

**KASCHE & PARTNER AG**  
**PATENTANWALT DR. KASCHE**  
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## **FAQ on patents**

### **What is a patent?**

A patent constitutes an agreement between the inventor and the state, giving the inventor the right to exclude others from commercially exploiting the patented invention for a limited time.

### **What else can I do with a patent?**

A patent is a personal property and, as such, not only allows its owner to prevent others from commercially exploiting the patented invention, but also to sell the patent or license the commercialization of the patented invention to another enterprise.

### **How long does patent protection last?**

Patent protection is generally granted for 20 years from the filing date of the application.

### **What is the difference between a Provisional and a Non-Provisional Patent Application?**

A conventional Utility Patent Application is examined by the US Patent and Trademark Office with regard to its patentability. In contrast, a US Provisional Application is never examined. Therefore, a Provisional Patent Application does not substitute for a conventional utility patent application. A Provisional Patent Application allows an inventor obtain a filing date, without some of the formalities involved in the usual patent process. Further, a Provisional Patent Application is less expensive to file with the US Patent and Trademark Office than a conventional Utility Application.

### **What does “patent pending” mean?**

Marking an article as “patent pending” alongside with an indication of a patent application number serves to notify the public that the underlying invention may be protected. Such marking can thus act as a deterrent to dissuade potential infringers from copying the invention. Marking an article as “patent pending” also indicates that no patent has yet been issued. Hence, the scope of protection or whether a patent will ever issue, is not yet determined.

### **How long will it take to get a patent?**

Generally speaking, the patenting process can take between about three to six years and depends on the backlog of patent applications in a particular technical field and the number of rejections issued by a patent examiner.

### **Is it recommended to conduct a search before filing a patent application?**

Although it is entirely optional to conduct a search for prior art, we believe that it is highly recommended as it allows to analyse your invention in light of the identified related publications and to estimate the likelihood of patentability of your invention.

### **Is it recommended to conduct a search before filing a patent application? Is it possible to obtain worldwide patent protection with the filing a single “International” Patent Application?**

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No. Patents are territorial rights and can only be enforced on a territorial basis in accordance with the law of the respective country.

**Can I obtain a patent and keep my invention secret?**

No. Patents are granted by a State in exchange of publication of the details of the invention by the State's Patent Office. However, patent applications will normally be published only 18 months after the filing date or the earliest priority date.

**Can I patent my software invention?**

The short answer is yes. It should however be noted that case law and implementing patent rules can differ from one jurisdiction to another, defining different patent eligibility requirements and conditions for software-based inventions. In addition, like every patent application, the underlying invention of an application for a software patent has to fulfil basic patentability criteria such as novelty, non-obviousness and industrial applicability/usefulness.