

Patents Q&A

Our patent teams are made up of both UK and European qualified Attorneys with a range of both academic research and industry experience. We represent clients in proceedings at the UK Intellectual Property Office (UKIPO) and the European Patent Office (EPO) and have an impressive track record in achieving the grant of strong, commercially targeted European patents.

What is a patent?

A patent is an intellectual property right granted by a country's government for protection of an invention within its territory for a limited period (normally 20 years).

What does a patent do?

A patent gives the owner (patentee) the right to stop others making, using, importing or selling the invention in the territory and to seek compensation for damage caused by an infringement.

Does a patent give the right to use the patented invention?

No. A patent does not give the patentee the right to put the invention into practice as this may infringe someone else's patent.

What kinds of things do patents protect?

Patents generally cover products and processes that contain new technical aspects.

Can all new ideas be patented?

No. Certain ideas of an abstract nature are excluded from patent protection in many countries. In the UK, ideas that cannot be patented include pure methods of doing business; scientific or mathematical discoveries, theories and methods; literary, dramatic, musical or artistic works; schemes, rules or methods for performing a mental act or playing a game; and methods of medical treatment. Inventions relating to computer software can be patented if they contain a technical aspect.

What are the requirements for an invention to be patented?

An invention must be new (not already known to the public anywhere in the world before the date the patent is applied for), inventive (not an obvious modification of what is already known) and capable of industrial application (it can be made or used in any type of industry). It is very important you keep an invention secret until a patent application is filed.

How do I apply for a patent?

Getting an invention patented can be complicated and, while it is possible for you to go ahead on your own, it is advisable to use a patent attorney. A patent application is a legal document that includes a written description of the invention and claims (precise legal statements in a single sentence that defines the boundary of the invention in technical terms). There are strict legal rules which govern the changes that may be made to an application after filing and it may not be possible to rectify mistakes or omissions

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Is the grant of a patent automatic?

No. Once an application is filed a novelty search will be conducted to determine if there are any earlier published documents (prior art) disclosing the same or similar ideas.

An examiner will review the application to determine whether the subject matter of any of the claims is known or obvious in view of the prior art. It may be necessary to amend the claims so that they only define inventive subject matter.

Amending a patent application to obtain the optimum scope of protection is a highly specialised skill.

What happens after a patent is granted?

Once a patent is granted, the patentee must pay annual renewal fees to keep the patent in force. If the renewal fees are not paid, the patent rights will be terminated.

Who is responsible for enforcing a patent?

The patentee. Infringement cases can be complicated and costly and it is advisable to obtain professional advice from a patent attorney. It is not advisable to write or approach a suspected infringer yourself as the law may protect them from unjustified threats of action.

Is there a worldwide patent?

No. Almost all countries in the world have patent laws allowing applications for patent protection. An international convention covering most countries allows corresponding national patent applications to be filed up to 12 months from the original filing date (priority date) and claim the priority date.

In addition to filing patent applications in individual countries, foreign patent protection can be obtained by filing a European patent application or an international patent application.

A European patent application covers over 30 countries and the search and the entire examination is conducted centrally. If the European patent application is granted, it is necessary to validate the patent in each selected country, which may involve filing a translation of the granted text in the national language.

An international patent application may cover most countries in the world and a search and initial examination are conducted centrally. Thereafter, within 30 months of the priority date, the international patent application must be divided up into a series of national and/or regional (e.g. European) patent applications for further examination and grant

How long does it take to get a patent?

From the time an application is filed, the UK patent application process usually takes between three and four years. If an international patent application is filed, it may take six years or more to obtain patents in Europe.

There are ways of speeding up the process but this is not always in the best interests of an applicant and will bring the costs upwards.

How much does it cost to get patent protection?

Much of the cost of obtaining patent protection depends on the time taken by the patent attorney to draft and prosecute the patent application.

The cost of obtaining and maintaining a patent portfolio is significant and our attorneys are experienced in designing a filing strategy to meet a client's needs and to provide cost estimates.

Note:

The above Q&As are only intended to provide general information; for advice on specific situations, you should always consult your attorney at Mathys & Squire.