Patents

- A **patent application** is a request for the grant of a patent for **an invention** including necessary official forms and related correspondence.

- The process of "negotiating" or "arguing" with a patent office for the grant of a patent, and interaction with a patent office with regard to a patent after its grant, is known as **patent prosecution.**

- Patent prosecution is distinct from **patent litigation** which relates to legal proceedings for **violations of a patent** after it is granted.

National applications

- National applications are generally filed at a national patent office, to obtain a patent in the country of that office.

Regional applications

- A regional patent application is one which may have effect in a **range of countries**.

- Filing and prosecuting an application at a regional granting office is **advantageous** as it allows patents in a number of countries to be obtained without having to prosecute applications in all of those countries.

- The cost and complexity of obtaining protection is therefore reduced.

International applications

- The **Patent Cooperation Treaty (PCT)** is operated by **World Intellectual Property Organization (WIPO)** and provides a centralized application process, but patents are not granted under the treaty.

- The PCT system enables an applicant to **file a single patent application in a single language.**

- The application, called an international application, can, at a later date, **lead to the grant of a patent in any of the states contracting to the PCT.**

- Steps such as naming inventors and applicants, and filing certified copies of priority documents can also be done **centrally**, and need not be repeated.

- The main advantage of proceeding via the PCT route is that the option of obtaining patents in a **wide range of countries** is retained, while the cost of a large number of applications is deferred.

Types of Patent Application

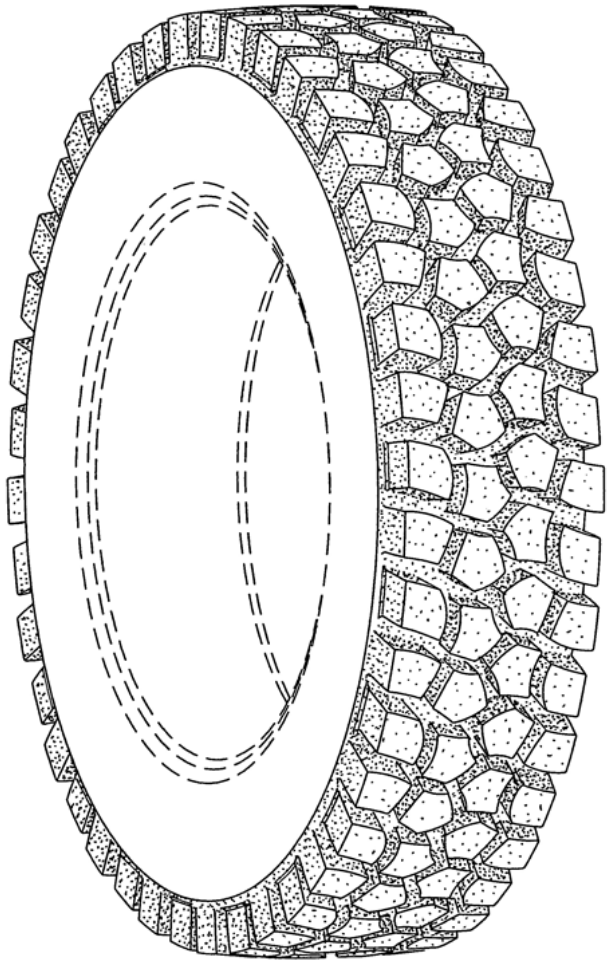
- Patent offices may define a number of types of applications, each offering **different benefits** and being useful in **different situations.**

- There are **specific** type of applications, such as **utility patents, plant patents,** and **design patents**, each of which can have their own substantive and procedural rules.

- A **utility patent** is a **patent** that covers the creation of a new or improved—and useful—product, process, or machine. A **utility patent** is also known as a "**patent for invention**".

- A **plant patent** is granted to an inventor who has invented or discovered and asexually reproduced a distinct and new variety of **plant.**

- A **design patent** is a form of legal protection of the unique visual qualities of a manufactured item.



Components

- A patent application generally contains a **description** of the invention and **at least one claim** to define it.
- A **patent claim** defines **exactly** what is claimed by the invention and therefore what is sought to be protected. It clearly lays down what the **patent does and does not cover**.
- A patent application may also include **drawings** to illustrate the invention.
- Furthermore, an **abstract** is generally required.

Standard application

- A standard patent application is a patent application **containing all of the necessary parts** (e.g. a written description of the invention and claims) that are required for the grant of a patent.

- A standard patent application **may or may not** result in the grant of a patent depending upon the outcome of an **examination** by the patent office.

- A standard patent application is also referred to as a **"non-provisional"** application.

Provisional application

- A provisional application provides an opportunity to place an application on file to **obtain a filing date** (thereby securing a priority date), but **without the expense and complexity** of a standard patent application.

- The disclosure in a provisional application may, within a limited time be **incorporated** into a standard patent application if a patent is to be pursued.

- **Otherwise**, the provisional application **expires**.

- **No enforceable rights** can be obtained solely through the filing of a provisional application.

Continuation application

- In certain offices a patent application can be filed as a **continuation of a previous application**.

- Such an application is a convenient method of **including material from a previous application** in a new application when the **priority year has expired** and further refinement is needed.

Divisional application

- A divisional patent application is one which has been **"divided" from an existing application**.

- A divisional application can only contain subject matter in the application **from which it is divided (its parent),** and retains the filing and priority date of the parent.

- Divisional applications are useful if a **unity of invention objection** is issued, in which case further inventions can be protected in divisional applications.

- Patent offices will raise a unity of invention objection during examination of a. patent application if they believe **more than one invention** is being claimed.

Preparation, filing, and prosecution

Patent specification

- The process of obtaining the grant of a patent begins with the preparation of a **specification** describing the invention.

- A specification generally contains a section detailing the **background and overview** of the invention, and a **description of the invention** and **claims.**

- A specification may include **figures**, **gene sequences** or **computer code etc.**, depending upon the subject matter of the application.

- Most patent offices also require that the application includes an **abstract** which provides a summary of the invention.

- A **title** must also generally be provided for the application.

- Each patent office has rules relating to the **form of the specification**, defining such things as **paper size, font, layout**, **section ordering** and **headings**.

Claims

- The claims of a patent specification define the **scope of protection granted by the patent**.

- The claims describe the invention in a specific legal style, setting out the essential features of the invention in a manner to **clearly define what would violate the patent**.

- Claims are often **amended** during prosecution to **narrow or expand** their scope.

Filing date

- The filing date of an application sets a **cutoff date** after which the **right to a patent for an invention lies with the first person** to file an application for protection of that invention.

- It is therefore generally beneficial to **file an application as soon as possible.**

- A filed application generally receives an **application number**.

Priority claim

- A patent application may claim **priority from one or more previously filed applications** to take advantage of the **filing date of these earlier applications** (in respect of the information contained in these earlier applications).

- Claiming priority is **desirable** because the earlier effective filing date increases the likelihood of obtaining a patent.

Security issues

- Many **national patent offices** require that **security clearance** is given **prior** to the filing of a patent application in **foreign countries.**

- Such clearance is intended to protect national security by **preventing the spread and publication of technologies** related to (amongst others) warfare or nuclear arms.

- In general all applications filed are **reviewed** and if they contain any relevant material, a **secrecy order** may be imposed.

- That order may **prevent** the **publication** of the application, and/or the **foreign filing of patents** relating to the invention.

Publication

- Patent applications are generally published **18 months after the earliest priority date** of the application.

- **Prior** to that publication the **application is confidential** to the patent office.

Patentable subject matter

- Patents are granted for the **protection of an invention**, but while an invention may occur in any field, patent laws have **restrictions** on the areas in which patents can be granted.

- Such restrictions are known as **exclusions from patentability**.

  For example, in **Europe**, things such as **computer software** are **not patentable**.

Examination

- Examination is the process of **ensuring** that an application **complies** with the requirements of the relevant patent laws.
- Examination is generally a process, whereby the patent office notifies the applicant of **its objection**.
- The applicant may **respond with an argument or an amendment** to overcome the objection.
- The amendment and the argument may then be **accepted or rejected**, triggering further response, and so forth, until a **patent is issued or the application is abandoned**.

Issue of patent

- Once the patent application **complies with the requirements** of the relevant patent office, a **patent is granted after payment of official fees.**

- In case of **regional patent systems**, such as the European patent system **translations in various languages** may be required.

Post-issue

- Many jurisdictions require **periodic payment of maintenance fees** to retain the validity of a patent after it is issued and during its term.

- Failure to timely pay the fees results in **loss of the patent's protection.**

- The validity of an issued patent may also be subject to **post-issue challenges** of various types, some of which may cause the patent office to **re-examine the application**.


Thank You!