

## PATENTS

### What is a patent?

It is an exclusive right granted for an invention. The invention may be a product or process which offers a new way of doing something or presents a technical solution to a problem.

### What kind of inventions can be patented?

Generally, a patent can be granted for an invention in any field of technology.

### Non-patentable inventions

Discoveries of materials already existing in nature, laws of nature, scientific theories or mathematical methods cannot be patented.

Non patentable inventions under Ghana's Patent Act 2003 (Act 657) are as follows;

- a) Discoveries, scientific theories and mathematical methods;
- b) Schemes, rules or methods for doing business, performing purely mental acts or playing games;
- c) Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision does not apply to products for use in any of the treatment methods.
- d) Inventions, the prevention within the country of the commercial exploitation of which is necessary to protect public order or morality, which includes:
  - i) The protection of human, animal or plant life or health; or
  - ii) The avoidance of serious prejudice to the environment; if the exclusion is not made because the exploitation is prohibited;
- e) Plants and animals other than micro-organisms;
- f) Biological processes for the protection of plants or animals other than non-biological and micro-biological processes; and
- g) Plant varieties.

### Conditions for obtaining a patent

The key conditions are novelty, inventive step and industrial applicability.

- i. **Novelty:** The invention must depict some element of novelty and must not be anticipated by prior art.  
  
Prior art consists of any information disclosed to the public, anywhere in the world, by publication in tangible form or oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.
- ii. **Inventive step (non-obvious):** The invention must represent sufficient improvement in relation to existing state of the art. It should not be obvious to a person with ordinary skill in the technical field concerned.
- iii. **Industrially applicable:** The invention must be useful or capable of being made or used in any kind of industry.
- iv. **Patentable:** It must not fall within the category of non-patentable inventions under applicable national law.

### Term of a patent

A patent protects an invention for twenty years.

### [Who owns the inventions I create in the course of my employment?](#)

Where an invention is made in execution of an employment contract, the right to the patent belongs to the employer, in the absence of any contractual provisions to the contrary.

### [Rights of a patent owner](#)

The patent owner has the right to exclude others from using the patented invention during the period of protection. Thus, the patented invention cannot be commercially made, used, sold, or distributed without the consent of the patent owner.

The right to exclude applies only in countries in which the invention is protected.

### [Seeking for patent protection](#)

- The first step is to disclose your invention to the **Office of Research, Innovation and Development (ORID)** completing an [Invention Disclosure Form](#). A [Guideline on Invention Disclosure](#) has been developed to aid the process.
- The [University of Ghana's Intellectual Property Committee](#) will conduct an extensive evaluation of the disclosure and make a recommendation.
- The University of Ghana will apply for protection of the invention where in its judgment; the invention is useful and has commercial potential.

### [Can I disclose my invention to third parties after the disclosure?](#)

We recommend a patent application is made before details of the invention are made public. Any information about the invention made public prior to the filing of an application will be regarded as prior art. This can jeopardise the grant of a patent for the invention as it will not satisfy the novelty condition.

### [What if I am required to disclose my invention to a potential investor?](#)

This can affect patentability unless it is done under the terms of a Non-Disclosure Agreement.

### [Who grants patents?](#)

Patents are granted by a national patent office or by a regional office.

### [Licensing of patents](#)

Here, the patent owner grants permission to an individual or organisation to make, use or sell the patented invention in accordance with agreed terms and conditions and receives royalty payments in return.

### [Enforcement of patent rights](#)

The patent owner is responsible for monitoring, identifying and taking actions against individuals or organisations who infringe his/ her rights. Patent rights are usually enforced in a court of law on the initiative of the patent owner.