

INFORMATION CONCERNING PATENTS

A patent is a document by which the government of a country allows a protection on an invention. The patent prevents the making, the use and the sale of this invention by anyone other than the patent owner inside the country in which the patent is in force. Generally, a patent remains in force from its issue date and for a period of twenty years starting from its filing date.

A patent agent may be hired by the inventor to try to obtain a patent having the best possible protection for the invention. The patent agent thus prepares a patent application and deals with the governmental patent Office in the steps towards obtaining a patent, though the final decision on the allowance or the refusal of a patent is taken by the patent Office.

To obtain a patent in more than one country, it is necessary to file an application in each country, and each application will be inspected independently.

PATENTABILITY CRITERIA

To be patentable, an invention must comply with the criteria of novelty, utility and unobviousness, i.e. must be susceptible of commercial or industrial applications.

Moreover, it is highly recommended that no public disclosure of the invention occur before the filing of the patent application. A public disclosure can be, for example, the sale or the advertising of a product. The occurrence of such a public disclosure before the patent application filing date can prevent a patent from being granted in most countries. There exists however in Canada and the United States a one (1) year grace period before the filing of the patent application during which a public disclosure of the invention may occur without hindering the validity of a potential patent in those two countries.

A PATENT APPLICATION STEP BY STEP...

The main steps to obtain a patent are as follows:

1) Preliminary patentability search

It is first of all recommended to conduct a patentability search, to determine whether inventions similar to the one for which a patent application is to be filed already exist. The usual patentability search that we propose is performed at the American Patent Office Washington, where we find the patents having the seemingly closest relationship with the invention. Our search report will guide the inventor towards his decision, i.e. whether he wants to file a patent application in one or more countries.

2) Filing of the patent application

The patent application per se comprises a technical and legal description of the invention, usually together with formal drawings illustrating the invention. A patent application is filed in every country designated by the inventor. If the decision is taken to file in at least several countries, it would be advisable to discuss with the patent agent the best course of action to undertake, for it is possible, in certain cases, to file regional or international-type patent applications.

3) Examination of the application

For a patent application, there usually is an argumentation period with a patent Office examiner responsible for the examination of the application. The outcome of this argumentation will help the examiner to decide if he allows a patent to be granted on the invention, depending on the subject matter which he finds patentable in the application.

4) Issue of a patent

If a patent is allowed, an issue fee must be paid, after which the patent will be in force from its issue date and generally for a period of twenty (20) years from the filing date of the patent application, provided the periodic maintenance fees are timely paid.

NEW PATENT

The protection on the invention starts when the patent is granted to the inventor. For maintaining a patent in force, maintenance fees are payable at regular intervals, in most countries.

The patent is the property of the inventor. The latter may decide to keep the ownership to produce and sell his invention, sell his patent (assignment) or grant a license for allowing the use of the invention to a third party according to predetermined conditions.

MAINTENANCE FEES

Maintenance fees must be paid at regular intervals to maintain a patent application and/or a patent in force. If the maintenance fees are not paid, the patent application is abandoned or the patent lapses. These maintenance fees are payable after the filing of the patent application in most countries, like in Canada for example. In certain countries, like in the United States, the maintenance fees are payable only after the patent is granted.

LESPÉRANCE & MARTINEAU: TRUST AND CONFIDENCE

Our firm consists of patent agents registered to practice before the Canadian and American Patent Offices, and we are thus ruled by the code of ethics of the patent agents. The confidential nature of the information that we are provided with is of utmost importance to us, and therefore we undertake every effort to be trustworthy.

The history of our firm runs back about 70 years, since the foundation in 1929 of our predecessor, "Bureau Technique Fournier", and we fully use our cumulative experience to see to your every needs in the field of patents.

MORE QUESTIONS?

If you have any more questions concerning patents, do not hesitate to contact us, it will be a pleasure to inform you. Please take note that we also deal with other types of intellectual property, namely trade marks, copyrights and industrial designs.