

A guide to patents

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The purpose of this guide is to provide users all the basic information they may require when looking into patents and how to obtain protection. The main areas of focuses in this guide are: general information on patents, how to get protection and how to keep it protected.

This guide is for reference only and we recommend that you check with your IP advisor when considering filing an application or instructing renewals.

General

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What is Intellectual Property?

Intellectual Property (IP) refers to something unique that has been created by the mind, such as inventions; design and symbols, and names and images. Intellectual Property rights (IPR) are protected by law and include patents, trademarks, designs and copyright protection.

What is a patent?

A patent is a set of exclusive rights for an invention granted by Intellectual Property Offices in different jurisdictions. This can be a product or a process that provides a new way of doing something, or that offers a new technical solution to a problem.

What does a patent do?

A patent provides protection for the invention to the owner of the patent in the form of exclusive rights. The protection is granted for a limited period, generally 20 years.

Who owns the patent?

A patent belongs to the inventor unless they have given the rights or license to someone else. If the inventor is an employee and they make the invention as part of their work, the rights belong to the employer.

Why are patents beneficial?

Patents provide both incentives and protection to individuals by offering them recognition and the possibility of monetary rewards for their invention. Patents also promote innovation and the development of new products and ideas, rather than just 're-inventing the wheel'.

What rights does a patent provide?

A patent protects the inventions so it cannot be commercially made, distributed, used or sold without the owner's permission. The patent owner may give permission, or license the use of the invention to others under agreed terms. The owner also has the right to sell the invention. Once a patent expires the invention is no longer protected and the owner does not have exclusive rights to it.

Is there a limit on how long a patent is protected for?

Patent protection is granted for a limited period of time only. From the filing date of the application the life of a patent will generally be 20 years. In the case of a design patent the term is fourteen years from grant date.

How are patent rights enforced?

Once you have secured a patent you can legally stop others from making or distributing your invention. However the main responsibility lies with the patent owner to monitor and take action against any infringers. Patent rights are enforced by instruction of the owner and in most cases a court of law has the authority to stop any infringement.

Is a patent valid in every country?

A patent is a territorial right, which means that the exclusive rights are only applicable in the county, or region in which the patent has been filed and granted, in accordance with the law of that country or region.

Do I need a patent to use my invention?

No. Whether you have a patent or not, you are free to use your invention, but only if no one else already has patent rights to it. However, if you do not have a patent, you have no protection for your invention and it can be hard to stop other people from copying your idea.

What happens if I don't patent my invention?

If you don't patent your invention, others may take advantage of it. If the product is successful, others may make the same product without needing to gain your permission. The potential to license, sell or transfer your invention will be hindered if you don't patent your invention. There is also the possibility that someone else may patent your invention first, giving them exclusive rights to the invention and preventing you from using it unless you pay them a license fee.

Why should I consider patenting my invention?

Patenting an invention gives the owner certain benefits over deciding not to seek protection. These benefits are:

1. A patent gives you exclusive rights to stop others from copying, manufacturing, selling or importing your invention without your permission.
2. You get protection for a set period of time, which stops competitors using it.
3. You can utilise the invention yourself.
4. You can license your patent to others to use it, or sell it.

What can and cannot be patented?

To be granted a patent, your invention must be:

- Something that can be made or used
- New
- Inventive: it can't just be a modification of something that is already patented

You can't patent the following:

- Literary, dramatic, musical or artistic works
- A way of doing business, playing a game or thinking
- A method of medical treatment or diagnosis
- New types of plants, seeds or animals
- The way information is presented
- Some computer programs

What makes an invention patentable?

There are three major requirements for patentability. The invention must be: Novel, Useful and Not Obvious.

1. **The invention must be new.**
Novelty is a vital requirement and a definite condition of patentability. An invention will not be novel if it has been disclosed in the public through any type of publication anywhere in the world.
2. **The invention must be useful.**
The invention must be considered useful and have practical applications that can be demonstrated.

3. **The invention must not be obvious.** The invention must not, at the time it was made, be considered obvious by anyone in the field that the invention was created for.

What does it mean to license a patent?

A license is a written authorisation to use an invention. An inventor can authorise a manufacturer, marketing or distribution company to make and sell the invention in exchange for paying the inventor royalties.

A license may be exclusive to one manufacturer or non-exclusive with a number of manufacturers licensed to develop it. The license may last for the duration of the patent or for a shorter period of time. The territory of the license is usually limited to the jurisdictions in which the patent is protected.

Can I search for patents that have already been granted?

Yes. Patent searches can be carried out using the patent office databases. Patents can be searched for using the [USPTO's website](#), the [UK IPO website](#), the [EPO's espacenet system](#) or [Google patents](#).

If you have any questions, don't hesitate to contact the Envoy team:

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Getting started

The patent application process

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Who grants patents?

A patent is granted by a national patent office or by a regional office that does the work for a number of countries, such as the European Patent Office. Under these regional systems an applicant requests protection for the invention in one or more countries, and each country decides as to whether to offer patent protection within its borders.

How is a patent granted?

In order for a patent to be granted an application must be filed at a national patent office such as the UK IPO or a regional body. Once all the relevant searches and examinations have been carried out and the patent application meets all of the requirements of the relevant patent office, a patent will be granted. The first step to getting a patent granted is filing the application.

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How much does it cost to patent an invention in the UK?

The cost of patenting an invention will depend on how you apply for protection. If you work with a patent attorney or advisor, they will help you through the application process and charge a fee for this service. The cost* of submitting the patent application to the UK IPO is as follows:

	Online	Post
Application fee	£20	£30
Search	£130	£150
Substantive examination	£80	£100
Total	£230	£280

** Fees listed are sourced from the [UK IPO website](#) and are correct at the time of publication.*

How do I apply for a patent?

To apply for a patent, a patent application needs to be submitted to a patent office and the required fee paid. A patent application would be submitted to the patent office in the jurisdiction where you want your patent to be protected. For example for a US patent you would apply to the [United States Patent and Trademark Office \(USPTO\)](#), and for a UK patent you would apply to the [UK Intellectual Property Office](#).

How can patents be obtained worldwide?

There is no such thing at present that could be classed as a worldwide patent. To obtain patent protection in a country, you need to file a patent application in that country and be granted a patent by that country's patent office.

In some areas, a regional patent office such as the European Patent Office (EPO) accepts one patent application for multiple countries, and has the same effect as filing applications in each individual country.

What are the steps to getting patent protection?

The basic steps involved in obtaining a patent include:

1. **The idea** - all inventions start with an idea.
2. **Research** - does the invention already exist? Your invention must be novel, meaning that it must never have been publicised in any way anywhere in the world prior to the patent application.
3. **Confidentiality** - don't reveal your patent to anyone before applying for a patent. If you make your invention public you may not be granted a patent.
4. **Seek professional advice** - contact an IP advisor or patent attorney who will assist you in the process of obtaining patent protection for your invention..

5. **File with the IPO** - your IP advisor will prepare a patent application and file it with the relevant IPO. The IPO will respond by issuing a filing receipt including the application number and confirmation of the filing date.
6. **Search** - your IP advisor will complete the paperwork and pay relevant search fees. The examiner will then carry out a search of published patents to determine that the invention you have submitted is actually new and inventive.
7. **First publication** - the IPO will publish your application 18 months after filing, as long as all requirements have been met.
8. **Examination** - After publication your IP advisor will submit a further form requesting that a substantive examination be carried out on your application.
9. **Grant** - If the application meets all the necessary requirements the patent will be granted, the application will be published and a certificate issued.

What does the term 'patent pending' mean?

'Patent pending' describes the status of a patent application that has been filed with the patent office, but has not yet been granted. Patent pending indicated that the inventor is already pursuing protection for their invention.

How do I find out if a patent is still in force?

The term of a patent is usually 20 years, unless it expires earlier due to non-payment of renewal fees. After the patent expires the invention is available to all. To determine if a patent is still in force, the patent in question will need to be investigated. This can be done via the [USPTO's website](#), the [UK IPO website](#), the [European Patent office's espacenet system](#) or [Google patents](#).

Do I need a patent attorney/agent to prepare and file a patent application?

No. Applicants can prepare their patent application and file them without assistance from a patent attorney or agent. However patent documents can be complex and it is advisable to seek legal assistance when drafting an application. Some countries require applicants to be represented by an attorney or agent qualified in that country when the applicant does not live in that territory.

How long does it take to get a patent?

The time required for a patent to be granted depends on the registration procedure and other factors that will vary from country to country. In countries where no examination as to the substance of the patent application is conducted, the procedure will be fast, registering within a few months. However in countries where the patent office does conduct this examination to check the patentability of the patent it will generally take over 12 months, and in some cases 18 months. If the laws in certain countries allow for opposition proceedings prior to the grant of the patent, this process could take even longer.

Does the granting of a patent in one country affect its grant or refusal in another country?

Each country has the power to grant or refuse a patent application independently determined by its own patent office. Therefore granting or refusing a patent in one country does not automatically mean that other countries are bound to grant or refuse a patent for the same invention.

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Keeping a patent protected

The renewals process

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How long will a patent stay protected?

A patent is generally granted for 20 years from the filing date of the application; however renewals need to be paid to maintain the patent.

What are renewal fees?

Renewal fees are regular payments that must be made to the patent office in order to keep a patent in force. The rules of when renewal fees are due vary from country to country. In the UK renewals start from the 4th anniversary of the patent filing date and are due annually every year after that.

Do you need to pay renewal fees?

Non-payment of renewal fees will result in the patent lapsing and the owner losing their rights to the patent meaning someone else could take advantage of it.

When can I pay the renewals due for a patent?

Patent renewal fees are due to be paid annually on the anniversary of the filing date. The payment due date is considered to be the end of the calendar month in which the patent application was first filed. You can renew your patent up to three months before the payment due date.

What if renewals are not paid by the renewal date?

After the renewal date has passed the payment will fall into the grace period. You can renew up to 6 months after the due date but you will be required to pay a late payment fee for each extra month.

What are official fees?

Official fees are the charges that the patent and trade mark offices around the world take when you apply for intellectual property protection in that particular country.

How do I pay renewal fees?

There are a few different options for paying patent renewal fees:

- Pay directly to the patent offices in the territories where you would like to maintain protection of your patents, paying each individually;
- Use a service provider such as Envoy who will renew your patents and make payment to all patent offices around the world on your behalf; or
- Instruct your patent attorney to renew your patent on your behalf.

Are fees due when patents are pending?

Different jurisdictions have different rules regarding the payment of renewal fees when patent are pending. We would recommend that you check with the IPO, your renewals service provider or patent attorney for more information.

Which countries have renewal fees due at the stage of patent pending?

The European and Canadian patent offices charge renewal fees on pending applications. In the case of the European Patent Office you stop paying renewal fees to them when the patent is granted and then pay the renewal fee straight to the national patent office where the patent is protected.

Do I need to inform the patent office of changes to my IP right and ownership details?

Yes. If any circumstances change in terms of your IP rights these need to be registered with the patent office in order for the patent to remain in force. Failure to do this could result in you not being able to enforce the rights should any infringement occur.

How do I go about making changes to my IP rights?

IP recordals can be carried out in a few ways:

1. Complete the required forms and submitting them together with the required fee to the IPO where the rights are protected.
2. Instruct a renewals service provider such as Envoy to carry out the work on your behalf, taking care of all the paperwork and filing required.
3. Instruct your patent attorney to file and pay for the recordal with the IPO.

It is important to note that the process of reassigning and recording IP rights is a complex process and if any errors are made this could affect your protection and your ability to enforce it.

Any questions?

If you're looking at patent or trade mark renewals, feel free to get in touch for a quote. Or, if you'd like to try our online renewals system, we can set up a trial account for you.

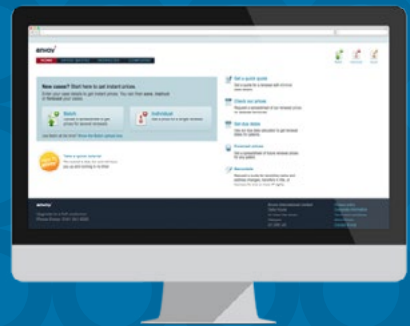
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