

# Patents

Coming up with an innovative solution is the first step on your way to success. However, in order to fully achieve your goals you will also need an effective and tailored protection strategy to enable you to maximize the benefits from exploiting the invention, as well as to recover the costs incurred for research and development. A patent gives you an exclusive right to use the invention for financial or commercial purposes - it therefore becomes one of your company's most significant assets. Moreover, obtaining a patent guarantees strong and efficient legal protection of an innovative solution against infringements by third parties.

## Patent for an invention

A patent is an exclusive right granted for an invention (regardless of the technological field it is based in) that is considered new, involves an inventive step, and is capable of industrial application. For an invention to be patentable each of these criteria must be fulfilled. A patent is granted by a relevant institution (i.e. the Polish Patent Office - Urząd Patentowy Rzeczypospolitej Polskiej - or the European Patent Office) which gives the patent owner the right to exploit the invention for profit and commercial purposes in a given country.

## Check before you file! What is patentable?

The Polish Industrial Property Law (as well as other systems of patent law, including the Munich Convention) describes four categories of inventions: products, devices, methods, and uses. However, patents cannot be granted for the following: inventions which contravene basic national law or social provisions (contradiction to public and/or well manners. This doesn't make sense, and the Polish version above seems to be about trade marks. Could you give me the Polish phrase for this please?), varieties of plants and breeds of animals, medical treatment methods for people and animals, and computer programs. In order to resolve any doubts concerning the patentability of a product it is recommended that patent attorneys with specialist knowledge in the relevant field of science carry out a detailed patent search.

## Why protect you innovation?

A patent for an invention is an asset used by many companies as a key part of their business strategy. Intangible goods that are protected by the Industrial Property Law:

- offer exclusive rights to use industrial property objects for profit or commercial purposes while simultaneously excluding the possibility of their unhindered use by other parties);
- increase company's income:
- ✓ by licensing the use of the object of industrial property (a licence is granted if the terms and conditions have been agreed by both parties);
- ✓ by selling the industrial property objects,

- ✓ by strengthening the company's market position and competitive advantage;
- enforce company's good reputation and increase company's innovativeness.

## How to obtain patent protection?

In order to obtain patent protection a Patent Office must grant a patent for an innovation (protection period starts from the moment the application is filed), which is considered new (you must remember not to disclose any information about the solution before it is filed with the Polish Patent Office), involves an inventive step and is susceptible of industrial application. Each of these requirements must be fulfilled for an invention to be patentable. Obtaining a patent protection is preceded by the patentability search and the appropriate filing and examination procedure. The patent attorneys equipped with knowledge about the procedures and requirements of the Patent Office, the criteria of innovative solutions as well as the inventor's needs prepare the best plan of the patent protection. Due to the fact that two different inventors may simultaneously work on new technical inventions there is a principle stating that the person who first filed with the PPO can obtain the exclusive right for a patent.

## Principles and routes of protection

There are three ways of obtaining patent protection; depending on the adopted strategy it is possible to apply for protection in Poland, through the European route, and via an international route (PCT – Patent Cooperation Treaty). Each of these routes is governed by particular requirements, so it is recommended to entrust the filing to specialized patent attorneys who are able to provide expert advice when choosing the best strategy of commercializing the invention on the target market. Patent attorneys are able to monitor competitors' activities as well.

## Invention application - how to file?

A patent application should enclose:

- an application including, at minimum, details of the applicant(s), a description of the subject of the application, and a request for a patent or patent of addition;
- a description of the invention disclosing its nature,



- patent claim(s),
- an abstract of the disclosure,
- drawings, if they are necessary for better understanding the invention.

#### **How long does the procedure take?**

On average, it takes 4-6 years for a Polish application and 4-5 years for a European application. However, the applicant enjoys protection from the date of filing the application.

#### **How to maintain patent protection?**

After a patent has been granted for an invention it is necessary to pay annual renewal fees for protection and to monitor the competition in the particular field, including possible patent infringement by other parties.

#### **Patent department offers**

- Comprehensive patentability searches
- Patent clearance search
- Patent literature searches, searches on the state of the technology
- Drafting and filing patent applications with the Polish Patent Office, international PCT-based applications, European applications with the European Patent Office, as well as national applications at foreign Patent Offices, based on the well-established cooperation with patent agencies abroad
- National validation of european patent
- Supplementary protection certificates (SPCs)
- Supervision and renewal of granted exclusive rights, payment of fees both in Poland and abroad
- Litigation before the Polish Patent Office, The European Patent Office, the European Court of Justice and administrative courts
- Civil and criminal courts proceedings related to patent infringements
- Drafting license and assignment agreements, contracts of pledge over exclusive rights and others
- Alternative dispute resolutions – mediations and negotiations

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