

PATENT AND UTILITY MODELS



MAKERERE UNIVERSITY

**DIRECTORATE OF RESEARCH
AND GRADUATE TRAINING**

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.

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 refers to existing public information that can be referred to in a patent application or an examination report. It includes technical publications, scientific literature, journal articles, public disclosures (*Conference papers, presentations, marketing brochures, oral disclosures etc.*).



- 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 used for a business or industrial purpose.

Term of a patent

A patent protects an invention for twenty years.

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 Technology Development and Transfer Centre (TDTC) by completing an Invention Disclosure Form. A Guideline on Invention Disclosure has been developed to aid the process.
- The Makerere University's Intellectual Property Committee will conduct an extensive evaluation of the disclosure and make a recommendation.
- Makerere University 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

Can I convert my patent application or application for utility model?

In some countries, you can do so prior to the grant or refusal of the patent or utility model and upon payment of the prescribed fee.

UTILITY MODEL



What is a utility model?

It is a form of intellectual property right granted for an invention.

What are the main differences between a utility model and a patent?

- The requirements for obtaining a utility model are less stringent than for patents. An invention must be new and capable of being used by industry to qualify for protection with a utility model.
- A utility model is usually granted within four to six months of the filing date, compared to a patent which is usually granted after two years of filing the application.
- It is less expensive to obtain and maintain a utility model compared to a patent.
- The period of protection for a utility model is shorter (usually 7 - 10 years) than for patents.

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