

Introduction to patents

What is a patent?

Patents protect inventions by providing the patent owner with a monopoly right to the invention. Many different inventions can be protected by patents, including inventions relating to machines, consumer products, pharmaceuticals, and manufacturing processes, for example.

What rights does a patent provide?

A patent provides the patent owner with the exclusive right to make, import, sell, or use the patented invention in the country in which the patent is granted.

Patents are territorial. If you would like to protect an invention in New Zealand, you will need to apply to the Intellectual Property Office of New Zealand for a New Zealand patent. Similarly, if you would like to obtain patent protection in the United States, Australia, or another country, you will need to apply to the patent office of that country. You cannot obtain a patent which covers the whole world.

How long is the term of a patent?

The monopoly right provided by a patent can extend for up to 20 years (in most countries) from the date on which an application for the patent was filed. However, to obtain the full 20 year term, renewal fees must be paid to maintain the patent.

In some countries, the patent term may be extended by up to five years due to delays in being able to market the product while regulatory approval is obtained. This is typically restricted to inventions in the medical field.

What are the requirements of patentability?

To be patentable, in most countries, an invention must be new, it must not be an obvious adaptation of what is already known in the area of technology, and it must be useful.

To meet the requirement that the invention is new, or 'novel', you should file a patent application before there is any use, offer for sale, or public disclosure of the invention. This is an important requirement for patentability in most countries.

What limitations are there on making, using, and selling a patented invention?

Having a granted patent does not automatically give you the right to make, use, or sell your invention. You may be subject to other legal requirements, such as regulatory approvals, that must be obtained before a product can enter the market. Your rights might also be limited if your invention falls within the scope of another patent.

If you are concerned about infringing another person's rights, we can conduct a 'freedom to operate search' and provide you with our opinion about whether you risk infringing a patent.

Whether or not you choose to patent your invention, it is always a good idea to conduct a freedom to operate search and obtain an opinion on potential risks before entering new markets where you could be liable for patent infringement.



Please contact us if you would like our advice about how we can help your business.

Why patent an invention?

A patent is an important asset to a business. It provides the business with a monopoly right over the patented invention. However, a patent can also be used to generate revenue by licensing the rights to the invention to other parties in return for payment of royalties. Similarly, patents can be bought and sold.

Another reason why patenting may be important is that business investors may require you to have patent protection, or to have at least applied for a patent, before they will consider investing in your company. Having a valuable patent or patent portfolio on the balance sheet of a business can also attract buyers' interests when offering the business for sale.

Ultimately, a decision about whether or not to patent an invention is a commercial one. We can assist you by providing much of the information necessary to make this decision.