



Patents

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What is a patent and how will it benefit me?

A patent protects a new device or process. The owner of the patent has the right to prevent others from exploiting the invention without permission.

To be patentable, an invention must be new and must not be obvious at the time when the patent application is filed, e.g., it must not have been disclosed to the public anywhere in the world, even by the inventor, before the filing date of the application. It is therefore important to consider if a patent application should be filed before marketing or otherwise making public the invention.

Certain types of invention are excluded from patent protection, e.g., inventions that cannot be applied in industry; methods of medical treatment; and non-technical inventions such as ways of doing business, carrying out mental acts or presenting information.

How do I file a patent application?

An application needs to be filed at the UK Intellectual Property Office (IPO). The patent application must include a description of the invention, drawings if appropriate and optionally claims and an abstract. The claims are very important because they define the invention that is covered by the patent both for assessing whether the invention is patentable and for determining whether another product or device infringes it. We can prepare the application and file it for you at the IPO. Once a patent application has been filed you are free to disclose the invention to the public.

The IPO allocates an application number and a filing date, which marks the start of a “priority year”. Within this year only, subsequent UK patent applications can be filed which keep the benefit of the initial filing date for subject-matter in common with the initial application. These applications can be used to cover modifications or improvements made to the original invention. If you make any significant changes to the invention, please discuss them with us before you make them public so that we can consider whether an additional patent application might be necessary.

What happens to my patent application once it has been filed?

Before the end of the priority year, we will need to request a search, pay the fee and file claims and an abstract (if they are not already on file). An examiner at the IPO then conducts a search through previously published patent applications and a limited range of other documents to form an initial view on whether or not the invention is new and not obvious. Around three to six months after the filing of the search request, the examiner issues a search report detailing any relevant publications found. We will send this report to you and advise on the consequences.

We need to review this search report in order to best advise on the scope of patent protection that you are likely to be able to obtain. If you are considering applying for foreign patents, it's a good idea to file a search request early in the priority year so that you have this additional information when you are considering the foreign patenting options.

Approximately eighteen months after the initial filing date, the patent application is published by the IPO, together with the search report.

Within six months of publication, examination must be requested and an examination fee paid. The application then goes back to an examiner, who issues an examination report detailing any objections to the application. We will send the examination report to you with our comments. If we believe that the objections can be overcome, we will prepare and file a response at the IPO. Sometimes it's necessary to have more than one round of correspondence with the examiner. Once the examiner is satisfied that the claimed invention is patentable, the application is accepted and published again, this time as a granted patent.

How long does the process take?

Obtaining a UK patent usually takes three to four years from filing. However, it's often possible to shorten the process very significantly. This may be helpful if, for example, a competitor is proposing to market a product falling within the claims of the patent application.

An application will be placed on a "fast track" if we request combined search and examination by paying the search and examination fees together. The IPO aims to issue a combined report within twelve weeks of the request. Using the "fast track" process can lead to a granted patent within approximately two years of filing.

The earliest a patent can be granted is three months after the application is published by the IPO, which normally happens approximately eighteen months after the initial filing date. The reason for this delay is to allow third parties an opportunity to make comments on the patentability of the invention and for the examiner to carry out a top-up search. Early publication of the application may be requested, e.g., as soon as the application is filed. Using this procedure in combination with the "fast track" process, it can sometimes be possible to obtain the grant of a patent within twelve months of filing.

How much does a patent cost?

The cost of preparing and prosecuting a patent application depends on the complexity of the invention and on the official objections, if any, that are made.

A typical cost for a UK patent would be between £2500 and £5000 (excluding VAT). This would include preparing and filing the application at the IPO; requesting search and advising on the search results; requesting examination and dealing with any objections; sending routine reminders; and informing you about the various formal steps such as publication and grant.

How long does a patent last?

The maximum life of the patent is twenty years from the initial filing date. However, once the patent is four years old, annual renewal fees become payable to maintain the patent in force.

How are patents infringed?

After your patent has been granted, you can take action against infringers in either the High Court or the Intellectual Property Enterprise Court. Remedies include an injunction to prevent further infringement, damages and recovery of a proportion of your costs. Please be aware that this can be expensive so you may wish to consider taking out legal expenses insurance to ensure that your patent can be enforced if necessary.

How can I protect my invention in other countries?

A UK patent only gives rights in this country. To protect your invention in other countries, take a look at our leaflet on foreign patent applications.

Foreign applications can maintain the benefit of the initial UK filing date if they are filed within the priority year. If details of the invention have been disclosed to the public after filing, such priority-claiming applications are the only way to obtain valid patent protection abroad. We'll remind you about the opportunity to apply for foreign patents as the deadline approaches.