

Patenting research outputs – where and when to begin

Before making the leap into patent law, Dr Ian Wilson worked and studied in academia for over a decade. His experiences taught him that scientific advances are often incremental, and few researchers dream of inventing the next big thing. However, anyone, from individual researchers to multi-national corporations, can create and patent an invention. So, at what point should you begin to consider protecting potential outputs from your work? As the newest member of WP Thompson’s chemical and life sciences team, Ian, is learning, the earlier the better.



Importance of patents

A patent is a legal document that grants the owner statutory rights to exclusively prevent competitors from producing, using and marketing the patented invention for a limited period of time in regions where the patent is in force. Accordingly, patents may increase the value of the person/company who owns them by inhibiting the actions of potential competitors or provide revenue through licencing options. However, patents are intended to stimulate creativity and invention also, since patents are only granted in exchange for an open and instructive disclosure of the new invention. Thus, potential financial rewards aside, the inability to simply copy competitors’ inventions, and the disclosure of innovative research, help drive countless fields of study forward as researchers endeavour to develop their own superior products.

Defining an invention

In its simplest terms, an “invention” must be novel, non-obvious and have an industrial application. Naturally, as I am learning every day, things are considerably and fascinatingly more complex than this but, broadly speaking, patents can apply to an invented product, material or apparatus, or even a process or application. Of course, unlike in industry, academic research often yields inventions as solutions to overcome barriers, rather than as ultimate objectives. It is important then to keep one eye on the future and think about the potential value of your creations.

Collaboration

In my time in academia, I worked with many collaborators, from a wastewater management company to genomic sequencing providers. Research and Development thrives on these collaborative efforts. However, patents are granted on the condition that the invention in question has not previously been disclosed to anyone beyond its inventor(s), even potential investors and manufacturers. This is where identifying an invention early on becomes important. Inventors must consider carefully what information to share with whom. Often, you will hear of collaborators signing a Non-Disclosure Agreement, a legal contract that determines what information can be exchanged confidentially between whom. Hugely important in early stages of development, these contracts go some way to protecting inventors until they are ready to go public with their invention.

Going public

From scientific journal articles to conference presentations, there are many places to promote research. However, even your own findings could render your invention unpatentable if disclosed before a patent application is filed. To protect your invention, an initial “priority” application must first be filed. This shows the world that you “created” your invention on the priority filing date, preventing competitors from beating you to the punch. Meanwhile, additional patent applications adding further details or covering other jurisdictions may be filed within the first year, giving you time to gather data to support your patent application. That data is often key to a good patent application, as we will explore in a future issue of Elements.

The power of patents

There are myriad factors to be considered where patents are concerned, beyond even those covered by the scope of this article. What I have seen – and what I hope you take away from this – is that it really is never too early to start thinking about patenting your research outputs. Your invention could prove a valuable asset and protecting it could help drive innovation in your field. As I said, patents offer protection, but they also stimulate the creativity on which scientific research depends.

To find out more, including how IP could benefit your work, please visit <https://www.wpt.co.uk> or contact Stuart Forrest at sfo@wpt.co.uk

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