

Patents

by Sophia



WHAT'S COVERED

In this lesson, you will learn about patents as a type of intellectual property. Specifically, this lesson will cover:

1. Purpose and Types of Patents

Just like other property rights, **patent** law confers the right to exclude others— in this case from making, using, or selling the patented product. This is consistent with the **Copyright Clause of the U.S. Constitution**, which grants inventors the “exclusive Right to their...Discoveries.”

For others to legally make, use, or sell the patented product, they would have to be granted permission by the **patentee**. This is often accomplished through a licensing agreement, in which the patentee authorizes others to sell, make, or use the product.

Currently, there are three different types of patents:

- Utility patents
- Design patents
- Biological patents

Utility patents may be granted for machines, processes, articles of manufacture, compositions of matter, or for improvements to any of those items.

➞ **EXAMPLE** The Apple iPhone is a subject of utility patents.

A **design patent** may be granted for ornamental designs for an article of manufacture. **Biological** (also called **biologics**) **patents** include **plant patents** covering inventions or discoveries of asexually reproduced plants (e.g., plants produced through methods such as grafting), **gene patents** that protect a specific sequence of DNA that has been manipulated in a lab, and patents on pharmaceutical or other products made from natural biological products.



TERMS TO KNOW

Patent

A right given by a government granting an inventor the exclusive right to make and sell an invention.

Copyright Clause of the U.S. Constitution

Located in Article I, Section 8, enumerating multiple powers of Congress, this clause states, “The Congress shall have power to... promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries....”

Patentee

One who receives patent protection.

Utility Patent

A patent on an item that is advantageous and useful in life or adds to the enjoyment of mankind.

Design Patent

A patent given to an inventor for the design or appearance of an article of manufacture.

Biological Patent

A patent given to one who creates a product from a naturally occurring natural product, such as a plant, gene, or other naturally occurring material in biology so long as there is technical intervention. Naturally occurring biological products are not considered patentable.

Biologic

A product of biology, specifically in patent law.

Plant Patent

A patent granted to an inventor of a unique plant created by asexual production (not natural reproduction).

Gene Patent

A biological patent given to a person or organization who isolates a specific gene sequence by manipulating it in some way that is not naturally occurring.

2. What Can Be Patented?

Not all items are patentable. For instance, an idea alone (without a definite description) cannot be patented.

➞ **EXAMPLE** Even if you dreamed up the idea of something that looked and functioned exactly like the Apple iPhone, you would not have been eligible for a patent on your idea alone.

Likewise, physical phenomena, the laws of nature, abstract ideas, and artistic works cannot be patented.

Note, however, that artistic works can be copyright protected.

Additionally, otherwise patentable subjects that are not useful, or items that are offensive to public morality, are not patentable.

IN CONTEXT

The U.S. Supreme Court has determined that naturally occurring gene sequences and their natural derivative products are not patentable, but gene sequences refined by synthetic processes to create molecules are patentable.



SUMMARY

In this lesson, you learned that the **purpose of patents** is to give inventors exclusive rights to make, use, or sell their inventions for a limited period of time. The three **types of patents** are utility patents, design patents, and biological patents. You also learned that many items **can be patented**, but some cannot, including physical phenomena, the laws of nature, abstract ideas, artistic works, and items considered useless or offensive to public morality.

Best of luck in your learning!

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