



Some facts on the patent systems

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	Europe	Japan	Korea	China	USA
Designated patent office	The European Patent Office (EPO) www.epo.org for regional protection in Europe and for the future unitary protection; national patent offices for the protection at national level only	The Japan Patent Office (JPO) www.jpo.go.jp	The Korean Intellectual Property Office (KIPO) www.kipo.go.kr	The State Intellectual Property Office of P. R. China (SIPO) www.sipo.gov.cn	The United States Patent and Trademark Office (USPTO) www.uspto.gov
Useful resources/legal texts	Convention on the Grant of European Patents (EPC), EPC Implementing Regulations, Guidelines for Examination, UPC Agreement	Patent Act, Patent Act Enforcement Order, Regulations under the Patent Act, Examination Guidelines for Patent and Utility Model in Japan, etc.	Patent Act, Enforcement Decree of the Patent Act, Enforcement Rules of the Patent Act, Patent Examination Guidelines	Patent Law of the People's Republic of China, Implementing Regulations of the Patent Law of the People's Republic of China, Guidelines for Patent Examination	United States Code, Title 35 - Patents, Code of Federal Regulations, Title 37, Chapter 1 - Patents, Manual of Patent Examining Procedure (MPEP)
Term of protection (patent rights)	European patent: 20 years from the filing date EU design (granted by the European Union Intellectual Property Office): 5 years from the filing date (renewable 4 times in periods of 5 years up to a maximum of 25 years)	Patent: 20 years from the filing date Utility model: 10 years from the filing date Design: 20 years from the registration	Patent: 20 years from the filing date Utility model: 10 years from the filing date Design: 20 years from the filing date	Invention: 20 years from the filing date Utility model: 10 years from the filing date Design: 10 years from the filing date	Utility and plant patent: 20 years from the filing date Design patent: 15 years from the date of grant (for design applications filed on or after 13 May 2015), 14 years from the date of grant (for design applications filed before 13 May 2015)
Extension of term	Extensions possible at national level, granted by contracting states on the basis of relevant EU regulations or national law; Supplementary Protection Certificate for medicinal and plant protection products, harmonized in the EU countries, granted for a maximum of 5 years (5.5 for medicinal products for paediatric use)	Extensions possible for pharmaceutical, veterinary or agrochemical patents, up to a maximum of 5 years	1 extension per patent possible for pharmaceutical or agrochemical patents, up to a maximum of 5 years. Extension possible in case the registration of the patent right takes more than 4 years from the application date or 3 years from an examination request, whichever is the later. The term of the patent right may be extended by as much as the period of delay.	No extensions possible	1 extension per patent possible if the patent relates to certain pharmaceutical & veterinary products, some medical devices, and food/color additives and the product is subject to regulation under the Food, Drug, and Cosmetic Act. Length of extension is up to 5 years; period of extension may be reduced, so that total term (original remaining term + extension period) does not exceed 14 years. Extension possible in the case of certain Patent Office delays in the issuance of a patent
Conversions into other forms of industrial property rights/dual filings	Conversions not possible at the EPO (examines and grants patents only); conversion into national (utility model) applications possible under certain circumstances, depending on national law; dual filings of European and national patent application seeking protection in the same country possible but in most contracting states no double protection by European and national patent	Conversions are possible between applications of patents, utility models and designs; the converted application is deemed to have been filed on the filing date of the original application; once converted, the original application is deemed to be withdrawn	Conversions are possible, patent application can be converted into utility model application or utility model application into patent application, original application is deemed withdrawn at time of conversion; no dual filings possible	No conversion possible, dual filings of patents and utility models possible, but utility model must be withdrawn at grant of patent	Conversions are not possible, rather, a design patent application may be considered a continuing application of an earlier utility patent application. Conversely, this also applies to a utility patent application relying on the benefit of the filing date of an earlier filed design application, if all the requirements for a continuing application are met. In addition, a design patent application may claim benefit of the earlier filing date from an earlier filed PCT application
Priority (time limit)	12 months from the earliest priority date; multiple priorities possible, internal priorities possible	12 months, multiple priorities possible, domestic priorities	12 months, multiple priorities possible, domestic priorities	12 months from the earliest claimed priority for invention and utility model, 6 months for design. Multiple priorities possible, domestic priorities (except design)	12 months from the earliest priority date for utility patent applications; 6 months for design patent applications; multiple priorities possible, domestic priorities
Publication of application	18 months from the filing date, or if priority is claimed, 18 months from the earliest priority date; applicant may request earlier publication; search report usually published with application	18 months from the filing date, or in case a priority or domestic priority is claimed, 18 months from the earliest priority date; applicant may request earlier publication	18 months from the filing date, or in case a priority or domestic priority is claimed, 18 months from the earliest priority date; applicant may request earlier publication	18 months from the filing date, or in case a priority or domestic priority is claimed, 18 months from the earliest priority date; applicant may request earlier publication	18 months from the filing date, or if priority is claimed, 18 months from the earliest priority date; applicant may request earlier publication. Applicant may request non-publication (application for patent in US only); design patent applications, provisional applications filed under 35 U.S.C. 111(b), and reissue applications filed under 35 U.S.C. 251 are not published
Substantive examination (patents)	Substantive examination starts on request of applicant	Substantive examination starts on request of applicant or third party	Substantive examination starts only on request of applicant or third party; optional deferred examination available upon request of the applicant (under the 3-track system, the applicant can choose accelerated, regular or customer-deferred examination)	Substantive examination starts only on request of applicant; SIPO may proceed ex officio to substantive examination	Substantive examination starts automatically; deferred examination is available on the request of the applicant provided certain conditions are met
Time limit for request for examination	6 months from the date of mention of publication of the search report in the European Patent Bulletin; if no request is duly filed the application is deemed to be withdrawn	3 years from filing date	Patents: 3 years from filing date (effective as of 1 March 2017); Utility models: 3 years from filing date	3 years from filing date or, if priority is claimed, from priority date	Not applicable - the mere filing of a patent application and payment of the applicable fees is effectively a request for examination; on request of applicant, examination deferred for up to 3 years from the earliest filing date
Challenging a patent	Post-grant opposition by third parties within 9 months from the date of publication of the mention of grant of the patent in the European Patent Bulletin; after expiry of the opposition period, invalidation by third parties only before competent authorities in contracting states in which European patent is validated	Post-grant opposition may be filed by any person within the first 6 months from the publication date of the Gazette of the patent. Trial for invalidation may be requested before JPO only by interested parties at any time after the registration of rights; even after expiration of the patent; for particular or all claims; partial invalidation possible	Post-grant opposition may be filed by any person within the first 6 months from the publication of the grant of the patent. Trial for invalidation may be requested before KIPO only by interested parties at any time after the registration of rights; even after expiration of the patent; for particular or all claims; partial invalidation possible (effective as of 1 March 2017)	Opposition system abolished as of 1 July 2001; revocation of a patent only by way of invalidation proceedings, invalidation may be requested before SIPO by any entity or individual at any time after grant, even after expiration of the patent; partial invalidation possible	Post grant review, inter partes review, and ex parte reexamination may be requested under certain circumstances (Please see footnote, FN, for further details)
Payment of renewal fees	First renewal fee is due for third year of pendency of application, payable in advance; subsequent renewal fees are payable yearly, up to grant to the EPO, after grant to contracting states in which patent validated	Annual fees for 3 years have to be paid in lump sum within 30 days from the date on which a certified copy of the examiner's decision that the patent is to be granted has been served; further annual fees are due yearly, in advance	First renewal fees for 3 years should be paid in lump sum within 3 months from the receiving date of the notice of patent grant; further annual fees are due yearly, in advance.	First renewal fee is payable within 2 months of receipt of the notification to grant the patent right, further renewal fees are due yearly, in advance	Utility patent maintenance fees are due 3½, 7½ and 11½ years from the date of the patent grant; design patents and plant patents have no maintenance fees

FN: A post grant review may be requested by third parties within 9 months after the grant of a patent or issuance of a reissue patent. With limited exceptions, only those patents issuing from applications subject to first-inventor-to-file provisions of the AIA are eligible for post grant review (effective March 16, 2013). Inter partes review may be requested by third parties on a patent issuing from an application subject to first-inventor-to-file provisions of the AIA as well as those patents issuing from applications subject to pre-AIA law first-to-invent provisions. A petition for inter partes review can be filed immediately after the issuance of a patent subject to pre-AIA law first-to-invent provisions. For first-inventor-to-file patents, an inter partes review petition cannot be filed until after the later of: (i) 9 months after the grant of the patent or reissue patent; or (ii) the date of termination of any post-grant review of the patent. (The effective date for the inter partes review provision in the AIA is September 16, 2012). Ex parte reexamination may be requested by anyone at any time during the period of enforceability of the patent.