



Patent Information



What They Are and How They Work

By granting a patent for an invention, the State gives the inventor a monopoly right to prevent others from making, using or selling the invention, without his or her permission.

It does not give the inventor the right to make, use or sell the invention himself. This is because the inventor's ability to do these things may be subject to the patent rights of others. For instance, let's say that our inventor has devised a novel form of skirt for a hovercraft. Anyone wishing to make a hovercraft with this form of skirt may be subject to the inventor's patent. However, the hovercraft may already be protected by a patent which covers the whole vehicle, whether it has a new skirt or not. Therefore it may be necessary for the inventor to obtain a licence from the owner of the earlier patent before he can commercialise his own invention.

Patents are territorial in nature. A UK patent will only give its owner rights within the United Kingdom. This includes the rights to stop others from importing products into the UK which infringe the owner's patent.

A patent has a life of up to 20 years. However, most patents are maintained for only 7 – 10 years.

Technically, a patent is an item of property which can be bought, sold, rented or hired.

What Patents Protect



Patents may be obtained on products or processes. They are intended to protect the way things work, what they do, how they do it, what they are made of or how they are made. Patents are not really concerned with the visual appearance of products; that is more the domain of Registered Designs. Certain types of "invention" cannot be patented, these being:

- Discoveries.
- Scientific theories or mathematical methods.
- Schemes or methods for performing a mental act, doing business or playing a game. However, a new game with its own apparatus, such as a board, playing pieces and rules may be patentable.
- New animal or plant varieties.
- The presentation of information, or computer programs which do not perform any technical effect or function.
- Methods of treatment of the human or animal body by surgery or therapy. However, new devices or equipment used in such methods may be patented.
- Perpetual motion machines or other "inventions" which operate in a manner clearly contrary to established physical laws.
- Aesthetic creations such as literary, dramatic or artistic works.

Meeting the Criteria



In most countries the main criteria for obtaining a valid patent are that the invention is new and that it involves an inventive step.

In many countries novelty is judged on a world-wide basis, that is to say, the invention must never have been made public in any way, anywhere in the world, before the date on which the application for the patent is filed.

What is an Inventive Step?



In general, this requirement is not too demanding but in some cases, it can be very difficult to judge. An invention must involve something more than just a trivial difference over what is already known. A red coloured bicycle is novel over a green coloured bicycle but clearly lacks inventive step, the choice of a different colour being an obvious one.

Or is it? A blue squash ball was held to be potentially inventive over a black squash ball. The invention lay in the appreciation that the flight of a blue squash ball could be more easily perceived than that of a black one. As specialists in intellectual property, we at Azrights are perfectly-placed to advise on whether or not your application falls within the criteria. We can then go on to prepare and process your application.



Applying for a Patent

The procedure for obtaining a patent can take from three to five years and sometimes longer.

However, this is normally not a problem. Once a patent application has been filed at the British Patent Office, it is possible to talk about the invention to others, or sell products incorporating the invention, without jeopardising the possibility of obtaining a valid patent, and without the risk of someone else stealing the idea.

To file a patent application, a very important document, called a Patent Specification, has to be prepared.

Normally, this document will contain:-

- A detailed description, with drawings, of at least one version or embodiment of the invention.
- A series of statements, which define the overall scope of the invention, thus providing protection for variations which are not specifically described in the document. These statements form the basis on which the patent application will be searched and examined by the Patent Office. They may appear in both the body of the document and as a set of 'claims' at the end.

The Next Stage

Once the Patent Specification has been lodged at the Patent Office, the applicant will be given a filing date and an application number. Nothing further needs to be done for a period of one year. Most people use this time to develop the invention further and/or to explore commercial possibilities with manufacturing partners or licensees.

Towards the end of the year, the inventor needs to decide whether to proceed with an application for the UK only or whether to extend patenting into other countries. If so this may be pursued country by country or, more commonly, by filing an International or PCT (Patent Cooperation Treaty) application. This can cover a large number of countries and allows the inventor to proceed with only a single application for a further 18 months, making a total of 2½ years from the initial filing date.



Michael Harrison has a doctorate in chemistry from Oxford University and is a European (and Chartered) Patent and Trade Mark Attorney with over 35 years experience in Intellectual Property, having worked for several leading IP practices. He is the immediate Past President of the Chartered Institute of Patent Attorneys. He is a Consultant to Azrights, and heads our Patent department.

Progressing Applications

When 2½ years has elapsed from the initial filing date, the inventor must decide in which countries to seek patent protection and enter separate patent offices for the territories chosen. Most inventors opt for Europe (via the European Patent Office) and the USA (via the US Patent and Trademark Office). Japan, China, Australia and Canada are also frequently selected.

Each application then proceeds separately and independently in each patent office, according to the procedures laid down in the territories concerned. A further one to three years – and sometimes more - may elapse before patents are granted.

Maintaining Protection

Patents need to be kept in force throughout their lifetime by the payment of renewal or maintenance fees, normally on an annual basis.

Is it Worth it?

The patent trail is a long one and it can also be expensive. It may cost from £2,500 to £3,500 to obtain a British patent and perhaps two or three times that amount for other countries. However, these costs are spread over several years and patent applications need not be pursued unless, at each stage, there is a good commercial reason for doing so. There is no point in spending money on patents which are not really needed because, for instance, they cover a technology which has been superseded.

Azrights Services and Costs

We are able to offer the services of a highly qualified UK and European Patent agent, so whether you want an initial no obligation discussion, or want us to conduct searches in the UK and overseas and advise on your chances of a successful application, please contact us.

If you decide to go ahead, we can prepare and file a UK patent application from around £1,500 to £2,500.

When the initial 12 month period has elapsed, we can prepare and file a PCT patent from £3,000 to £4,000. It is vital to establish the commercial value of the invention within this initial 2½ year period, before considerably higher costs are involved.

