

PATENTING PROCESS

A patent grants exclusive rights to exclude others from making, using, selling or importing a patented product. To obtain a patent, the owner of an invention must first file a patent application before one or more Patent Offices, each with jurisdiction to grant a patent in the geographic area over which coverage is applied for. Usually, a distinct patent application is filed in each country where protection is sought. Once the patent specification complies with the laws of the Patent Office concerned, a patent is granted. This may take a few years, depending on the Patent Office.

Before filing a patent application, it is usually recommended to accomplish a preliminary patentability search that aims to assess the likelihood that the invention will be considered patentable. Although initial verifications by the inventor or owner of the invention are a good idea, it is advisable to contact us to accomplish a professionally done search. We will provide you with our opinion on whether the invention appears patentable and, if so, *what* may be patented. It is indeed one thing to obtain a patent; yet it is important to know the expected scope of this patent to allow you to make the best strategic decisions relating to your invention.

Assuming the search is favourable, the patenting process itself may begin. This starts with the patent agent drafting a patent specification, which is a relatively lengthy written document that includes a description of the invention and claims that circumscribe the scope of protection sought on the invention. Patent drawings usually accompany the patent specification.

Then, one or more patent applications may be filed. The date on which the application was filed will be diligently recorded by each Patent Office. The filing date of an application is important as it sets a cut off date after which any public disclosures by the inventor or applicant will not compromise the rights to obtain a patent on the invention where the application was filed; and also because, in most jurisdictions, the right to a patent for an invention lies with the first person to file an application for protection of that invention.

Patent applications are generally published 18 months after the filing date of the earliest patent application filed on an invention.

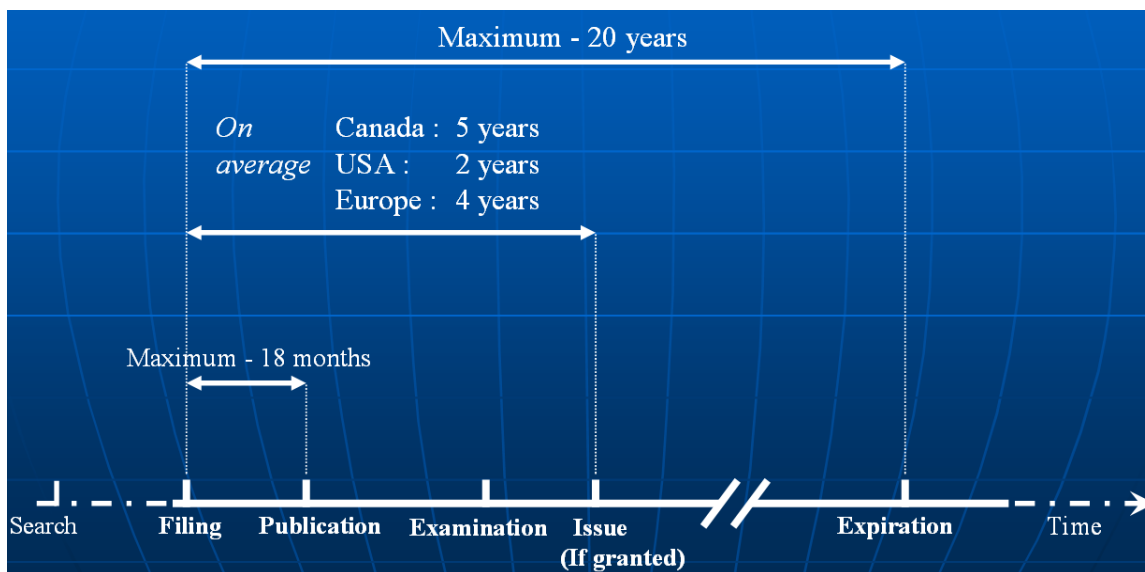
A few months to several years after filing, substantive examination is carried out by the Patent Office for the patent application. Examination is the process during which a patent application will be evaluated for compatibility with the requirements of the relevant patent laws. Examination is generally an iterative process, whereby the Patent Office notifies the applicant of its objections, if any. The patent applicant must respond with arguments and amendments to overcome the objections. The amendments and the arguments may then be accepted or objected to, triggering further responses, and so forth, until agreement with the Patent Office is reached and a patent is issued or disagreement persists and the patent application becomes abandoned (in which case an appeal process is available). In many cases, one or two responses to Patent Office objections are sufficient for the examination procedure to reach a conclusion. In some cases however, the application may be accepted as filed without raising objections.

Once the patent application complies with the requirements of the relevant Patent Office, a patent may be granted. Further Patent Office official fees, and in some regional patent systems such as the European patent system translations of at least some parts of the patent application, must be filed to enable issue, validation and/or enforcement of the granted patent. Patents may remain valid for periods of up to twenty (20) years counted from the filing date of the patent application.

Most Patent Offices require periodic payment of maintenance fees in order to maintain a patent after it is issued and during its term. Failure to timely pay the maintenance fees may result in the patent becoming expired, leading to permanent loss of the patent protection without any possibility of reinstatement (except in some cases within a short period of time following the late maintenance fee). In many cases, these maintenance fees also need to be paid while the application is pending, before grant of the patent.

Our registered patent agents are trained professionals who have years of experience handling patent prosecution files. We strongly recommend contacting us early in the research and development stages of your invention, and well before any public disclosure of the invention, to obtain proper professional advice towards obtaining the best protection for your invention.

Below is a graph showing some of the main steps towards patent procurement discussed hereinabove. A few different filing strategies exist and we will advise you of the one we think is best suited to your needs during our meeting.



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