



PRIMER on IPR – PATENTS

What to do? When to
do? And Why?

INK IDEÉ
ink your idea

PATENT AND TRADEMARK ATTORNEYS

FORMS OF IP

TRADEMARKS: ownership of brand name, company name, logo

PATENTS : ownership of technology and science

COPYRIGHTS : ownership of content, creative work

DESIGN REGISTRATIONS : ownership of aesthetic work on products

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WHERE DO PATENTS HELP?

A patent essentially relates to inventions in the field of science and technology.

A patent is a set of exclusive legal rights granted by a state (national government) to an inventor or its assignee for a limited period of time in exchange for a public disclosure of an invention. A patent is a monopoly of sorts which allows a patent owner to carve their own niche in the business market by defining their 'new' territory. Specifically, the grant of a patent allows a patent owner to prevent others from making / use /sale of the patented product / process within the jurisdiction in which the patent has been granted.

Some companies patent technologies with a business strategy of licensing their inventions. If not, they pursue infringers and sue them. This forms a part of an offensive strategy.

Some companies patent technologies with a business strategy of merely creating a legal fence in relation their technologies, in order to increase the culture of innovative research and development, and to capture market size based on innovative technologies. This forms a part of a defensive strategy.

Innovation may be a part of a company's products, services, as well as business processes. And all can be patented.

Do not disclose your idea without securing confidentiality clauses. If there is reason to believe that the idea is new and inventive, file for a PROVISIONAL PATENT APPLICATION. It is an effective form of securing global protection for a period of 12 months. Sign NDAs and confidentiality agreements before disclosing anything.

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FREE SEARCH

Patents are territorial. A patent applied for in India is only valid in India. A patent applied for in USA is only valid in USA. Hence, an inventor needs to apply in ALL markets where they intend to practice. This strategy (time-wise and cost- wise) needs to be defined.

Search Portal, Singapore: <https://www.ip2.sg/RPS/WP/CM/SearchAdvanceP.aspx>

Search Portal, Global: <http://worldwide.espacenet.com/>

Search Portal, WIPO: <http://www.wipo.int/pctdb/en/>

Search Portal, USA: <http://patft.uspto.gov/>

Search Portal, India: <http://ipindiaservices.gov.in/patentsearch/search/index.aspx>

Search Portal, Australia: <http://www.ipaustralia.gov.au/auspat/index.htm>

Always, read the claims and corresponding drawings to understand the real gist of any patent.

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PROFESSIONAL HELP

A PATENT AGENT or a PATENT ATTORNEY is licensed to represent a client before the State (Patent Office and Offices of that state). For each invention to be granted a secure patent, a patent draft needs to be submitted to the Patent Office. This patent draft is a techno-legal description of the invention and is written in a language, colloquially referred to as '*patentese*'.

A PATENT AGENT or a PATENT ATTORNEY also helps with strategies of filing and prosecution.

ALWAYS see to it that you seek help of only registered Patent Agents. Ask for it. Check if the person you are talking to is a registered Patent Agent.

A PATENT AGENT is duty-bound by his / her license to respect confidentiality and risks losing his / her license to practice if he / she were to misrepresent a client. A 'consultant' is not bound by any such legal obligations.

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SECURING RIGHTS

In today's world of cut-throat competition, innovation and innovative products and services form the defining cornerstone for a company's sustainability, for their increase in market size, and essentially for capturing the consumer's eye by offering something new, something advanced, something useful, and something fruitful.

These parameters form the key criteria for patents, too. A patent is granted on the following three counts:

Novelty

Inventive Step

Industrial Applicability

Each country includes a list of non-patentable subject matter. India's list is [here](#).

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HOW TO DETERMINE INFRINGEMENT?

Always be on the lookout for similarities in the market

Gather evidence of dates of inception, use, continuous use, market size, market similarity, class similarity, goods and services.

Conduct an online Search – Google it. Create news alerts.

Refer to the patent document that you own. Refer to its claims. Step-wise, draw similarities between the claims and a competing product / service in order to 'determine infringement'. If all the features or steps of claim 1 exist in the competing product / service, infringement is said to occur.

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ACTS ASSOCIATED WITH PATENTS

Patents Act (Chapter 221) (Revised Edition 2005, as amended up to the Statutes (Miscellaneous Amendments) Act 2014)

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SYMBOLS

- Patent applied for (along with patent application number): when patent is applied for
- Patented (along with patent registration number): when patent is granted

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