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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)  
([/government/organisations/hm-revenue-customs](#))

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## CIRD210180 - Patent Box: qualifying companies: qualifying IP rights: items to which patent relates

HMRC cannot give clearance or offer advice on whether or not a particular item benefits from patent protection. In most cases it is likely to be clear whether an item is a subject matter specified in a patent. In cases of doubt, HMRC would generally accept that an item is covered by a patent if the company has developed it and been granted a patent over it, and would seek to defend it where there is a perceived infringement.

Where a company has claimed Patent Box benefit on the basis of a reasonable but mistaken belief that an item qualifies, there will be no retrospective withdrawal of those benefits, but no further claims can be made from the point at which it became reasonably apparent that the belief was mistaken. This would apply equally to rights held under an exclusive licence.

### **Example: when is a product protected**

Company A develops an item, and is granted a patent to protect that item. It makes a Patent Box election and benefits from the regime. Over time the item is modified as a result of customer demands and technological advances. But Company A continues to pay the annual patent fees, in the belief that this provides protection for the item being sold. Some time later, Company A's competitor sells a similar item. Company A brings an infringement action but in the process of the action, the company receives legal advice that its patent does not actually cover the modified item.

HMRC would accept that Company A held a qualifying IP right in respect of the product until the point that Company A discovers the patent does not cover the modified item.

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