

Protecting your inventions

A patent turns your technical innovations into a competitive edge: a twenty-year exclusive right that secures your R&D investment, deters copyists and strengthens your credibility with partners and investors.



TERM

20 years, subject to payment of renewal fees

OFFICES

INPI · EPO · WIPO (PCT)

PRIORITY

12 months

WATCH OUT

Any disclosure destroys novelty

What a patent protects: the invention, subject to three conditions

A patent protects an invention, a technical solution to a technical problem, provided it satisfies three cumulative requirements, examined by the office and reviewed by the courts. Novelty: the invention must not be comprised in the state of the art, meaning everything made available to the public before the filing date, by written or oral description, by use or by any other means, anywhere in the world. The assessment is absolute: a single all-encompassing prior disclosure, one document or use combining every element of the invention, is enough to destroy novelty. Inventive step: the invention must not follow obviously from the state of the art for the person skilled in the art, the reference practitioner of the field, credited with its general knowledge; this is the ground on which most examinations and disputes are won, and lost. Industrial application, finally: the subject-matter must be capable of being made or used in any kind of industry, a condition rarely debated, but one that rules out purely abstract creations.

To these conditions is added a list of exclusions: discoveries and scientific theories, mathematical methods, aesthetic creations, schemes and methods for intellectual or economic activities, computer programs and presentations of information are not inventions as such. The words 'as such' fix the exact reach of the exclusion: it applies only to the subject-matter claimed in its pure state. A computer-implemented invention making a technical contribution, controlling a process, data processing producing a technical effect, remains patentable; the boundary is drawn in the drafting of the claims.

One rule dominates the field: the invention must not have been disclosed before filing, including by its own inventor. A scientific publication, a trade fair, a web page, an exchange without a confidentiality agreement enter the state of the art and destroy novelty. The principle admits no indulgence: before filing, nothing is shown and nothing is said, except under a confidentiality undertaking.

The patent application: where the scope of protection is determined

A patent application is an instrument of dual nature. The description, technical, must disclose the invention clearly and completely enough for a person skilled in the art to carry it out, a condition of the title's validity. The claims, legal, define the scope of protection: it is in their light that the patent's validity, and infringement, will be assessed for twenty years. What is not claimed is not protected; a claim drawn too narrowly is avoided by simple workaround, one drawn too broadly or without sufficient basis is invalidated.

Here lies the heart of the craft: establishing, with the inventor, the true scope of the invention, which almost always exceeds what its author perceives. Inventors reason from their prototype, their embodiment, the problem just solved; they underestimate the generality of the principle they have identified. Our work is to move from the device up to the concept: identifying variants, technical equivalents and applications in other fields, anticipating workarounds, then building a cascade of claims, from the broadest to the most specific, covering the invention.

From invention to granted patent: the procedure

In France, an application filed with the INPI yields, within about nine months, a search report drawn up with the European Patent Office together with an opinion on patentability, an early and valuable assessment of the file's strength. The application is published at eighteen months, then examined, including, since the PACTE Act, on inventive step, through to grant; third parties then have nine months to oppose before the office. The title is kept in force, for up to twenty years, by payment of the renewal fees. For short-cycle innovations, the utility certificate offers an alternative: ten years of protection, without a search report, at reduced cost.

Beyond the national title, two routes structure international protection. The European route: a single examination before the EPO leads to a patent effective, at the owner's choice, through national validations in some forty states or, since June 2023, as a unitary patent, a single title covering eighteen EU Member States, under the Unified Patent Court. The international route: the PCT application, effective in more than 150 countries, defers to around thirty months the choice of countries in which to continue, and most of the cost with it.

Filing strategy: priority, territories, patent family

The first trade-off sets the patent against secrecy: a process undetectable in the final product may be better served by trade secrecy than by a patent that discloses it. Where the patent is warranted, the first filing, often a French application, quick and cost-controlled, fixes the priority date: for twelve months, extensions abroad will keep that date, and the search report will meanwhile have informed the strategy.

When priority expires, the territorial architecture is decided: direct national filings, a European application, a PCT application, the latter deferring decisions and costs until thirty months, a precious delay for companies raising funds. Coverage is drawn on sales markets, production sites and those of competitors. A lone patent rarely protects a lasting innovation: divisional applications, improvement patents and successive filings build a patent family, a barrier constructed over time, without neglecting, in the opposite direction, freedom to operate against third-party titles.

Patent licensing: a contract drafted to measure

A patent, finally, creates value through licensing, and few contracts demand such precise drafting. Beyond the classic clauses, exclusivity, territory, duration, royalties and their basis, the success of a licence often lies in what surrounds the title: the associated know-how, without which the patented invention will not deliver its full industrial performance. The contract therefore organises its communication, definition of the knowledge transferred, confidentiality surviving the contract, treatment of improvements on both sides, and provides for the patentee's technical assistance: training the teams, fine-tuning, supporting the start-up. It is this combination, patent, know-how, assistance, that lets the licensee genuinely work the invention, and the patentee draw its fair value.

Our services

- ✓ Patentability studies and prior art
- ✓ Patent / secrecy trade-off and freedom to operate (FTO)
- ✓ Drafting and filing of applications
- ✓ INPI, EPO, PCT and unitary patent proceedings
- ✓ Renewal-fee and portfolio management
- ✓ Technology and competitor watch
- ✓ Oppositions and appeals
- ✓ Litigation and infringement seizures
- ✓ Licensing and valorisation
- ✓ Utility certificates and supplementary protection certificates (SPCs)

Weinstein Services & Conseils

INDUSTRIAL PROPERTY ATTORNEYS

2-10 avenue Marc Sangnier, 92390 Villeneuve-la-Garenne

+33 1 71 06 36 66 · contact@weinsteinfrance.com

weinsteinfrance.com

General information sheet · July 2026 · This document does not constitute legal advice.