

PATENTS

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What is a Patent?

It is an exclusive right granted for an invention.

An invention may be a product or a process. The invention may offer a new way of doing something or present a solution to a technical problem in any field of technology.

Purpose of a Patent

- Provides protection for technological advances;
- Offers incentives or rewards for inventors;
- Promotes further development or improvement of existing technologies.

What Kind of Inventions can be Patented?

A machine, a chemical compound, an article of manufacture or a process for developing or making things can be patented. However, some inventions cannot be patented. Examples include, human genes, plant or animal varieties.

Non-patentable Inventions under Ghana's Patent Act 2003 (Act 657)

- Discoveries, scientific theories and mathematical methods;
- Schemes, rules or methods for doing business, performing purely mental acts or playing games;
- Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision does not apply to products for use in any of the treatment methods.
- Inventions, the prevention within the country of the commercial exploitation of which is necessary to protect public order or morality;
- Plants and animals other than micro-organisms;
- Biological processes for the protection of plants or animals other than non-biological and micro-biological processes; and
- Plant varieties.

Criteria for Patenting

- **Novelty:** The invention must be new; that is to say, it must not be anticipated by a prior art. Prior art consists of all information about the invention disclosed

to the public in any form prior to filing for protection of the invention.

- **Involve an Inventive Step (non-obvious):** The invention must represent sufficient improvement in relation to existing state of the art. In addition, it should not be obvious to a person with ordinary skill in the technical field concerned.
- **Industrially Applicable:** The invention should be capable of being used or made in any kind of industry.
- **Non Patentable:** The invention must not fall within the category of a non-patentable invention under applicable national law.

What Kind of Protection does a Patent Offer?

It ensures that an invention cannot be commercially made, used, sold or distributed without the consent of the patent owner. Nevertheless, the patent owner may transfer his / her exclusive rights to another person through a licensing agreement. He / She may also assign (sell) the right.

Rights of a Patent Owner

The patent owner has the right to exclude other people from making, using, offering for sale, selling, distributing, commercialising or importing the patented invention. Any person who wishes to use the invention for commercial purposes requires the permission of the patent owner.

It is important to note, however, that the right to exclude applies only in the countries in which the invention is protected by a patent.

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