

# A Guide to Patent Infringement: A Global Perspective

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# GUIDE TO PATENT INFRINGEMENT: A GLOBAL PERSPECTIVE

## 1. Introduction

Ideas and innovation are the cornerstones of any successful corporation. Given that modernisation and globalisation has had a significant impact on corporations, it is only fair that the ideas defining these businesses are given protection from being misused, manipulated or stolen. Stolen ideas is a modern-day problem playing on capitalism by generating revenue to the 'thief'. With the view of preventing this, ideas and innovations are being granted patents now.

A patent, in simpler terms, is a right granted to an inventor over his invention by a sovereign authority providing the inventor with exclusive rights over the ownership of the process, design or invention. A patent granted to the inventor is for a set period in return for disclosure of the invention. Infringing such a right gives the inventor a right to claim for remedies against the infringer. The claim includes and is not limited to injunctions, damages, account of profits, declarations and so much more depending on the jurisdiction of the disputed invention. Infringement of patents reign in all industries, from Apple making a claim against Samsung over an infringing patent on their smartphones and tablets to the 'Da Vin Ci Code' book to movie rights disputed. This article aims to give a global perspective on patent infringement by analysing the different rules and regulations governing these jurisdictions and the various remedies available, respectively.

## 2. United Kingdom (UK)

### 2.1 Governing Law and Overview

Patent infringement is a statutory tort as per the common law. In the United Kingdom, there exist well-structured legislations to govern patent rights and infringement. The **Patent Act 1977** (as amended) (PA 1977) sets out the various rights and remedies governing patents in the UK. The later legislation Patent Rules passed in 2007 deals with the procedure involved in filing a patent with the UK Patent Office (known as the

Intellectual Property Office), filing a patent infringement lawsuit, challenging the validity of the patent, opposing the grant of a patent and other related matters. There are Civil Procedure Rules governing patent rights in the UK as well however these CPR apply exclusively to England and Wales and not to Scotland and Northern Ireland as they have their own rules and regulations in the local courts.



### 2.2 Overview

As with all jurisdictions, in the UK a patent is perceived to be infringed when the invention is put to use by someone who is not authorised. **Section 60** of Patent Act 1977 states that a person/entity is said to have infringed a patent only if the patent is granted and in force.

Additionally, the person/entity in question should have done any of the following without the consent of the proprietor to have infringed a patent in the UK:

- i. If the invention is a product:* the person/entity disposes of, offers to dispose of, uses or imports the original product
- ii. If the invention is a process:* the person/entity uses or offers the process of creation in the UK in addition to the point mentioned above

To understand how to apply for a patent in the UK, firstly, it is essential to note that patent right is a negative right granted to the applicant, which prohibits an action relating to his invention. However, for this act, there would be no infringement if the patent is used for non-commercial, research, anti-terrorism, experimental



medicines and related purposes. The reason for this was explained in the case of *Corvalve Inc v Edwards Lifesciences AG [2009] EWHC 6 (Pat)* where the courts held that experiments with the patent are allowed to encourage scientific research while still protecting the legitimate interest of the patentee. However, there is some debate over this subject as experimentation often leads to commercial gain (case of *Monsanto v Stauffer [1985] RPC 515*.)

### 2.3 Procedure

Section 1 of PA 1977 states that for a patent to be valid and granted it needs to be new, should involve an inventive step, should be capable of industrial application and is not excluded from being protected as a patent. Once the validity of the patent is granted and is deemed valid, opposing parties can apply directly to the courts to revoke the patent or declare infringement of the patent, regardless of whether the inventor of the patent or the owner is threatened with litigation.

A patent awarded to the **United Kingdom is through either the United Kingdom Intellectual Property Office (UKIPO) or the European Patent Office (EPO)**. Additionally, the possibility of joining either process under the **Patent Cooperation Treaty (PCT)** can be made through a foreign request. When issued, a patent provides an exclusive and absolute right to exploit what is protected by the patent and can provide coverage for 20 years as long as it is renewed (and the applicable fee paid) every year from the fourth anniversary of the filing date. A term of protection can be expanded by applying for a **Supplementary Protection Certificate (SPC)**.

### 2.4 Infringement in the UK

It is an infringement to sell a patented process for use in the United Kingdom if the person making the offer understands, or it is apparent to a reasonable person, that using the method without the permission of the proprietor would be an infringement of the patent. Furthermore, Section 60(2) Patent Act 1977 also allows

***“The US Patent system adds the fuel of interest to the fire of genius in the discovery and production of new and useful things.”***

**– Abraham Lincoln**

the patent proprietor to prevent an unauthorized person from supplying or offering to in the United Kingdom means relating to an essential element of the invention when they know, or a reasonable person would have known, that the element was suitable for and intended to be used in order to put the invention into effect in the United Kingdom. This is referred to as contributory infringement.

**Section 60(3)** Patents Act 1977 exempts commercial staple products from this provision: -a patent proprietor can not prohibit someone from selling standard commercial objects merely because they could be used to assemble an infringing device, or even if the manufacturer knows that they are intended for that reason. For instance, according to the precedent in *Menashe Business Mercantile Ltd v William Hill Organisation Ltd [2002]*, computer software is a patented entity although the manual to use it would not be.

The nature of the various infringing acts in themselves is rarely ambiguous. Nonetheless, one issue that arises is whether fixing a copyrighted item can be infringed as a "making" operation. The response depends on the extent of the repair. Several factors such as the possible lifetime of different components, have to be considered. As per *Schutz (UK) Ltd v Werit UK Ltd [2013]*, if the worn or damaged product continues to embody the entire claimed invention, excluding the component requiring replacement or repair, then it is likely that repair by replacing that component does not "make" the patented product.

Another question arises when the product supplied is a package of parts that helps the user to assemble the component. Since the consumer has protection under **Section 60(5)(a)** Patents Act (discussed below), it can be argued that the selling of the package does not result in an infringing act of "making". A similar argument occurs when the package is manufactured for sale so that there is no violation outside the jurisdiction. Nevertheless, these claims were not checked in case law. In any event,

***“The strength of a patent doesn’t come from its claim, it comes from the invention.”***

***- Kalyan C. Kankanala***

a supplier of such a kit might also be liable for contributory infringement. It is also essential to distinguish between direct and indirect patent infringement.

### 2.5 Court Proceedings

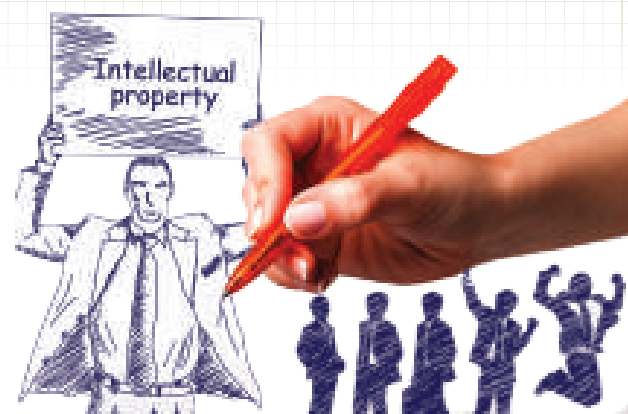
It is mainly in London that court proceedings involving UK and EP (UK) patents take place. They are heard either before the Patents Court (a High Court division) or before the Patents County Court, depending on the value and complexity of the case—more complicated cases or cases where the value of the case is more than £ 500,000 are heard before the Patents Court. The judges make their judgments; no jury exists. The procedure at the Patents Court is thorough and generally involves:

- i.* discovery of documents;
- ii.* experiments (when necessary);
- iii.* written facts and expert evidence (experts are appointed by a party, not appointed by a court); and
- iv.* witness cross-examination at trial.

In the United Kingdom, copyright disputes and patent validity issues were resolved in one court. In comparison, in Germany, the two issues are addressed in separate trials (so-called 'bifurcation'). The Patents County Court provides a cheaper alternative to the Patents Court procedure. The level of complicated research information presented and the volume of cross-examination will be reviewed in the Patents County Court, providing small and medium-sized businesses and private individuals with a more open and generally cheaper process. If any party to a case at the Patents County Court thinks that the Patents Court is more suitable, a transfer request may be made.

### 2.6 Damages

In claims that proceed in the Enterprise Court of Intellectual Property, the court will make a summary assessment of the party's costs in favour of which any cost order is made. The extensive assessment is not valid. The court will not require a party to pay total costs in excess of:



*i.* £ 50,000 on the final determination of a negligence claim; and

*ii.* £ 25,000 on a claim for damages or benefit account.

The maximum amount of scale costs imposed by the court is as specified for each point of the case.

### 2.7 Remedies

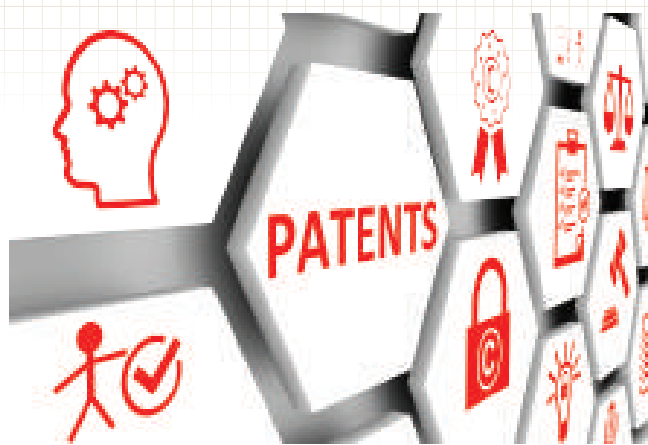
Remedies for the patent proprietor, in either case, include a temporary or permanent order, products being shipped or destroyed, damages being paid, or an account of the infringer's earnings, or legal costs being incurred. UK patent judges' decisions are also taken into account and often carry persuasive weight in circumstances where the same patent is litigated in other European countries

### 2.8 European Union

Concerning the EU, **Section 60** of the PA 1977 of the infringing acts stems from the Community Patent Convention (Articles 25 and 26), revised and replaced by the *Community Patent Agreement (89/695/EEC) (OJ 1989 L 401/1) (CPC)*. Similar provisions are introduced by other European countries. Section 60 was framed in compliance with **Section 130(7)** of the PA 1977 to have the same consequences in the United Kingdom as almost as possible as the relevant provisions of the CPC. Section 130(7) stems from the *Community Patent Joint Declaration Agreement (OJ 1989 L 401/57)* which is further implemented by the EEC member states.

In *Bristol Myers Squibb v Baker Norton Pharmaceuticals [1999] RPC 253*, Jacob J held that since there was no distinction between **Articles 25** and **26** of the CPC and the relevant provisions of section 60, it was easier to work based on the direct effect of the CPC provisions. Nevertheless, as section 60 has tended to focus mainly on that provision, this report is equally based on that provision as it represents the law in the UK and UK case law. Nonetheless, when interpreting the provision, the UK courts often turn to national European (mainly German) case law.





### 3. Singapore

#### 3.1 Governing Law and Overview

A patent is one of the three mechanisms through which IP rights are registered within the country. Any inventive or creative process and design are protected under Singapore's patent laws. Singapore various famous patents include Ford's Assembly Line and Apple's iPod.

The Singapore Government launched its Intellectual Property (IP) Hub Master Plan in 2013, a ten-year road map to make Singapore the pre-eminent location for intellectual property growth, registration and protection. The Singapore government has suggested, as part of that plan, the implementation of an IP-Box tax regime similar to those in the Netherlands and Ireland.

Furthermore, the Master Plan, in addition to its IP-Box tax program, recommends reform in preparing its employees to build IP and to secure the IP in its institutions. Many of these changes are targeted at **Singapore's Intellectual Property Office (IPOS)**. Singapore aims to become the pre-eminent location for IP growth, registration and security with its Master Plan.

The IPOS is a legislative board established in 2001 under the Ministry of Law to enforce the IP policy of the state. Investors, businesses and entrepreneurs can create and protect and leverage their innovative ideas and creations appropriately and successfully with the help of IPOS. Individuals are guided to IP service providers, such as attorneys or consultants, and offer free workshops on how to protect and process their Intellectual Property. If in the process registration disputes occur in between individuals or parties the IPOS will provide services for hearing and mediation, like arbitration, to settle and resolve the issue. It also helps business ventures secure capital or financing for an ongoing project by estimating the IP value.

#### 3.2 Overview

According to IPOS, "a patent is a right granted to the owner of an invention that prevents others from making, using, importing or selling the invention without his permission."

*"If you didn't have patents, no one would bother to spend money on research and development. But with patents, if someone has a good idea and a competitor can't copy it, then that competitor will have to think of their own way of doing it. So then, instead of just one innovator, you have two or three people trying to do something in a new way."*

– James Dyson

Singapore has structured the Patents Act, which protects inventive and innovative design and processes, similar to the United Kingdom's Patents Act of 1977 and such is reflected. Singapore is a signatory of the Patent Cooperation Treaty and hence the patents are protected internationally under the PCT. The time period of a registered patent in Singapore is 20 years, it is required that annual renewal fees is paid regularly to ensure that the patent remains registered under the owner's name for the entirety of 20 years.

The inventor of the idea or creation is the owner, however, if the inventor creates and develops it during his or her employment at a company or business, the IP then does not belong to the inventor.

The three factors to be fulfilled in order for an invention or idea to be granted a patent are as follows:

**I. New:** For a patent to be granted for a new invention, the invention must not be openly known anywhere in the world.

**II. Inventive:** Originality is not enough, the idea must provide an improvement to a task or ability that is not evident to the skilled and experienced that specified field.

**III. Industrial Application:** In addition to originality and innovation, the new idea should have some practical application that would help and industrial growth and revolution.

This insistence process of a patent application, which will only be granted if all three conditions are satisfied, brings the Intellectual Property Law and Patent Law of Singapore at par with countries such as the United States and the United Kingdom. However, Singapore will not award patents for ideas or creations that:

- i.* Promote aggressive, unethical or anti-social behaviour.
- ii.* Contribute to any sort of innovation to human or animal body diagnosis or treatment.

#### 3.3 Registration of a Patent

A patent can be registered either as a domestic application or an international application.

**“Inventions cannot be judged in patent parameters, but patents have the ability to take inventions very far.**

**- Kalyan C. Kankanala**

**i. Domestic Application:** As the name signifies this patent only applies to within Singapore and can file their invention only with the Registry of Patents, a branch under the IPOS and the inventor can complete this registration either through the online portal or in person.

**ii. International Application:** This patent would apply in Singapore and various other countries. To do so the patent will be registered under the PCT and the Singapore’s Registry of Patents will act as the receiving office. The patent is applicable to be infringed once it is registered. The ideas and creations such as the products and procedures will undergo comparison by the courts in order to determine any infringement or violation. Infringement will not have occurred if the act was either

**I. done for non-commercial reasons in private or**

**II. for the intent of an experiment or**

**III. for an unplanned medicine development**

As mentioned before the Singapore Patent Act is based on the UK’s Patent law, it has also adopted various aspects of it and such is reflected in the case of *V-Pile Technology (Luxembourg) SA & Ors v Peck Brothers Construction Pte Ltd [2000] 3 SLR 358* in which the Singapore courts applied the UK Windsurfer or Pollozi Test for assessing obviousness, and this test has since been used by the courts. It was in the case of *Genelabs Diagnostics Pte Ltd v Institut Pasteur & Anor [2000] SGHC 53; [2001] 1 SLR 121* that the courts clarified that the assessment is not a quantitative test but rather a qualitative test.

Furthermore, if inventors want to make any amendments to their inventions after the grant has been awarded then the case of *Ship’s Equipment Centre Bremen GmbH v Fuji Trading (Singapore) Pte Ltd and others and another suit [2015] SGHC 159* laid down the requirements which need to be fulfilled to make the changes, the aspects laid down in the case are as follows:

**i.** All aspects relevant to the amendment has been disclosed by the patentee.



**ii.** The amendments must comply with the requirements of the Act.

**iii.** The amendment was sought immediately without unnecessary delay.

**iv.** If, by postponing the amendments, the patentee obtained an unfair advantage.

**v.** And if the patentee’s conduct was fair regardless of the quality of the invention.

### **3.4 Damages**

If an IP product or process infringes a patent, the court can order damages on behalf of the inventor and carry out an injunction on the use and further development of that idea or product.

However, after an infringement is found it is hardly seen that the courts come to a calculated exact amount of what damages amount up-to in monetary value. This is because the parties usually succeed in resolving the issue of liability once the damages have been decided upon.

### **4. United Arab Emirates**

The advancing economical growth within the UAE has resulted in a significant increase in the number of applications filed in the UAE and this is expected to increase in the coming years. In February 2014 a Memorandum of Understanding with the Republic of South Korea on Intellectual Property Rights Cooperation, in particular regarding the area of patents. The agreement included arrangements between the *Korean Intellectual Property Office (KIPO)* and the *Ministry of Economy, UAE* to review UAE patent applications and improve the UAE Patent Office’s local capabilities.

Meanwhile, the UAE Ministry of Economy will continue to engage in the review of applications in conjunction with its conventional partner, the Austrian patent office. It is believed that in the coming few years, the UAE Patent Office will continue to build its capabilities with the goal of becoming a fully independent patent office.

*"A patent, or invention, is any assemblage of technologies or ideas that you can put together that nobody put together that way before. That's how the patent office defines it. That's an invention."*

– Dean Kamen

#### 4.1 Overview

Federal Law Number 17 of 2002 governs patent protection according to the amended Federal Law Number 31 of 2006. The UAE primarily has two patent protection paths, a national one and a regional one. In the national patent, protection is filed in the national office, whereas in the regional patent, the protection is for a GCC patent and the protection of the idea or creation is viable in all the six countries of the GCC.

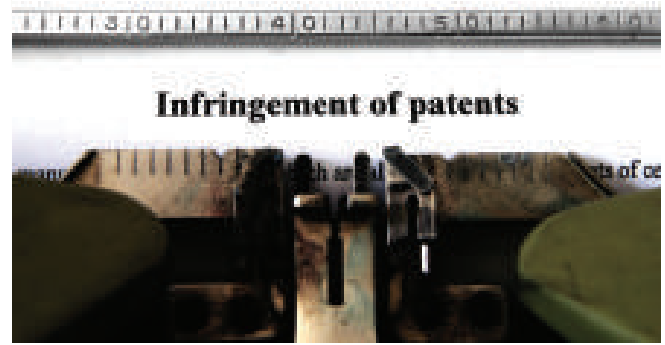
The UAE is a member of various international and local treaties and bodies, being a signatory part of such treaties and conventions enables the individuals or parties to make beneficial advantage when considering patent protection in the UAE, the convention and treaties are as follows:

- i. World Intellectual Property Organisation Convention (WIPO)
- ii. Patent Cooperation Treaty (PCT)
- iii. the Paris Convention
- iv. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- v. Gulf Cooperation Council (GCC)

#### 4.2 Registration of a Patent

Patent applications in the UAE should be submitted in both English and Arabic, followed by certain formalities, including an attorney's office, an appointment; where the applicant is not the inventor and a commercial license; where the applicant is a business entity.

At the UAE embassy or consulate at the site of execution outside the UAE, it is required that the formality documents should be authorised. The formality documents may be submitted within 90 days of the patent application's filing date. Where the application for a patent demands priority over an earlier application submitted under the Paris Convention, a copy of the application should be filed in both Arabic and English as well. Once the formalities of the patent application have been approved, it will be put in line for detailed review.



If the UAE Patent Office decides to grant a patent, the application shall prepare the publication material and pay the publishing fees, after which a decision to grant a patent shall be published in the Official Gazette of the UAE. Once the decision is published a 60 day opposition period commences within which third parties are able to oppose the grant decision of the patent, at the end of the 60 day period if no opposition has been raised against the request, the patent will be granted and a certificate of approval will be issued by the UAE Patent Office to confirm the patent's award.

Once a patent is issued, the patentee has the right to exclude others from the use of the creation within the territorial boundaries of the UAE without authorisation from the patentee, and this right of the patentee is valid for a term of 20 years from the date of the grant. To hold the patent application or patent valid, annuity payments should be charged annually in the UAE from the first anniversary until the application or patent's twentieth anniversary, taken from the filing date.

### 5. United States of America (USA)

#### 5.1 Governing Law and Overview

Patents within the USA is regulated by the **Patent Act of 1952**, it has evolved from the first act of Patent Act 1790 which established a very basic patent grant system. The system is made up of a three-member board, which was governed by the Secretary of State. The statute was amended in 1836 to provide for a framework of examination which consisted of patent examiners inspecting the new creation or idea. This framework is still used today.

In 1982, Congress set up the **Federal Circuit Court of Appeals (CAFC)** to hear patent appeals from all around the country. One of the Federal Circuit's purposes was to bring patent doctrine under a specialist court's watch. Patents have been expanded under the Federal Circuit, and more inventors have applied to take advantage of this improved patent protection.





## 5.2 Patent Law

A patent's main legal element is the claims, which define the patent's legal context, in a patent the claims are printed at the very end. The part of the patent other than the claim is referred to as the specification and the specification supports the claims. The specification is written for the purpose of evidence, it details in exactly what has been discovered by the inventor. An inadequate specification might indicate that the inventor does not deserve the entirety of a patent grant.

A famous example can be seen in *The Incandescent Lamp Patent, 159 U.S. 465 (1895)* in which Sawyer and Man filed for the light bulb patent, where various filaments made of paper and wood were discussed in the specification, however, neither of them were good enough for light bulb use. When Sawyer and Man went to patent their invention against that of Thomas Edison, it was invalidated by the lawyers as in their claims it was established there was the use of fibrous material, which was not mentioned within their specification. The claim consisted of a more extensive creation than what was established in the specification, this reflects the importance of a specification in relation to the claim. Whereas the claim is the most important part of the patent, the specification lays down the creation in more detail.

Furthermore, the description should also consist of the best mode to carry out the invention. The Federal Circuit developed a two-prong method for detecting best mode violations in *Bayer ag v Shein Pharmaceuticals, 301 F3D 1306(2002)*:

- i. Did the inventor had a pre-defined best mode of practice for their invention at the time of filing?
- ii. Is the patent specification sufficient to permit the best practice of the invention by a person with ordinary ability in that field?

A non-legal description of the invention is also required, this description is referred to as the abstract. The specification claim and abstract together make a patent.

*"An invention without Patent is as useless as a skilled actor without an audience."*

*- Ujjwal Jha*

## 5.3 Types of Patent

### I. Utility patents

Patents that involve processes or products that are useful are referred to as utility patents. Over time, the implication of this definition has changed. It wasn't until the case of *Diamond v. Chakrabarty, 447 U.S. 303 (1980)* that artificially-created organisms could be protected under a patent. The law is always evolving to adopt the changes brought about by human innovation. A utility patent protection lasts up to 20 years as long as the annual maintenance fees is paid regularly.

### II. Design patents

Any original or novel creation or invention In regards of manufacturing products are bestowed with a design patent. In order for an invention to gain a design patent it has to fulfil factors:

i. **Ornamentally:** they must be "the product of aesthetic skill and artistic conception."

ii. **Not primarily functional:** If the design possesses a functional use then the patent should be filed as a utility patent and not a design patent.

A design patent provides protection to design for fourteen years.

## 5.4 Registration of a Patent

The acquiring of a patent consists of preparation and prosecution. The drafting of the patent is referred to as the preparation whereas prosecution consists of the process of receiving the patent from the United States Patent and Trademark Office. The length of the prosecution depends on case to case and is hence varied and not fixed. On average, a successful prosecution will take 3 years to complete, but there are exceptions when sometimes the case is completed within a year or has taken more than a decade to complete.

The first step of the process is to fill out an application with the Patent Office. The application consists of the specification and the claim which together with the

**"To Patent or Not to Patent- that is the question.  
If answered correctly, commercial success beckons."**

**- Tom Robertson**

abstract forms the patent. This application is signed under an oath and a filing fee is paid. If the inventor is not yet prepared to submit a utility request, a provisional application may be submitted. The inventor then has twelve months to submit the actual application, citing the prior date as the provisional date. This is done in cases when the inventor believes that his invention might be copied and submitted before he can submit the application.

The patent office consists of eight Technology Centers, each covering a certain field. Each centre consists of several examining groups and each examining group is then further split into several art units. Some groups are extremely specialised to deal with areas that deal with several patent applications whereas other groups are more diverse. If an examiner rejects the application for a patent, the examiner will issue an "office action". The applicant can decide to either agree "acquiesce" with the decision after which they have to remove the claim from the application or the applicant can contest "traverse" with the decision. The applicant, if he chooses to traverse has to appeal against the dismissal on the legal or scientific ground or amend the claim to make a new claim.

After all the objections or specifications of the claims are resolved, the examiner will issue a "Notice of Allowance", and after an issue fee is paid the patent will be granted.

### **5.5 Infringement**

There are different ways in which a patent can be infringed under the US Law, they are as follows:

**i. Direct Infringement:** The product or service of a single entity meets all the restrictions of at least one entire claim in the patent. The party in question does not require to be aware of the patent to be liable.

**ii. Indirect Infringement:** Any entity that induces or supports another entity in creating a product or service that satisfies all the requirements of at least one of the patent's independent claims. This is further divided to:



**i. Induced Infringement:** The infringer is aware of the patent and acts with knowledge to make the other party infringe the patent.

**ii. Contributory Infringement:** The infringer intentionally offers a component or service that lets the other party infringe the patent without which the service would not work.

In order for the patent owner to file a claim, the inventor has to prove:

- I. Ownership of a valid patent
- II. The burden of proof lies on the inventor, the inventor has to prove the act of infringement of the other party
- III. Prove which product or process in particular of the claim has been infringed.

## **6. India**

### **6.1 Brief Summary of Patent Law in India**

In India, the scope and definition of patent law are similar to that of the UK as it primarily adopted the common law system post-independence. The main legislation governing this area is the **Patents Act of 1970**. **Section 104-114** of this act governs the infringement of patents in India. there are no specific acts which are deemed to amount to an infringement, however as stated before, since common law is adapted in the country similar acts constitute infringement – both direct and indirect.

Case precedents are also a primary source of patent law in India. The Indian legal system often considers the decisions of US and EU patent cases while coming to a decision. This was observed in *Novartis v Union of India* ((2013) 6 SCC 1) as well as *Merck Sharpe and Dohme Corporation v Glenmark and F. Hoffman La Roche v Cipla Ltd.*

Remedies sought include seizing the infringed patent from the party in question or having the court grant an injunction for the same. About granting an injunction, the court would consider the strength of the whole case and decide the remedy accordingly and apply any defence that arises. This was seen in two



cases namely *Franz Xaver Huemer v New Yash Engineers, (1996) PTC (16) 232 (Del)* and *Gujarat Bottle Manufacturing Co. Ltd v Coca Cola Co, (1995) 5 SCC 545*).

The price of filing and prosecuting an action for patent infringement could vary. Costs can rise dramatically in the case of senior counsel. The cost estimate can also be significantly applied to the professional fees (if any). Furthermore, costs can be recovered from the losing party. In the judgment of 7 October 2015 of *Merck Sharpe and Dohme Corporation v Glenmark (CS(OS) 586/2013)*, the Delhi High Court awarded the "actual costs" of the litigation to the successful claimants (i.e., the claimants are required to pay the costs incurred by the claimants during the litigation). Additionally, in *F Hoffman La Roche v Cipla Ltd, RFA, (OS) 92/2012* judgment of 27 November 2015, the losing party was paid INR 500,000 costs by a bench of two judges.

It is interesting to note that, currently, there are discussions of draft legislation, in line with the U.S. Bayh-Dole Act, on patents resulting from government-funded research. This draft law is known as the National Innovation Bill and was introduced in 2008 by the Science and Technology Department of the government is thought to come into force shortly.

**"Patents have always been the redeemer of sinking companies."**

**- Rohit Tasmal**

## 7. Conclusion

Patent law is a vast area of law which is overall designed to govern the same subject matter in each jurisdiction. As common law is the most used and adapted law in most countries, the precedents set in common law jurisdiction are often referred to by courts and academics. It is essential to understand that with modernisation and globalisation there is immense scope of fraud taking place, especially with patents. For instance, what is invented in China might be attractive to a businessman in Canada and he might try and pass it off as his invention. This is highly probable given the geographical distance between the countries. Therefore, patent law exists to protect the individuality of the inventors and the uniqueness of their ideas and invention.

There is always the fear of the 'unknown', what might happen and what will come next given the times we live in; therefore, it is with absolute certainty that we conclude that there are a lot more reforms that will be brought about with regards to patents and its infringement.



***"It doesn't matter how strategic you think you are if you can't access a pragmatic and clear construction of patent claims, you're in trouble."***

***- Duncan Bucknell***

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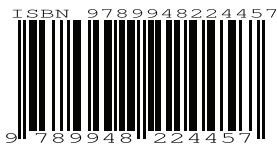
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