



SME case studies glossary

with links to further reading



Abandonment/withdrawal of patent application	A patent application can be abandoned/withdrawn by decision of the patent office (where the applicant fails to respond to an office action in due time or to pay fees) or at the request of the applicant. The application is then no longer pending and a patent can no longer be granted. Under certain conditions it is possible to resume proceedings.
Business-to-business (B2B)	Where one business makes a commercial transaction with another, e.g. an exchange of products, services or information.
Business-to-consumer (B2C)	Where a business makes a commercial transaction with a consumer.
Capital equity	Invested money that, in contrast to debt capital, is not repaid to investors in the normal course of business.
Claim chart	A visualisation of the information in a patent claim. Used in prior art searches or to show e.g. how a product or service infringes a patent.
Co-inventor	Where more than one person makes a creative contribution to an invention, these persons are known as co-inventors. Every European patent application must designate at least one inventor.
Community Plant Variety Right (CPVR)	Intellectual property right granted by the <u>Community Plant Variety Office</u> in respect of new plant varieties. Similar to a patent and valid throughout the EU.
Competitor watch	Monitoring competitors e.g. by using patent information.
Computer-implemented invention	Invention whose implementation involves the use of a computer, computer network or other programmable apparatus, whereby features of the claimed invention are realised by means of a computer program
Confidentiality agreement (CDA)	Legal contract between two or more parties that outlines confidential material, knowledge or information that the parties wish to share with one another for certain purposes, but to which they wish to restrict access on the part of third parties. Also known as a non-disclosure agreement (NDA).
Copyright	Grants the creator of an original work exclusive rights for its use and distribution.
Cost-benefit analysis	Formal analysis of the impact of a measure or programme, designed to assess whether its advantages (benefits) are greater than its disadvantages (costs).
Cross-licence	With regard to patent rights, gives one party a contractual right to make, use, sell or offer for sale a patent-protected product or process in return for a similar contractual right.
Defensive patent	Patent used with the primary aim of defending a company against patent infringement lawsuits.
Design right	Registered designs protect the visual appearance of a product or item and stop unauthorised parties from producing or using them. Registered Community designs granted by <u>EUIPO</u> , for example, are valid for up to 25 years.
Divisional application	The applicant divides parts of the invention claimed in a patent application into a new application to receive a separate patent. It is required in cases where the previously filed “parent” application lacks unity of invention. It is filed later than the parent application but may retain its parent’s filing date and will generally claim the same priority.
Espacenet	Free online service allowing users to search the European Patent Office patent data collection.
European patent	Can be obtained for all the <u>EPC contracting states</u> by filing a single application with the EPO in one of the three official languages (English, French or German). European patents granted by the EPO have the same legal rights and are subject to the same conditions as national patents granted by the respective national patent office. A granted European patent is a “bundle” of national patents which must be validated (see <i>patent validation</i>) at the national patent offices of the countries selected by the applicant.
European Patent Convention (EPC)	Multilateral treaty instituting the European Patent Organisation and providing an autonomous legal system under which European patents are granted.

European search report	Drawn up by the EPO. Provides information on the state of the art relevant to the invention claimed in the European patent application.
Examination	Carried out by a patent office examiner to determine the patentability of an invention by examining whether the application and invention meet the requirements of the applicable law, e.g. the <u>EPC</u> , and whether the invention is patentable in light of the search report.
Exclusive right/exclusionary right/exclusivity	Possibility to exclude others from exploiting a given right. A patent is a set of exclusive rights for an invention.
Extension/validation states	Countries that have agreements with the EPO which allow applicants to request the extension or validation of the effects of a European patent or patent application for their territory. Currently (as at November 2018), there are two extension states - Bosnia and Herzegovina, and Montenegro - and four validation states: Cambodia, Republic of Moldova, Morocco and Tunisia.
Filing strategy	An approach to obtaining IP protection adapted or suited for a particular purpose, person or company.
Freedom to operate (FTO) investigation	Investigation before launching a new product as to the risk of infringing competitors' IP rights.
FTO opinion	Legal opinion provided by an FTO expert which assesses the risk of infringing IP rights.
FTO search/analysis	Aims to identify patent rights liable to hinder the marketing of a product in a given geographical area.
FTO watch	Following an FTO search and opinion, monitoring (1) the publication of e.g. new patent applications which might be a potential risk for the marketing of a product and (2) the examination and granting of e.g. patent applications identified as a potential risk.
Goodwill	Value of a business entity not directly attributable to its assets and liabilities. An intangible asset that is hard to identify and measure, it can be based e.g. on customer loyalty and company reputation or can be the assumed synergy in mergers and acquisitions.
In-licensed patent portfolio	Patents licensed from other legal entities.
Intangible assets	Long-term resources of a company which derive their value from intellectual or legal rights and from the value they add to the other assets.
Intellectual property (IP)	Creations of the mind or intellect. Intellectual property is usually divided into two categories:(a) industrial property, which includes patents, trade marks and industrial designs, and (b) copyright, which includes literary and artistic works, such as novels and plays, films, musical creations and paintings.
International patent application	See "PCT application".
International Search Report (ISR)	Report produced by the International Searching Authority (ISA) containing the prior art documents most relevant to the subject-matter claimed in a patent application.
International Searching Authority (ISA)	Authority which carries out the prior art search for an international (PCT) patent application.
Internet of Things (IoT)	The interconnection via the internet of computing devices embedded in everyday objects, enabling them to send and receive data.
Invention disclosure form (IDF)	Confidential document written by scientists/engineers for use by a company's patent department to determine whether patent protection should be sought for a particular invention.
Inventive step	A patentability criterion. According to the European Patent Convention (EPC), an invention is considered to involve an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.
IP capture	Continuous operational process to identify the best inventions for IP protection.
IP commercialisation	Turning ideas into business by transforming an idea or invention into an object or service for buying or selling, e.g. the licensing or selling of IP.

IP data mining	Mining existing IP databases in order to generate new information.
IP exploitation	Making use of and benefiting from IP.
IP infringement/patent infringement	Breach of an intellectual property right. Patent infringement includes making, using, selling or offering to sell the protected product or process without the permission of the patent holder.
IP landscaping/analytics	Process that creates an overview of the information included in selected patents that are pending or in place in a particular area.
IP litigation/patent litigation	Legal process of enforcing an IP right/patent right before a competent authority.
Joint patent application	Patent application filed by two or more applicants.
Joint patent ownership	Where two or more parties have shared ownership of a patent.
Know-how	Practical knowledge or skill.
Laboratory notebooks	Primary record of research documenting the planning, execution and evaluation of scientific experiments.
Licence/licensing agreement	Contractual agreement where the holder of a particular right, such as a patent, gives permission to another person to exploit the right in accordance with defined terms.
Licensing payments	Payments made by the licensee to the holder of the licensed right on the basis of the licensing agreement, for example the right to use a particular IP asset. Royalty payments are payments relating e.g. to the sales price or the number of sales.
Management buyout	Purchase of a controlling share in a company by its executive directors and/or managers.
Monitoring competitors' patent applications	Gathering and analysing information about competitors' patent filings to support strategic decision-making.
National filing	Patent application filed with a national patent office in accordance with national procedure.
Novelty	A patentability criterion. An invention is novel (new) if it does not form part of the state of the art, e.g. it was not available to the public in written or oral form, by use, or in any other way, before the patent application was filed.
Open innovation	"Distributed innovation process based on purposively managed knowledge flows across organizational boundaries, using pecuniary and non-pecuniary mechanisms in line with the organization's business model." (Chesbrough and Bogers, 2014). ¹ It can take various forms, such as technology in- and out-licensing, spin-ins and spin-outs, joint ventures, co-developments, and so on.
Opt in	With regard to the Unified Patent Court, withdrawal of the opt-out from the competence of the Unified Patent Court under defined circumstances.
Opt out	With regard to the Unified Patent Court, declaration by an applicant for or holder of a European patent to exclude the competence of the Unified Patent Court under defined circumstances.
Out-licensing	Giving another legal entity permission to use a protected invention.
Parallel litigation	Scenario where courts in different jurisdictions hear the same infringement claim, which might result in diverging decisions on the same subject-matter.
Partial priority	Priority claimed for part of the subject-matter only. Occurs when only part of the subsequent application's subject-matter is disclosed in the previous application. The remaining part will not be protected by a priority right and will obtain a new priority date.
Patent	A right enabling the patent owner to exclude others from making, using, selling or offering to sell an invention and to license others to do so.
Patent application	Request for patent protection for an invention filed with a patent office.

¹ Chesbrough, H. & Bogers, M. 2014. *Explicating open innovation: Clarifying an emerging paradigm for understanding innovation*. In H. Chesbrough, W. Vanhaverbeke, & J. West (Eds.), *New Frontiers in Open Innovation*: 3-28. Oxford: Oxford University Press.

Patent attorney/European patent attorney	Qualified professional representative appointed to act on behalf of an applicant to draft a patent application and/or to accompany the application through the various stages of the patent grant procedure. European patent attorneys must have passed the European qualifying examination (EQE).
“Patent box” tax regime	Scheme in force in some countries under which companies may receive tax relief based on the contribution that their patent portfolio makes to revenues.
Patent claim	Part of a patent application or specification. Defines the matter for which protection is sought in terms of its technical features.
Patent enforcement	The process of taking legal action against patent infringement.
Patent evaluation vs patent (portfolio) valuation	Patent evaluation has a qualitative outcome and patent valuation a quantitative one. Evaluation is done to select and prioritise patents. Valuation describes the process of determining the value of one or more patents.
Patent family	Set of interrelated patent applications filed or patents granted in one or more countries to protect the same or a similar invention by a common inventor and linked by a common priority (or priorities).
Patent monetisation business model	Business strategy for generating revenue by selling or licensing patents.
Patent portfolio management	Deciding which patents to combine, maintain, license and/or enforce.
Patent prosecution	Drafting and filing a patent application and pursuing protection for the invention claimed in the application with a patent office.
Patent publication	European patent applications are published as soon as possible after the expiry of a period of eighteen months from the date of filing or, if priority has been claimed, from the date of priority.
Patent trend analysis	Statistical analysis of the rate of publication of patents in a certain field or assigned to a certain company to obtain information about technology maturity and corporate technology strategies.
Patent validation	Once a European patent is granted by the EPO, some EPC contracting states require the filing of a translation of all or part of the patent in an official language of that state and/or the payment of additional fees within a certain timeframe for the patent to have the same legal rights as national patents granted by the respective national patent office. In some EPC contracting states, such as France, Germany, Luxembourg, Monaco, Switzerland, and the United Kingdom, the filing of such translations and/or the payment of additional fees is not required.
<u>PATENTSCOPE</u>	Database providing access to Patent Cooperation Treaty (PCT) applications in full-text format on the day of publication, as well as to patent documents of participating national and regional patent offices.
PCT application	Patent application filed under the PCT (known as an international or PCT application). A single PCT application can be filed for patent protection in up to 152 countries (as at November 2018).
Pending patent application	Patent application that has been filed but not yet granted.
Performance-based compensation agreements	Agreement whereby the amount of the compensation is contingent on meeting pre-established organisational or individual performance criteria.
Prior art/state of the art	Consists of any information that has been made available to the public anywhere in the world before the priority date of the application claiming the invention.
Priority date	Date of filing of a previous application for the same invention.
Priority filing	Right to file subsequent applications for the same invention at other offices. Valid for a period of 12 months from the date of first filing (“priority date”).
Proof of concept	Evidence, typically deriving from an experiment, pilot project or start-up, which demonstrates that a design concept, business proposal, etc. is feasible.
Proprietary technology	Confidential concepts, formulae, software code, technical information, etc., that give the owner a competitive advantage.
Provisional patent application	An inexpensive and simplified first patent application at the USPTO that allows filing without a formal patent claim with a view to establishing an early filing date. Inventors then have 12 months to file a non-provisional patent application.

Renewal/maintenance fees	Fees that must be paid to maintain an IP right. When a European patent application is filed, renewal fees must be paid starting from the third year from the date of filing. Once a European patent has been granted, renewal fees are usually payable to the national patent offices of the states where the patent takes effect.
Reverse engineering	The reproduction of another manufacturer's product following detailed examination of its construction or composition.
Scope of the patent	The extent of protection conferred by a patent in its claims.
Search report	Report on the results of the search on the prior art which the patent office may take into consideration when deciding whether the technical solution to which the application relates is new and involves an inventive step.
SMEs	Small and medium-sized enterprises. SMEs have fewer than 250 employees and a turnover of less than EUR 50m.
Spin-off/spin-out	When a company or research organisation breaks off parts or divisions of itself to form a new company. The new company brings with it some of the parent company's assets.
Standard-setting organisations/bodies	Organisations whose primary activity is to develop, co-ordinate, promulgate, revise, amend, reissue, interpret or otherwise produce technical standards.
Start-up	A company which is in the early growth phase in the company life cycle.
State of the art	Existing technological information. Includes documentary sources such as patents and publications, and non-documentary sources such as things known or used publicly.
Trade mark	Recognisable sign, design or expression which identifies the products or services of a particular source. May be located e.g. on a package or label or on the product itself. Trade marks can be either registered or unregistered. They become stronger with use.
Trade secret	Any business information kept confidential which gives a company a competitive edge.
Unified Patent Court (UPC)	Pan-European court common to the participating EU member states and created by an international treaty, the Agreement on a Unified Patent Court, signed in February 2013. The agreement has not yet entered into force (as at November 2018). The Unified Patent Court will have exclusive competence for the settlement of disputes in respect of both "classical" European patents and future Unitary Patents. It consists of a decentralised Court of First Instance, with local and regional divisions in the participating member states and a central division with its seat in Paris and sections in London and Munich, and a common Court of Appeal with its seat in Luxembourg.
Unitary patent ("European patent with unitary effect")	A European patent granted by the EPO under the established rules and procedures of the European Patent Convention, to which, at the patent proprietor's request, unitary effect is given for the territory of the EU member states participating in the unitary patent scheme. The Unitary Patent will co-exist with national patents and "classical" European patents.
USPTO	The United States Patent and Trademark Office

Further reading:[EPO SME case studies](#)[Guide for applicants](#)[Inventors' handbook](#)[IP Basics \(part of the IP Teaching Kit\)](#)[National law relating to the EPC](#)[Patent Litigation in Europe](#)[Terminology training manual for professional representatives](#)

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