

Why Obtain A Patent?

The United States Constitution gives Congress the power to make an inventor secure in his exclusive right to what he has invented, as a way “to promote the progress of the useful arts”. Those who framed the Constitution believed that if inventors were able to prevent others from appropriating their intellectual property, the number of inventions made would be greatly increased. This was a sound idea and has worked out so well in practice that America ingenuity has become famous all over the world. But the Constitution also provides that the protection shall last only for a limited time, and Congress has therefore placed the limit of seventeen years on the term of regular patents and plant patents. The inventor of a new ornamental design is given the choice to select any of the three terms—3 ½ years, 7 years or 14 years. When a patent expires, the owner of it can no longer prevent others from making use of the specific improvement which it protected.

The greatest advantage of the patent system to the inventor is that when he makes an invention and patents it, he is able to prevent competitors and imitators from using it. He can market it himself if he so desires or he has the right to sell his patent outright, or to license others to use the patented invention, usually in return for an agreement to pay royalties for such use.

If it were not for such protection, one who had spent much time and money in perfecting an invention, would be unable to prevent competitors from copying what he or she had produced thereby being able to undersell the inventor. Since the competitors have not incurred any development costs, they could make a profit at a lower price and eventually drive the inventor out of business. Thus the creative man or woman, whose vision and enterprise might have benefited many, would be unable to continue his or her creative work.

The main purpose of the patent system is to assure that creative people will continue to create by making the inventor secure in the possession of his invention for the life of the patent.

What the patent gives the inventor is the right to prevent others from making, using or selling precisely what he himself invented. But the patent does not give to one inventor the right to use some other man’s invention. If a steel-worker invents a new kind of door, and a locksmith invents a new kind of lock, just suited to that kind of door, the patent issued to the locksmith does not give him the right to make and sell the door invented by the steel-worker. Nor would a patent on the door give the steel-worker the right to equip it with the lock invented by the locksmith. Usually, in such cases, the two inventors work out some convenient arrangement. The locksmith might grant a license to the steel-worker for the patented lock on payment of an agreed royalty. Or they might cross-license their inventions, if they so desired, possibly without royalty, the steel-worker receiving the right to make the steel-worker’s patented door.

It is important to remember that inventions flow from needs. Different people may be working independently to solve the same problem but if they reach the same solution, the one who patents it may be able to prevent the other from using it. In any case, those who make inventions and patent them are in a favored position with American business which is generally patent-minded.