

What is A Patent?

A Patent secures for a limited time to one who has made an invention the right to take legal action to prevent others from making, using, and selling his invention in the United States. It is issued by the federal government to the first inventor of certain kinds of new and useful inventions, when he meets certain requirements.

- (1) First, the invention must be novel—a process, machine, product or design which is different from what has previously been discovered or is already known.
- (2) Second, the differences between the invention and what is already known must be of such a character that the new discovery would not be obvious to others working in the same area. Specifically, the differences between the subject matter which is sought to be patented and the pre-existing knowledge must be unobvious to a person having ordinary skill in the technical field to which the subject matter pertains.
- (3) Third, the subject matter of the invention must fall within one of the classes designated by Congress for which patents may be granted. A patent may be granted for a new and useful process, machine, manufacture, composition of matter, for a new, original and ornamental design for article of manufacture, or for certain distinct and new varieties of plants. Patents are not granted, however, for methods of doing business, newly discovered laws of nature, or for purely mental processes.
- (4) The patent must have been applied for in good time. A valid patent cannot be issued to an inventor on an invention which, more than one year before he applied for a patent on it, was sold, or publicly used, in the United States, or described in a printed publication in any country, nor, under some conditions, if he patented it abroad before he applied for a patent on it in this country. Nor can an inventor abandon his invention and then after someone else has produced the same invention, change his mind and obtain a valid patent on it. The second man may then be, according to law, the “first inventor”.

Except for ornamental designs which have 3 ½ year, 7 year or 14 year term, patents are granted for a term of 17 years from the date of issue. During this period, the patent owner has the legal right to exclude all others from making, using or selling his invention in the United States. After the expiration of the 17 year period, the invention is available for use by anyone so long as inventions protected by other unexpired patents are not used.