



INTELLECTUAL PROPERTY OFFICE

SOME BASIC FACTS ABOUT PATENTS

MINISTRY OF LEGAL AFFAIRS

SOME BASIC FACTS ABOUT PATENTS



WHAT IS A PATENT?

The word "**patent**" comes from the Latin expression *litterae patentes*, which means open letters or public documents. Although a patent is usually seen as an agreement or right where the **state** gives a monopoly on manufacture, use and trade for up to 20 years, it is actually a negative right. It is a right given to the owner to **stop** others from manufacturing, using and trading the technology. In return, the owner gives certain technical information to the public sufficient for a skilled person to recreate the invention.

Why protect technology with a Patent?

Necessity and barriers are essential to human creativity. Inventors and organisations put much time, effort and resources into their inventions. Patents give inventors incentives in the form of recognition and the opportunity for fair economic rewards. They also provide a spur to others, wishing to use a protected technology, to find other solutions to the problem solved by a particular patent. Nearly 80% of all new patents are improvements upon older technologies. An underlying consideration is that this is usually part of business strategy. They are taken to generate some sort of benefit for the owner. The patent process is expensive.

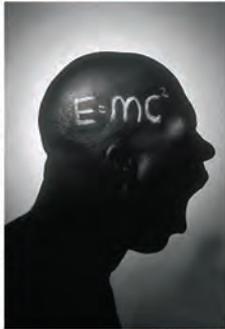
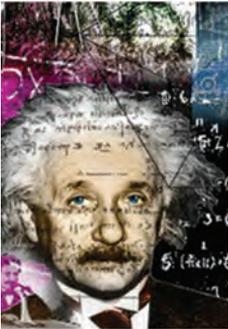
What is an Invention?

It is a **tangible, working and practical solution to a specific problem in a field of technology. This implies that the invention must be usable in practice, in industry and cannot consist of mere recognition of something existing or a law of nature.**

SOME BASIC FACTS ABOUT PATENTS

What cannot be patented?

- Ideas, hypotheses, discoveries (of things already existing in nature), scientific theories and mathematical methods.
- Rules of games, lottery systems, methods for performing mental acts, teaching methods and organizational procedures.
- Diagnostic, therapeutic and surgical methods used on the human or animal body.
- Literary, dramatic, musical or artistic works or any aesthetic creation whatsoever.
- The presentation of information.
- Inventions, the exploitation of which would be contrary to public order or morality, also cannot be patented.



So, how do I get a patent?

An invention must meet several criteria if it is to be eligible for patent protection. It must:

- Be novel (new), nothing like it in existence in the world or in the literature, including other patent documents
- Exhibit a sufficient "inventive step" (be non-obvious to someone with average skill in the art)
- Industrially applicable, have a technical effect (be useful)

SOME BASIC FACTS ABOUT PATENTS

Is a Patent that is registered only in this country valid internationally?

No. Patents, like all intellectual property rights, are sovereign rights, meaning they can only be granted by a state within its jurisdiction. Member states of the Paris Union and the Patent Cooperation Treaty have the option to also apply for patents in any of the other respective member states within certain time frames.

Conversely, if a patent is not in force in this country, then the technology therein is freely available to that country, providing that the products do not enter a country where the relevant patent is in force.

Can I tell others about my invention?

If you are thinking of applying for a patent you should not, as far as possible, publicly disclose the invention more than a year before you file an application because this could be counted as prior publication of your invention. Any type of disclosure (whether by word of mouth, demonstration, advertisement or article in a journal), by the applicant or anyone acting for them, could prevent the applicant from getting a patent. It is essential that the applicant only make any disclosure under conditions of strict confidence.

Do I need a Patent to get into production?

An inventor is not required to seek a patent in order to put an invention into practice, but once the invention is made public there will be no protection against others using the invention. No one can claim exclusivity on anything that is in the public domain.

Once I get my Patent, I'll be rich!

Not necessarily. The granting of a patent should not be taken as any indication that an invention has any merit or commercial value. Remember, it is a part of business strategy. The patent will remain a

3. piece of paper until it is put into production or licensed.

SOME BASIC FACTS ABOUT PATENTS

Companies that own patents need to ensure that they are generating a return either by leveraging their monopoly or licensing the technology to other companies. Some large high technology companies earn hundreds of millions annually in patent-licensing royalties alone.

The realm of high technology alone does not dominate patent applications. Very simple devices from soda can tabs to aglets (the plastic or metal rings around the ends of shoe laces) that are intrinsically of low value, bring in a high income for their owners due to high volumes. Much of the actual earnings of a patent depend on the conditions of the licensing agreements.

The Intellectual Property Office will not give advice on how to exploit a specific invention or patent; it will not provide any financial reward or support for an invention; and will not take sides in disputes between an applicant or patent holder and any other party.

What information can I get from Patent documents?

There is a vast quantity of obvious information in patent documents as well as that which can be derived.

- Enough up-to-date, first-hand and often only technical information to inform and provide solutions to someone in that field of technology
- Information that can help avoid duplication of effort or reinventing the wheel
- Avoiding possible infringement of someone else's patent
- Opportunities for seeking expertise, licensing partners, consumers of your technology and the number of players in the field to better inform negotiating positions
- Monitoring competitor's activities
- Obtaining patent family data, seminal patents and their owners

Is a Patent that is registered only in this country valid internationally?

What is a Utility Certificate?

A second form of protection for inventions is the patent for a **"utility certificate"**. Utility certificates differ from patents mainly in three respects:

- 1) The inventive step required is smaller
- 2) The maximum term of protection provided by law is generally much shorter (ten years in Trinidad and Tobago)
- 3) The fees required for obtaining and maintaining the rights are generally lower

The procedure for obtaining a utility certificate is generally shorter and simpler than the procedure for obtaining a patent. Other than those points, the rights under the utility certificate are similar to those under a patent.

What is the Patent Cooperation Treaty?

The Patent Cooperation Treaty (PCT) offers the possibility to simultaneously seek patent protection for an invention in a large number of countries by filing a single international application. It offers several benefits to those seeking broad protection in their target markets:

- Evaluate chances of being granted a patent before incurring major costs with an International Search Report which contains a list of relevant prior art documents
- Option of receiving an International Preliminary Examination Report where an examination is done, much as it would be for a direct application, and an opinion is given as to whether or not it meets the examining criteria
- Options can be kept open for a longer time during which, markets, conditions and agents can be sought.

It has become the preferred means of application for those seeking international coverage. Roughly more than 93% of the patent application entering Trinidad and Tobago are PCT applications.

Patent Information Services

At this Office one can find what granted patents are in force in this country, who owns and the details therein. Conversely, one can find what patents are not in force and therefore may be public domain due to expiry or simply not registered here. The IPO has a collection of patents dating back to 1902.

In addition to the nationally registered patents, the IPO also has collections of CD-ROMs and DVDs containing abstracts and/or full texts of international applications made under the PCT from 1978 to the present. There is also a collection of US full-text granted patents from 1790 (that's no typo!) to present as well as the Japanese Patent Abstracts from 1994 to the present. The IPO also has access to numerous online patent information sources via the internet.

LEGISLATION

Patent legislation is in force in Trinidad and Tobago: The Patents Act, 1996, (Act No. 21 of 1996). The Patents Rules, 1996. The required forms are in the Rules.

INTERNATIONAL TREATIES TO WHICH TRINIDAD AND TOBAGO IS A PARTY, RELATED TO PATENTS

1. The Paris Convention for the Protection of Industrial Property (1883). Trinidad and Tobago joined on 1st August 1964.
2. The Patent Cooperation Treaty (PCT) (1970). Trinidad and Tobago joined on 10th March 1994.
3. The Strasbourg Agreement concerning the International Patent Classification (1971). Trinidad and Tobago joined on 20th December 1996.
4. The Budapest Treaty of the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977). Trinidad and Tobago joined on 10th March 1994.



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