

EIP



Ask the Experts: How can I manage the costs of a patent?

In previous articles, we addressed the questions of whether applying for a patent is appropriate, and if so, when this should be done. This article addresses questions around the process for filing a patent.

Q: Could I file the application myself, and then ask a patent attorney for help if I get stuck later?

A: Although this is possible, it may be the case that by the time you ask for help, there is little that can be done to resolve any problems. In the example in the previous article, even if the inventor could demonstrate (or successfully argue) that their invention worked, the patent office would have refused the application because it did not explain how the invention could be made to work, and it is not permitted to add information to an application once it has been filed.

That said, patent attorneys spend a large portion of their time responding to objections raised by the patent office after the application is filed and will be able to give valuable advice on how to proceed based on their experience. Their advice may be based on legal, technical and/or commercial considerations. For example, it may be that the patent office has identified earlier documents such that, although a patent could be granted, it would not provide a meaningful deterrent to competitors, and the commercial value of the patent may be very low.

[Example of added subject matter.](#)

Q: Which is better, a UK patent or a European patent, and which one should I apply for?

A: Since a patent is granted only in respect of a single country, separate processes are necessary for obtaining patents in multiple countries. However, the European Patent Office (which has nothing to do with the EU and was not affected by Brexit) provides a single application and grant procedure, which can be used to obtain corresponding patents in over 35 countries, including the UK.

The term 'European patent' is a bit misleading because it is really an 'option' to obtain a patent in many different countries without having to go through filing and examination procedures in each one. It allows decisions on which countries to obtain patents in to be deferred for some time. However, the upfront costs may be higher, particularly if it is ultimately decided to obtain patents in a small number of countries.

Q: How can I manage the costs of a patent – it seems that they are very expensive to obtain?

A: Because of the restrictions on amendments which can be made after an application is filed, the value of any patent can be strongly affected by the quality of the original application. For this reason, a patent attorney will typically spend several hours discussing your invention with you and drafting and revising that initial application before filing it. This should maximise the probability that you will obtain a commercially valuable, granted patent and can avoid costly work trying to deal with a poorly drafted initial application later. This step is therefore likely to be the single most expensive stage in the process, at least in the first few years.

Subsequently, annual renewal fees will become due in respect of your patent or application: these will generally start off low and increase over time.

The desired geographic scope of patent rights, and the speed at which patent rights can be obtained are also factors which will affect your costs. However, there are various strategies (such as using an international, or 'PCT', application) which can be used to defer or reduce costs in certain circumstances, which may suit your business plan and available funding.

In the next article, we'll look at other ways a patent attorney may be able to help, whether or not you have applied for a patent.

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