

PATENT PROTECTION IN MALAYSIA 马来西亚专利保障

In Malaysia, a patent is the grant of a property right to the patent owner, issued by the Malaysian Intellectual Property Office (MYIPO). The right of a patent is the right to exclude others from making, using, offering for sale, or selling the invention in Malaysia. In Malaysia, patent is governed by the Patents Act 1983 and Patents Regulation 1986.

在大马，专利是由大马知识产权局所授予专利拥有者的权利。专利拥有者可禁止他人在未经同意下在大马制造、使用、许诺销售或售卖该发明权。在大马，专利是由1983年专利法令及1986年专利条例所管制。

1. What is Patent?

Patent is an award granted by the government to give the patent owner certain exclusive rights in relation to his invention for a limited period of time, in exchange for publication of information about his invention.

何谓专利?

专利是政府给予专利拥有者在特定时间内享有其发明的某些独家权力，以交换其发明的资料公开。

2. Why do I need a patent?

If your invention has market potential and you think that another company could make profits from your invention, you need protection from a patent.

为何我需要专利?

如果该发明拥有市场潜力及您认为可能让第三者从中获利，那您就需要专利的保障。

3. What are the rights of a registered patent owner?

A registered patent owner has the exclusive rights to exclude others from making your product. It also confers the right to institute legal action against anyone who is exploiting or selling his/her patented invention. A registered patent owner is also at liberty to assign or transmit the patent and to conclude license contracts. Above all else, it gives you priority over other parties wanting to register their patents in Malaysia.

专利注册拥有者有何权利?

专利拥有者不但享有阻止他人生产其发明的独家专利，也同时可向那些企图利用或售卖其已获专利的人。除此，专利拥有者也可自由地分配或转让其专利，及与他人达成特许合约。更重要的是，相对于其他欲在大马注册类似的专利申请者，你在这专利申请上享有特优权。

4. What are the basic qualifications for an invention to be patentable?

An invention is patentable if it is new, involves an inventive step and is industrially applicable.

一个发明须拥有什么基本条件以获得专利注册?

欲申请注册专利，一个发明必须是新颖的、有创造性的和拥有工业用途的。

5. When should I apply for a patent?

You should apply for a patent registration before you disclose your invention to the public.

我应该在何时申请专利?

在您对外披露新发明前，您必须先提出申请注册该专利。

6. Is it advisable for me to conduct a patent search prior to my application?

Yes, you are strongly recommended to do so in order to determine whether your invention or similar inventions have been patented or is a subject application by other proprietors.

我是否应该在提出申请注册专利前先进行专利检索?

是，在提出申请注册专利前进行专利检索是要确定您的发明是否已经被他人所注册或已在申请中。

7. What is the duration of a granted patent in Malaysia?

Once a patent has been granted, the period of protection is 15 years from the date of grant for those applications filed before 1 August 2001 and 20 years from the date of filing for those applications filed on or after 1 August 2001.

专利的有效期为多久?

如您在2001年8月1日前提出注册专利申请，那您的专利有效期是从注册日期算起为期15年；然而如您在2001年8月1日当天或之后提出申请，其有效期是从申请日期算起为期20年。

8. Can a patent protection in Malaysia be extended to foreign countries?

No, a registered patent in Malaysia only gives protection only in the territory of Malaysia because patents are national and independent in character. Therefore, a separate patent application must be filed in the country you seek protection within 12 months from the filing date of first application in Malaysia.

在国内注册的专利是否自动在国外获得保障?

不，在大马注册的专利只限于在国内获得保障，如您要在其他国家获得保障就需在第一次申请专利的日期算起的12个月内向有关国家提出申请。

9. Can I apply for an International Application via PCT route with Malaysian Patent Office?

Yes, Malaysia became the 131st contracting state of the PCT. Hence PCT international Application can now be filed at Malaysian Intellectual Property Office (MYIPO) with effective from 16 August 2006. However, please note that PCT does not lead to the grant of an "international patent" but only provides a unified procedure for filing patent applications to protect inventions internationally.

我可否通过大马知识产权局提出一项专利合作条约(Patent Cooperation Treaty, PCT)国际性的申请?

从2006年8月16日起, 大马已是专利合作条约(PCT)的其一成员国。所以申请者可通过我国知识产权局提交国际性的专利申请。但是, PCT只是国际专利申请的体系, 并不是专利授权体系所以不颁发国际专利授权。

10. When does an infringement of patent occur?

An infringement occurs when a person other than the patent owner produces a product or uses a process, which falls within the scope of protection of the patent, without his/her license or consent.

在什么情况之下我可以指控他人抄袭我的专利?

当有任何人在未获得您同意或特许下私自复制您的发明或制造程序就是抄袭您的专利。

11. What are remedies for patent infringement?

The court may award damages or account of profits, make delivery up of the infringing article and/or grant an injunction to prevent further infringement.

一旦发现有人抄袭我的专利, 我将获得什么赔偿?

一旦被法庭定罪, 抄袭者将被训令赔偿您所蒙受的损失或呈上他所获得的利益, 及交出所有抄袭的产品, 法庭也会发出禁令以阻止类似活动的延伸以保障专利拥有者的权益。

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Patent 专利

Copyright 版权

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In the event of discrepancy between the English and Chinese languages on this information, the English version will prevail.

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