

# What actually is a patent?

1 – Contrary to preconceived ideas, **utility patent** is a title of commercial exploitation that awards a **monopoly** (*just like design patent, models, etc*) and not a property.

According to the documents published by the Institutes of Intellectual Property:

- Patent is a contract between a presumed inventor and the public, the latter being represented by the Government of the Nation where the patent is registered..

- The inventor who is awarded a patent (*much like a driver's permit*) is therefore **title holder** (*and not the owner*) of a temporary business **monopoly**, which is limited to the country of registration; this title can also be extended internationally (*one must assume costs*).

- Since a **monopoly** is contrary to free enterprise, it is granted, like a license contract, country by country for a considerable amount of money (*application fees, registration fees, maintenance fees, patent agent fees, etc.*); furthermore, the title holder is bound by several obligations:

**A - Mandatory disclosure** = loss of secrecy for the inventor (*both trade secret (technical) as well as marketing strategy*). This results from patent's mandatory publication **18** months after the date of application. Comment: *This procedure has the possible negative effect of disclosing the claimant's secrets to his competitors prior to the introduction of his product to market. Paradoxically, the 18-month evaluation period prevents any claimant from knowing the true, unpublished, state of the art; as a result, the routine search for prior art fails to serve its entire purpose.*

**B - Blindly extend the patent world-wide.** Comment: *The patent must be extended internationally by the end of the 12<sup>th</sup> month following the date of the initial application; since the 18 month period of evaluation has not yet transpired, the applicant is forced to follow this process without knowing whether his initial patent has been accepted or not.*

**C - The claimant's invention must be an original work and must not have been disclosed.** Comment: *Unequivocally proving the non-existence of prior art is actually impossible since ongoing patent applications are not disclosed until the 18-month evaluation period has transpired.*

**D - The patented invention implies an inventive activity.**

**E - The patented invention must be useful (i.e. produced industrially).**

**F - For the entire duration of the patent (i.e. 20 years), periodic maintenance fees must be paid** in every country where the patent is registered. Comment: *Failure to pay a single maintenance fee results in the annulment of the patent in that country.*

**G – The actual commercial exploitation** of a product in relation to the patent... According to the law, the patentee who unjustly hinders the manufacturing, use or sale of the product misuses the rights granted by patent and risks losing these rights. Comment: *Such a sanction is justified, since failure to use one's patent inevitably amounts to **ill-usage of monopoly**... As a title granted by the State, the **monopoly** awarded by patent is a temporary privilege that exempts one from free enterprise. Such a privilege must not be abused.*

## 2 – How much does patent cost?

### According to experts:

, depending on the laws and traditions of the country where the infringement takes place. In other words,

- A patent costs approximately from **\$6,000** to **\$14,000** per country in professional fees (*technical description + defending oneself against motions to annul the patent, etc*), and in registration costs.
- Defending one's patent in a court of law (*i.e. patent infringement cases*) requires from **\$20,000** to more than **\$200,000** per country.
- unless one can invest from **\$500,000 to \$1 million** per invention, an international patent cannot provide its "so-called protection".

### Comment

**Any proven precedence** (*even unpatented*) can be used legally to invalidate a patent subsequently registered by a third party on the same invention...

**No further legal principle** is needed to explain why the **Intellectual Passport CB** plays a vital role in present day and future progress.