



Foreign Patents

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How soon must I apply for foreign patents?

If you want to apply for foreign patents then you must do so within twelve months of the filing date of your UK patent application, i.e., within the so-called “priority year”. Depending on the countries, we may need to obtain translations or instruct foreign associates so it’s worth thinking about this well in advance of the deadline.

There are three ways of protecting your invention abroad which you can pursue separately or in combination:

- (i) file a separate national patent application in every country where you are seeking protection;
- (ii) file a regional patent application designating several countries - the European patent system is the most common but there are others elsewhere; and
- (iii) file an international (or PCT) patent application designating a number of countries or regions.

National patent applications

You must apply in each country before the end of the priority year. We work with a worldwide network of patent attorneys so we can instruct a local attorney to take care of the filing of your application and, if necessary, to arrange for translation of the application into the local language. Once on file, foreign patent applications usually go through a search and examination procedure similar to that in the UK. However, the strictness of the examination and the time taken for the various stages varies from country to country.

European patent applications

By using the regional system based at the European Patent Office (EPO) in Munich, you can file a single application in English which provisionally designates 38 European countries, including all of the current EU member countries. This is something that we can handle for you directly. The application will go through a search and examination process. Assuming any objections are eventually overcome, the EPO will indicate that it intends to allow the application, subject to the payment of a grant fee and the filing of translations of the claims in the French and German languages. This is typically at least three or four years from filing.

Once it’s been granted, the European patent has to be brought into force in each of the designated European countries where you need protection. We’ll usually need to use local attorneys to deal with formalities in each country, which in some cases requires translating the patent into the local language. The costs can be high if many countries are involved, particularly if the specification is long. But by this time, you’ll have a clearer idea of which European countries are of genuine commercial interest. A European patent is generally cheaper to obtain than separate national patents if protection is required in three or more countries.

International patent applications

A single international patent application under the Patent Cooperation Treaty (PCT) can be filed in English and designates a very large number of countries and regions, including Europe via the EPO. The application is searched and may optionally be examined but it does not directly result in a granted patent. Instead, it must eventually be converted into separate applications for patents to be granted by the national or regional patent offices. It may sound complex but the procedure is explained in more detail in our corresponding PCT leaflet.

The main advantage of an international patent application made under the PCT system is that the expense of filing the national and regional applications can be deferred for up to thirty months from the original UK filing date. You also have the option to protect the invention in a wide range of countries and only need to trim this down at a late stage.