

# patents basic facts



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**Introduction** If you invent something that could be commercially successful, you may be interested in applying for a patent. This booklet provides an introduction to the UK patent system that should help you decide whether or not to apply.

If, when you've read this booklet, you decide you would like to apply, we publish two other booklets – *patents essential reading* and *patents application guide*, as well as a range of factsheets that you may find useful >**p12**.

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## Is your idea a secret?

By far the most common mistake made by people new to the world of patents is to reveal their invention too early.

If you reveal your invention in any way – by word of mouth, demonstration, advertisement, article in a journal or any other way – before you apply for a patent, you are making your invention public. This could mean that you lose the possibility of being granted a patent.

## Beware who you talk to

If you feel the need to talk to someone before you apply, such as a potential business partner, you should ask them to sign a confidentiality agreement before you talk to them. This means they have to treat what you tell them in confidence. A solicitor or patent agent can prepare this type of agreement for you.

Any conversation you have with patent agents, solicitors or our staff is confidential, so anything you say will not count as revealing your invention early.

During the application process, you may be contacted by an invention promotion company. If you are, be very careful what you agree to **>p11**.

## Professional help

The basis of a UK patent is a legal document called a 'specification'. Its content decides not only whether a patent can be granted, but also exactly what the rights of any patent granted cover.

You can prepare a specification and apply for a patent yourself, but if you do not know a lot about patent issues, you should use a chartered patent agent. Patent agents have the legal skills needed to prepare an application for you and some will give you initial advice free of charge. So, make sure you are well prepared before any initial consultation.

We are not allowed to recommend any particular adviser. However, a list of patent agents is available from the Chartered Institute of Patent Agents (**>p13**) and most classified directories list local patent agents.

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### What is a patent?

A patent is an intellectual property right, granted by a country's government as a territorial right for a limited period.

Patent rights make it illegal for anyone except the owner or someone with the owner's permission to make, use, import or sell the invention in the country where the patent was granted.

As long as renewal fees are paid every year, a UK patent has a life of 20 years and provides protection throughout the UK, but no further.

### Can a UK patent protect an invention in another country?

No, a UK patent only gives the owner rights within the UK. For protection overseas, you need to apply to patent offices in individual countries or through the international patent system, known as the Patent Cooperation Treaty (PCT). Or, you can get patent protection in most European countries by filing an application under the European Patent Convention (EPC).

We can offer advice on completing EPC and PCT applications, but applying overseas can be both complicated and costly so we advise anyone deciding to take this route to get professional advice from a patent agent.

### Who can own a patent?

The owner can be the inventor, the inventor's employer or someone else who has got the patent rights.

If you made your invention while employed by someone else, even if it was in your own time, ask a lawyer to check your employment circumstances carefully as your employer may have some rights to your invention.

### What kind of things do patents cover?

Patents generally cover products or processes that contain 'new' functional or technical aspects. They are concerned with:

- how things work;
- how they are made; or
- what they are made of.

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## Is a patent the best way to protect your invention?

Applying for and renewing a patent can be expensive and take a long time. You need to consider how commercially successful your invention is likely to be and how quickly you will be able to get it on the market. You should also think about the likely costs of developing, manufacturing and marketing your invention. It may be worth considering one or more of the other ways of protecting your invention mentioned in the next column.

However, being granted a patent creates an intellectual property right which you can sell, market yourself or lease to others and collect royalties – although it does not mean your invention will automatically be commercially successful.

## Is a patent the only way to protect an invention?

No. You could consider protecting different aspects of your product or process using one or more of the following.

- Registered design
- Registered trade marks
- Unregistered design right and copyright
- Private agreements

For more information about these different forms of intellectual property, visit our website or contact our Central Enquiry Unit **>p13**.

### Can all inventions be patented?

No. An invention can only be patented if it is:

- new – not already known to the public before the date a patent is applied for;
- inventive – not an obvious modification of what is already known; and
- capable of industrial application, that is, can be made or used in any kind of industry.

In other words, your invention must make a technical contribution. This means you can't, for example, patent a business method unless it involves some technical innovation. Inventions relating to computer software may be patentable, but only if they involve something more than just software running on a computer in a technically ordinary way.

Other ideas that cannot be patented are:

- scientific or mathematical discoveries, theories or methods;
- literary, dramatic, musical or artistic works;
- schemes, rules or methods for performing a mental act; and
- methods of medical treatment.

If you are not sure if your invention is or isn't excluded, contact the Patent Office or ask a patent agent >p13.

### How can you check to see if your invention is new?

It can be disheartening and costly to discover, after months of effort and investment, that your patent application is not allowed because your invention is not new. To avoid this, you should carry out a search through published patents and other documents such as trade catalogues before applying. You can either:

- carry out a search yourself – see our booklet *patents essential reading* – although the results might not be as comprehensive as you would want; or
- pay an organisation to do a search for you, such as a patent agent or our Search and Advisory Service >p13.

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### Who grants patents?

UK patents are granted either by us as a result of a patent application filed with us or by the European Patent Office as a result of a patent application filed under the European Patent Convention (EPC). We also act as a receiving office for applications under the EPC and the Patent Co-operation Treaty (PCT). For our details >p13.

### How to apply

Getting an invention patented can be complicated so we advise that you use a chartered patent agent. If you decide to go ahead on your own, we produce two booklets and a range of factsheets that should give you the basic information you need >p12.

### When to apply

As long as the invention is a secret, you can apply at any time. It is up to you to decide the best time to apply. However, professional advice from a patent agent can be very helpful because:

- if an application is made too soon there is a risk that the product may not be fully developed or the market may not be ready for the product; or
- if the application is delayed, there is a risk that someone else might come up with the same idea and make a patent application themselves.

### Where to get professional advice

We can offer general advice but cannot help prepare a patent application. Chartered patent agents can give you advice and some do not charge for the initial consultation >p2.

### How necessary is it to get professional advice?

It is not strictly essential but the strength of a patent is affected by how well it has been drafted, and as it is both a technical and legal document, it should be drafted by an expert.

# 2

## A summary of the UK application process

The steps below cover a typical single UK patent application, filed on or after 1st January 2005. They do not cover more complicated variations.

### 1



#### Step 1

You prepare a 'patent specification' – a written description of your invention with drawings, 'claims' and an 'abstract'.  
– 'Claims' (precise legal statements in the form of single sentences that define your invention by setting out its distinctive technical features).  
– An 'abstract' (a summary that includes all the important technical aspects of your invention).

### 2



#### Step 2

You fill in and file form 1/77 'Request for grant of a patent' with us, together with two identical copies of your patent specification.

### 3



#### Step 3

We respond by issuing a filing receipt which includes an application number and confirms the 'filing date' of your application.

### 4



#### Step 4

You fill in and file form 9A/77 with us, together with the appropriate fees, asking for 'a search'. You must do this within 12 months of your filing date to avoid your application being terminated.

### How much does it cost to apply for a patent?

Our fees for processing a UK patent application are normally £200. For a list of current fees, contact our Central Enquiry Unit **>p13**.

As well as our fees, if a patent agent is involved, typical professional fees for securing a UK patent can be over £1,000, while making an international application in several countries can cost tens of thousands of pounds over several years.

### How long does it take?

From the time an application is filed, the UK patent application process usually takes between three and four years. There are ways to speed the process up, but these may not be in your best interests.

## 5

### Step 5

We carry out a preliminary examination to make sure your application meets certain formal requirements and search through published patents and other documents for material against which we can assess whether or not the invention you have claimed is new and inventive. We aim to issue our search report to you within six months of receiving your form 9A/77.

## 6

### Step 6

We publish your patent application shortly after 18 months from your filing date, as long as you have met the formal requirements, filed form 9A/77 together with the appropriate fee and not asked us to withdraw your application.

## 7

### Step 7

You fill in and file form 10/77 with us, together with the appropriate fee, asking for 'a substantive examination' no later than six months after publication to avoid your application being terminated.

## 8

### Step 8

We examine your application and let you know what, if anything, needs to be amended, and the period of time you have in which to respond.

If your application meets all the requirements of the Patents Act 1977, we will grant your patent, publish your application in its final form and send you a certificate.

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### What happens after a patent is granted?

Once a patent is granted, the owner needs to make sure they pay the yearly renewal fees to keep the patent in force. If renewal payments are not made, the patent rights will end.

### Who enforces patent rights?

The owner does. Many people believe that patents are in some way 'policed' by us or the state. This is not the case.

### What happens if patent rights are infringed?

If the owner of a patent discovers that someone is infringing their rights, it is up to the patent owner to take appropriate action. These cases can be complicated and costly, so you should ask a patent agent or a solicitor for advice.

### Is there a patent mark?

There is no specific mark and no legal requirement for a product to be marked, although marking your product could help stop others unintentionally infringing your patent rights. However, it is an offence to mark a product as patented or the subject of a patent application if it is not or when a patent is no longer in force.

### Is it possible to make money from a patent?

A patent is a form of intellectual property and the owner of a patent can generally decide how it is used. They can:

- make the product themselves;
- subcontract the manufacturing and receive revenue from selling the product;
- sell the patent rights to another person; or
- license the patent rights in exchange for royalty payments.

We cannot offer business advice or financial support to inventors. However, the Government provides several schemes and resources that may be of interest. You can find details in our booklet *patents essential reading*.

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### What are 'invention promotion' companies?

Some invention promotion firms may offer you free information on how to patent and market your invention.

Some unreliable firms promise to evaluate your invention for a fee of a few hundred pounds, then tell you that your invention has great market potential. They may offer to promote your invention to manufacturers if you pay a fee of several thousand pounds up front. Once you have paid up, they may do little or nothing for you.

Reputable companies will carry out the research and provide a genuine market evaluation giving you an honest review of your invention's potential. They don't use bogus research and mass-produced positive reports, or charge large fees up front, as some unreliable companies do. They will recommend what research should be carried out to evaluate your invention and, if the outcome is positive, how they would market it. They will give you an estimated breakdown of what the costs will be at each stage of the process and the level of risk involved.

If an invention promotion firm approaches you, take great care and question their claims and assurances that your invention will make money. No-one can guarantee your invention's success.

Entering into a contract with one of these companies is no different to any other major financial arrangement. Make sure your contract contains all the terms you have agreed to and be sure to get independent legal and financial advice.

The DTI's Consumer Direct website at [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk) gives more information. You can also get a step-by-step guide to using invention promotion companies from our Central Enquiry Unit >**p13**.

If you have a complaint about one of these companies, you should put it to the Office of Fair Trading at [www.oft.gov.uk](http://www.oft.gov.uk) or phone them on 08457 22 44 99.

## More information

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The following booklets on patents are available from our website or from our Central Enquiry Unit **>p13**.

### [Patents essential reading](#)

Provides general advice on patents, information you need to consider before committing yourself to applying for a patent, a summary of the patenting process, renewing, enforcing and exploiting patent rights as well as information about applying for patents overseas.

### [Patents application guide](#)

Provides detailed information on how to apply for a UK patent.

# Contacts

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## Patent Office

### Central Enquiry Unit

For general enquiries  
[www.patent.gov.uk](http://www.patent.gov.uk)  
[enquiries@patent.gov.uk](mailto:enquiries@patent.gov.uk)  
08459 500505

☎ text 0845 222 250  
Concept House, Cardiff Road  
Newport, South Wales NP10 8QQ

### Patent Search and Advisory Service

For a fee-based search service  
[commercialsearches@patent.gov.uk](mailto:commercialsearches@patent.gov.uk)

If you would like to visit us in person, either in Newport or London, please call our Central Enquiry Unit first to arrange an appointment.

## Patent agents

We cannot recommend any particular patent agent, but you can get a list of all the patent agents registered in the UK from the address below. Local patent agents are usually listed in most classified directories.

The Chartered Institute of Patent Agents  
[www.cipa.org.uk](http://www.cipa.org.uk)  
020 7405 9450  
95 Chancery Lane, London WC2A 1DT

## Patent Information Centres (PATLIBs)

PATLIBs are European libraries and information centres that provide information about patents, trade marks, copyright and design rights. Many offer guidance on how to make the best use of patent databases so you can assess whether your invention is new.

Some PATLIBs in the UK hold clinics where you can have a free consultation with a patent agent or a business advisor.

For details of your nearest PATLIB centre visit  
[www.patent.gov.uk/patent/howtoapply/libraries](http://www.patent.gov.uk/patent/howtoapply/libraries) or contact our Central Enquiry Unit >**p13**

## The British Library

The Business and Intellectual Property Centre at the British Library gives you access to the information you need to develop and market your ideas. Free clinics to help you search patents are held at least once a month.

For more information, visit the British Library's website at  
[www.bl.uk/business](http://www.bl.uk/business)  
or phone 020 7412 7903.

Early developments in spark plugs were patented by Frederick Richard Simms (GB 24859/1898), Robert Bosch (GB 26907/1898) and Sir Oliver Lodge (GB 2162/1903). Nowadays, over 300 patent applications relating to spark plugs are published every year.



#### Disclaimer

The information in this booklet is not a complete guide and we have not included details which may be relevant to particular circumstances. We advise you to get independent professional advice before acting on anything in this booklet. We cannot take responsibility for anything that happens as a result of mistakes in the booklet or anything that we have not included.

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