitled "One view showing environment").

Clearly disclose design features

The drawings/photographs must clearly disclose all the design features identified and described in the description portion of the application.

It is acceptable to submit photocopies or scanned images if the article and the features of the design are clearly shown.

Quality

Drawings and photographs must

be clear and legible and must be presented so that the Office can directly reproduce them in black and white.

Photographs

Photographs should be numbered in sequence. It is suggested that the numbers be written, stamped or typed on the back of the photograph with permanent ink.

Views

The drawings/photographs must include a sufficient number of views to show the features of the design clearly and accurately.

Two-dimensional, plan and elevation views are accepted, and it is recommended that a perspective view of the design be included since it discloses the article in three dimensions.

Views of the article in open and closed, or extended and retracted positions, may be included when it is necessary to reveal design features visible when the article is used in those positions.

Flexible articles

Articles such as clothing and cushions that are flexible may be shown flat or as they appear in use, provided that the features of the design are shown clearly and accurately.

Sets

All pieces of the set must be shown in the drawings or photographs.

Variants

It is preferable to group views of each variant together (i.e., consecutively). A sufficient number of views are required for each variant to clearly and accurately disclose the design features.

Deferred Publication

Applicants may request deferred publication for a period not exceeding twelve months as permitted by s.73(5) of the IPA. Examiners shall ensure such requests are properly justified and fees paid accordingly.

Priority Claims

If priority is claimed, examiners must confirm compliance with the Paris Convention provisions. The applicant must file a certified copy of the earlier application within three months of the filing date in Uganda.

Uganda is a member of the Paris Convention for the Protection of Industrial Property, which provides for a six-month priority period for industrial design applications. This means that an applicant who first files an application in one Convention country may file a subsequent application for the same design in another member country within twelve months and enjoy the same filing date as the first application.

In accordance with s.24 of the IPA, and the corresponding Industrial Property Regulations, the Registrar of Industrial Property recognizes and upholds this right of priority. The Office will therefore ensure that a design claiming such priority is treated as if it had been filed in Uganda on the same date as the earlier foreign application.

Applicants claiming priority must submit a certified copy of the earlier application within three months from the date of filing in Uganda. The Registrar may, where appropriate, defer registration of the design until the expiry of the twelve month priority period to allow applicants to pursue filings in other jurisdictions.

Applicants are advised to note that some foreign offices may reject applications if the design has already been registered elsewhere prior to filing in their jurisdiction. To mitigate such risks, the Uganda Registration Services Bureau (URSB) may, upon request, delay the registration of an industrial design to enable the applicant to file in other Paris Union member states before public disclosure occurs.

6.9 Excluded Designs

The following shall not be registered:

- a) Designs contrary to public order or morality;

- b) Designs that incorporate national symbols, emblems, or flags without authorization; and
- c) Designs dictated solely by technical function.

7. Examination Reports

Examiners shall issue written examination reports indicating compliance or deficiencies. Applicants shall be given 60 days to respond or amend applications before final refusal.

8. Abandonment

If there is no response to a report within the specified period for reply, the application will be considered abandoned as of the date of expiry of the specified period for reply.

Once the application has been abandoned, the Office may send a 'Notice of Abandonment' to the applicant as a courtesy. The notice will set out the reason for abandonment. No fees will be refunded.

9. Registration and Publication

Upon successful examination, the Registrar shall publish a notice of an application to register an industrial design in the Uganda Gazette.

The Registrar shall, if satisfied that application meets the requirements under the law register the industrial design, publish a reference to the registration and issue a certificate of registration to the applicant.

Registration confers exclusive rights for five years, renewable for two further periods of five years each.

10. Publication and Opposition

Upon recommendation for registration, the Examiner shall publish a notice of the application in the Uganda Gazette. The applicant must pay the prescribed publication fee before such notice is issued.

Any person may, within 90 days from the date of publication, file a notice of opposition stating the

grounds for objection. The Registrar shall serve a copy of the opposition on the applicant, who must respond by filing a counter-statement within 30 days.

The opposing party shall then file a statutory declaration or affidavit in support of the opposition within 15 days, to which the applicant must respond with their own affidavit within the same period.

Failure by the applicant to file a counterstatement or affidavit renders the application withdrawn, while failure by the opponent to file supporting evidence renders the opposition abandoned.

After the exchange of documents, the Registrar shall schedule a hearing, giving at least 14 days' notice to each party. Only evidence submitted by statutory declaration or affidavit may be relied upon unless leave is granted to adduce further evidence.

The Registrar shall issue a written decision with reasons, and any aggrieved party may appeal to

the High Court within 90 days of the decision.

11. Record Keeping and Digitization

Examiners shall maintain accurate electronic and physical records of all examined designs to ensure transparency and ease of access in accordance with modern IP administration practices.

12. Confidentiality and Ethics

Examiners shall uphold confidentiality of unpublished applications and adhere to ethical standards of impartiality, professionalism, and integrity.

13. Appeals

Any person aggrieved by a decision of the Registrar may appeal to the High Court within 90 days as provided under regulation 49 of the Industrial Property Regulations.



Geographical Indications

1. INTRODUCTION

These guidelines are intended to assist URSB examiners in the effective and consistent registration and administration of geographical indications in Uganda. They ensure that GIs registered are credible, enforceable and meaningful, that they truly reflect a link between product and place and thereby provide value for producers and consumers alike.

The guidelines will ensure that there is consistency, predictability and compliance with the legal requirements in the registration process of geographical indications in Uganda.

The Examiners are supposed to use the guidelines as a reference tool in their duties and responsibilities.

1.2. Legal Framework

The governing law of registration, administration and enforcement of geographical indications is the Geographical Indications Act Cap. 223 and the Geographical Indications Regulations, 2018.

1.3. Objectives of Examination

The purpose of examination is to ensure that only registrable GI's are granted protection. Examination ensures that the design meets the substantive and formal requirements, avoiding conflicts with prior rights and maintaining the integrity

of the register.

1.4. Definition of a Geographical Indication (GI)

Refers to any Indication which identifies goods as originating in a particular country, region or locality where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin.

1.5. Categories of Goods for GI Protection

Under the Geographical Indications Act, protection may be conferred on the following categories of goods:

- a) Natural products – including minerals, water, or other naturally occurring substances;
- b) Agricultural products – including crops, fruits, coffee, tea, and other farm produce;
- c) Animal products – including dairy, honey, meat, leather, or other products derived from animals; and
- d) Products of handicraft or industry – including traditional crafts, textiles, artisanal goods, or manufactured products closely linked to a geographical area.

2. PRE-APPLICATION STAGE

This stage precedes the formal submission of an application for a GI. An applicant conducts a search on the register to find out whether

there are potential existing GIs that may conflict with the GI being sought for registration.

2.1. Search or inspection on the Register

A search or inspection of, or an extract from, any document or entry on the Register may be made by any person upon an application to the Registrar and payment of the prescribed fee (Reg. 7).

Examiners should note that a Ministry, Department, or Agency (MDA) of Government is not required to pay any fee for a copy of, or an extract from, a document contained in the Register

3. APPLICATION

An application for the registration of a geographical indication shall be filed with the Registrar using the prescribed application forms and upon payment of the requisite fees as provided under the Geographical Indications Regulations. The application should clearly identify the geographical area, the product to which the indication relates, and the link between the product's quality, reputation, or other characteristic and its geographical origin.

3.1. Scope of Examination

The examination of a GI application involves the following sequential stages:

- i. Formal Examination– verification of compliance with procedural and filing requirements.
- ii. Substantive Examination– assessment of registrability in accordance with the law.

Each stage is guided by specific criteria and documentary requirements.

3.1.1. Formal Examination

The purpose is to verify whether the application meets the procedural and documentary requirements prescribed under the Regulations.

3.1.2. Requirements of the application

An examiner should ensure that the application form has been duly filled and the prescribed fees have been paid. The GI application should have the following:

- (a) the details of the applicant:
 - i. the name, address and nationality of the applicant;
 - ii. the capacity in which the applicant is applying for registration;
 - iii. the geographical indication for which registration is sought;
 - iv. the geographical areas to which the GI applies;
 - v. the goods for which the GI applies; and
 - vi. the quality, reputation or other characteristics of the goods

3.1.3. Who can be an applicant?

- a) A legal entity of producers, farmers or artisans in a geographical area specified in the application;
- b) A group of representatives of producers; or
- c) Any competent authority for an indication with national character, for example, Local Government or Ministry of Agriculture, Industries and Fisheries.

3.1.4. Filing through agents

An application for registration of a geographical indication may be filed by an agent. It is not compulsory for local applicants to file through an agent, however, if they choose to file through an agent then they have to comply with the requirements for agent filing.

Where the applicant's ordinary residence or principal place of business is outside Uganda, he or she shall be represented by an agent.

3.1.5. Map or graphical representation

An application should be accompanied with a map showing the demarcated area or region or country where the goods for which the GI registration is being sought.

3.1.6. Proof of protection

If the applicant files an application for registration based on a

protected geographical indication in its country or territory of origin, the applicant shall file a copy of the certificate, document to proof of protection which shall specify—

- (a) the date of protection of the geographical indication in its country or territory of origin; and
- (b) the goods to which the protection of geographical indication relates.

3.2. Substantive examination

Substantive examination is the next and most critical stage in the Geographical Indications registration process. Unlike formality examination, which focuses on compliance with procedural and filing requirements, substantive examination involves a legal and technical assessment of whether the GI's mark meets the registrability requirements under the law.

The objective of substantive examination is to ensure that only GIs that comply with the legal standards for registration are accepted, thereby safeguarding the geographical Indication register from invalid or conflicting rights and protecting the interests of consumers and rights holders.

Upon receipt, the registrar examines the application according to sections 5 and 9 of the Geographical Indications Act.

The registrar may accept, accept subject to conditions or limitations, or reject the application.

If rejected, the applicant must be informed in writing within 30 days

In essence, substantive examination safeguards the Geographical Indication register, protects consumers and businesses, and ensures that only legally valid and distinctive Geographical Indications proceed to registration.

This stage determines whether the mark meets legal requirements for registrability and it is at this stage that the examiner can grant or reject the application.

The core of the GI examination. The objective is to determine whether the indication meets the substantive legal requirements for protection.

4. EXAMINATION

4.1 Substantive Criteria 5.1.1. Geographical Origin

The examiner should verify the following information provided in the application:

- That the geographical area described corresponds to an identifiable territory, region, or locality.
- Examine the map and boundaries for clarity and accuracy.

- Confirm that the area produces goods with homogeneous characteristics attributable to the place.

4.1.2. Goods Identified

- Ensure that the goods are clearly defined (e.g., “coffee beans”, “cheese”, “honey”) and that they originate from the designated area.
- Check that the GI applies to specific goods and not services or general commercial categories.

4.1.3. Classification of Goods

The applicant shall clearly indicate the class of goods in respect of which registration of the Geographical Indication is sought.

For purposes of classification, the Nice Classification of Goods, as adopted under the Nice Agreement, shall be applied.

An Examiner should ensure that the goods specified in the application correspond accurately to the appropriate class under the Nice Classification, and where necessary, guide the applicant to make the correct classification before substantive examination.

The application for registration of geographical indication shall be in respect of goods in only one class and application for registration of geographical indication of the same geographical indication in

different classes shall be treated as separate and distinct applications.

4.1.4. Specification of goods

Every application for registration of geographical indication shall contain the quality, reputation or other characteristics of goods identified by the geographical indication on the following matters:

- (a) geographical area;
- (b) physical characteristics of goods which may include colour, shape, texture, size, weight and taste;
- (c) proof of origin;
- (d) causal link between the geographical area and a specific quality, reputation or other characteristics of the goods which may include history, uniqueness, human factor, local factor, climate factor, soil factor or any other related factor;
- (e) specific steps or processing techniques in productions that shall take place in the identified geographical area;
- (f) description of labelling, if any;
- (g) award or recognition from authorised body, if any;
- (h) inspection body or body authorities verifying compliance of the goods specification, if any.

4.1.5. Link between Quality, Reputation, or Characteristic and Place

The examination must confirm

the existence of a link between the product's quality/reputation/characteristics and its geographical origin. This is the heart of GI examination.

The examiner must establish the causal relationship between:

- The **geographical environment** (natural or human factors), and
- The **quality, reputation, or other characteristic** of the goods.
- Are the qualities due to soil, climate, altitude, or local know-how?
- Has the reputation of the goods been historically associated with the place?
- Is there evidence that consumers associate the product with the region?

The following should be considered by an examiner in verifying the link between quality, reputation or other characteristics and place

(i) History and background

Applicants should also provide evidence of the effect of the history and background on the quality, reputation and/or other characteristics of the goods produced in the region. For example, in an area that is associated historically with high quality of coffee which is produced in that area may

also be prized.

(ii) Geographic features

The geographic features of an area can affect the quality, reputation and other characteristics of wines or spirits from that area.

Geographic features may include, for instance, general topography, elevation, natural features that provide shelter or that alter wind direction, ridges, valleys, plains, underground waterways and water tables, proximity to the coast or other bodies of water, slope, aspect, and/or accessibility.

Geographic features need not be discrete and homogenous, so long as they relate to the quality, reputation or other characteristic of the wine or spirit.

It is essential, however, that evidence of the geographic features of an area is linked to the quality, reputation or other characteristic of the wine or spirits produced in the area.

(iii) Soil composition

Evidence relating to the nature and composition of the soil in the area will often be highly relevant. Such evidence may include, for example, the soil

type or types (such as sandy, clay, silt or loamy soils), and the presence of particular rock (such as gravel, schist or slate). Soil characteristics may differ between strata.

The characteristics of the soil may influence or determine factors such as its temperature, pH, drainage, salinity, and nutrient/mineral profile.

Again, it is important that any evidence relating to soil composition includes a description of how the soil composition relates to the quality, reputation and/or other characteristics of wines or spirits from the relevant area.

(iv) Climate

To the extent that it is relevant, applicants should include climate data from the geographical area concerned. This may include, for example, data relating to rainfall, temperature, prevailing winds and/or hours of sunshine. Ideally, such evidence should comprise or be supported by research data from a reputable institution.

Importantly, applicants should link this data to the quality, reputation and other

characteristics of the wine or spirit.

(v) **Methods of production**

Evidence of “human” factors, including planting, harvesting and processing practices, may also be relevant. These factors are likely to be linked closely to “natural” factors. For example, steep, inaccessible terrain (a “natural” factor) can mean that less mechanisation is feasible (a “human” factor) – which in turn may mean that the goods from that area must be premium goods that are sold at a high price point in order to be profitable.

(vi) **Quality**

The qualities of a good from a particular area may include, for example, its aroma, flavour profile, sweetness, acidity, tannin, fruit, colour, structure, body, texture and viscosity, alcohol by volume, cellaring potential, typicality of product, signature characteristics, and/or varietal(s).

Applicants should, where appropriate, file expert evidence regarding the particular quality or qualities of the wines or spirits from the relevant area.

(vii) **Reputation**

Where relevant, applicants

should provide evidence that demonstrates the extent of the reputation of the good from the relevant geographical area.

4.1.6. Translation and transliteration

Where a geographical indication contains or consists of a word which is not in Roman characters, or the national language or English language, the applicant shall, unless the Registrar otherwise directs, upon filing the application for registration of the geographical indication, furnish the Registrar with the following information:

- (a) a translation of the word in the national language or English language;
- (b) a transliteration of the word, if the case requires; and
- (c) the language to which the word belongs.

4.1.7. Exclusion from protection

The GI Act excludes certain names or signs from registrability. The Examiner must ensure that the GI complies with Sect. 5 of the Act.

The following shall not be protected as GI:

- i. Not compliant with the definition of a GI in the Act
- ii. Contrary to public order and morality
- iii. Contrary to public interest, in particular national security, nutrition, health,

environmental conservation or the development of other vital sector of the national economy.

- iv. Ceases to be protected in its country of origin
- v. Misleading or deceptive indications as to the characteristics, nature, quality, place of origin, process of production of the product or its use.
- vi. A name which conflicts with a plant variety or animal breed
- vii. Conflict with registered trademark that has acquired reputation and widely known
- viii. A name which is generic
- ix. Misleading homonymous name

4.1.8. Meaning of a generic name
A name that has become generic

means the name of a product which, although it relates to the place or the region where the product was originally produced or marketed, has become the common name of the product in Uganda.

A name wholly or partially homonymous with that of a name already registered under this Act may be registered with due regard for local and traditional usage and the actual risk of confusion.

4.1.9. Meaning of a homonymous name

A homonymous name means a name for a different region or

locality that is spelt or pronounced in the same way as a name already registered as a geographical indication.

Additionally a homonymous name which misleads the consumer into believing that products come from another region or locality shall not be registered even if the name is accurate as far as the actual place of origin of the product is concerned;

The use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumers.

4.1.10. Protection of certification Mark

A certification mark is any word, name, symbol, or device, or any combination thereof owned by one person and used by others in connection with their goods or services to certify one or more characteristics of their goods or services. Such characteristics may include geographic origin, materials, mode of manufacture, quality, accuracy, or that the work or labor on the goods or services was performed by members of a union or other organization.

The owner should not be permitted to use a certification mark. The application for a certification marks should be accompanied by rules to govern the use of certification mark and statements.

A certification mark shall be subject to the protection provided for geographical indications.

An application to register a certification mark may, upon the request of the applicant, be freely converted to an application to register a geographical indication.

An application to register a geographical indication may, upon request of the applicant, be freely converted to an application to register a certification mark.

The conversion of an application under certification mark or a geographical indication is subject, in each case, to the payment of the prescribed fee and examination in accordance with regulations made under this Act for the registration requested.

4.1.11. Control Mechanism

Ensure that the application specifies an inspection or certification system to verify compliance with the standards.

This may involve:

- A local producers' association
- A designated authority (e.g.,

Ministry of Agriculture or Uganda National Bureau of Standards)

4.1.12. Non-compliance affecting application for registration of geographical indication

Where an application for registration of geographical indication does not comply with, the Registrar shall issue a provisional refusal in a written notice to the applicant to remedy any non-compliance within the period specified in the written notice.

4.1.13. Amendment or Withdrawal of Application

An Applicant should be permitted to amend the formalities data, which may be administrative or substantive in nature, and may be in the form of a change, an addition, a deletion, or a correction of small typographical errors.

An application to amend or withdraw must be made in Form 3 (Schedule 1) with the prescribed fee (Schedule 2).

An amendment cannot be made in relation to the description of the goods or the geographical territory to which the application relates.

It must be made before the registrar to register the GI or issues a notification of refusal.

Withdrawal by multiple applicants

requires the consent of all applicants who signed the original application.

4.1.13. Acceptance and publication of application

Upon examining an application for registration of geographical indication, where the Registrar is satisfied that the application fulfills the requirements for registration, the Registrar may accept the application either absolutely or subject to any condition, amendment, modification or limitation. Upon the acceptance, the Registrar shall issue a notice of acceptance to the applicant.

4.1.14. Publication, Opposition Registration

Upon successful examination, the Registrar shall publish a notice of an application to register an industrial design in the Uganda Gazette.

The Registrar shall, if satisfied that application meets the requirements under the law register the industrial design, publish a reference to the registration and issue a certificate of registration to the applicant.

Registration confers exclusive rights for five years, renewable for two further periods of five years each.

Accepted applications are

published in the Gazette or other media in Form 4 (Schedule 1).

Publication includes particulars like the application number, filing date, applicant details, and representation of the GI, goods, and conditions of use, characteristics, geographical area demarcation, and the time allowed for objections.

A person may lodge a notice of objection within 60 days from the date of publication in Form 5 (Schedule 1) with the prescribed fees (Schedule 2).

The applicant must file a counterstatement in Form 6 (Schedule 1) within 30 days of receiving the notice of objection.

4.1.15. Prohibition of Licence or assignment

The right to use a geographical indication or name of Place of origin shall not be subject to licence or assignment.

The owner of a registered geographical indication may transfer the registration with that part of the business to which it pertains subject to conditions namely;

4.1.16. Appeals from decision of registrar.

Applicant may appeal against the Registrar's decision to the High Court in accordance with the

regulations under the Act.

5. Quality and Consistency

- Refer to previous decisions and internal practice notes.
- Discuss complex cases with senior examiners or the Registrar.
- Maintain professionalism and objectivity.

6. References and Tools

- Geographical Indications Act, Cap 223
- Geographical Indications Regulations, 2018
- Nice Classification 11th Edition
- Industrial Property Administration System (IPAS)
- The Company register
- Relevant Case law.

7. Record Keeping and Reporting

Record all examination actions and communications. Ensure notes are clear and traceable.

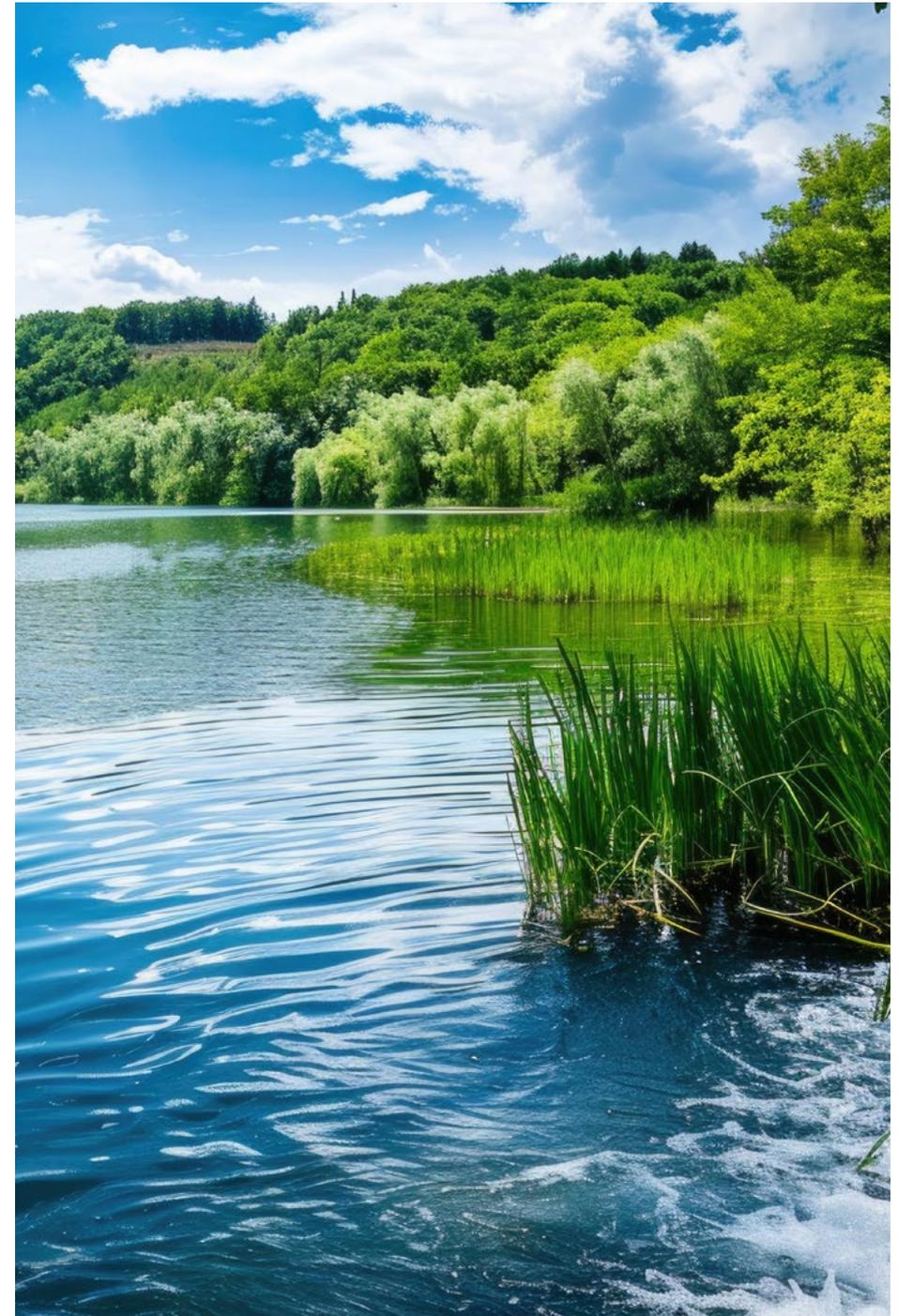
Provide regular reports on examination output and timelines.

8. Examiner's Responsibilities

- k) Examiners must apply the law consistently and ensure accuracy in examination,
- l) Should communicate clearly and with legal basis.
- m) Examiners should always maintain the integrity of the register.
- n) Always balance the protection of legitimate trademark rights with the public interest.
- o) Strive for consistency, fairness, and timeliness in examination.
- p) Seek guidance in complex cases and continuously update your knowledge.

9. Review and Updates

These Guidelines shall be reviewed periodically to reflect legal reforms or changes in the environment, including technological advancements, and emerging trends in trademark practice.





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