



PATENTS

Many leading companies and innovators invest heavily in patents to protect the technology behind a successful brand. Key players have recognised that patents are an essential ingredient in the intellectual capital which underpins their continuing success and position in the market place. According to Frederick Mostert in his excellent book “From Edison to Ipod”, “A patent essentially protects an invention, typically new or improved products or processes in the field of science and technology. Patent protection generally covers functional or technical features of these products and processes”.

In all industry sectors, market leaders use strong IP to defend inventions from copyists. For example, the inventor James Dyson has based his business survival strategy around the filing of and the worldwide protection of his inventions. This strategy started way back in 1980 and his place within world markets has been assured and made stronger as a result. Dyson has shared his experiences regarding the importance he places on inventions on his website www.dyson.co.uk.

Should I consider patenting a product or process?

If you are investing heavily into a new product or process which you believe is completely novel, you will need to consider a patent strategy. **Novelty** is a key criterion for a patent to be granted. The other criterion for an invention to be patentable is an **inventive step** – which means that it must be something more than just an obvious modification of something that has already been disclosed to the public. Applying for a patent can be a protracted and expensive step so a word of caution, statistically only around 25% of patents applied for are granted, so risk assessment is key.

Going to market without adequate protection could leave your company open to competitors who may steal the intellectual property and, should they require external finance to develop the technology or process, most investors will need the assurance of a registered patent right to offer all round security. The invention must be functional or technical and must be capable of being made or used in an industry. Above all you must not have made your invention public in any way.

Often, in ACID's experience, some inventors have “tested” the market at an exhibition or through other routes and the consequences have been catastrophic when they have discovered that they cannot now apply for a patent. However, discussions with patent agents, intellectual property lawyers or national or international IP offices are completely confidential and will not render your patent having been disclosed in public.



What is the process for a patent application?

There are a number of things you need to consider such as in which markets you want protection. Remember, you will need a patent for each country in which you require protection. Normally you would start in the UK and then seek to extend the patent to other countries by making a second application to cover other countries - you must do this within 12 months of filing your first application.

A patent application will need the following:

- A detailed written specification that contains a full description, and drawings describing and illustrating all the aspects of your invention
- It is very important that ALL the features of your invention that you may wish to protect are described – it is not possible to add further information once the application has been filed.
- The Patent specification must enable the reader to fully understand your invention and be able to put it into practice
- You will need to file claims of the patent within 12 months of applying. The Claims set out the breadth of your invention
- Patent specifications require complex technical documents and it is advisable that they are drafted by IP experts or patent agents.

What has to happen for a Patent to be granted?

Before a patent can be granted, the UK Intellectual Property Office (www.ipo.gov.uk) will search through previously published Patents and Patent Applications. This search is done in an attempt to find any documents that would show that your invention does meet the requirements of novelty and inventive step. The examiner will consider your application in light of the disclosure in each of the documents found in the search. The Examiner will then issue an Official Letter setting out their opinion on its patentability.

Note: It is worth conducting an unofficial search via the UK Intellectual Property Office before filing an application to find out whether your idea is novel. However, searching can be a difficult, costly and time-consuming task, therefore it may be more beneficial to file your patent Application and wait for the results of the official UKIPO search.

What are the costs involved, how long does a patent last and how long does it take to get one?

To ensure a 20-year monopoly with a patent, the UKIPO charges £200 to process a UK patent application, £30 for a preliminary examination £100 for a search and £70 for a

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substantive examination. Typically, according to the UKIPO it takes 2 to 3 years to grant, however, they can accelerate the procedure at the applicant's request. There is a maximum time limit of 4½ years from the applicant's earliest date. Don't forget that cutting corners does not necessarily pay. Assuring the services of a patent expert in drafting your application could be one of the best investments you will ever make in a potential money making invention. A minimum of £1500+ should be added for consulting or using a patent agent or IP lawyer

Patents – a route for brand expansion?

If a patent is granted, you have a piece of paper, a numbered certificate, which becomes the inventor's property. As such it can be exploited and commercialized in sales or in an agreement with a third party to use. A UK patent, however will only give a monopoly right in the UK so it is imperative to look at the territories in which you are going to trade and research those countries in which you also need to file a patent in order to protect your market share. The award of a patent in the UK gives what is called a "priority period" which will allow time for a swot analysis to take place. As the inventor Trevor Baylis said, **"No-one will pay you for an idea, but they may pay you for a certificate which says you own the idea!"**

Points to Remember:

NEVER disclose your ideas to anyone before filing a patent.

It is best to consult an IP lawyer who can assist with filing a patent, as there is a huge time and cost element at stake if you get it wrong. They can also carry out an existing patent search on your behalf.

Ensure your records are all signed and dated.

Ensure you have a confidential IP or NDA agreement in place with any 3rd parties with whom you discuss your ideas.

Have you signed the ACID IP Charter?

Join a growing number of people who are about IP ethics, respect, and compliance.
<https://www.acid.uk.com/become-a-charter-signatory/>



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