



**Attachment**

# 1.6 Trademarks & Patents

Before you share your product specifications with candidate suppliers, you need to decide how you shall protect your intellectual property. In this Tutorial, you will learn how to register trademarks, patents and how to avoid violating the IP of other companies.

**Note:** A Trademark or Patent is normally only valid in the country of registration. Also notice that trademarks and patents must be renewed on a regular basis (i.e., every 3 or 5 years).

## Two IP issues faced by Importers

### A. The risk of your IP being stolen by a supplier

Sharing product information with suppliers, such as your design files and artwork, exposes you to the risk of them stealing your IP. As an Importer, you have limited resources to prevent this from happening. That said, you can ensure that no such products can be sold on your home market (and other markets too), if you register a trademark and patent your design and/or functions (if possible).

### B. The risk of ordering a product that is the IP of another company

If you buy ODM (Private Label) Products, you are exposed to the risk that your imported product contains the IP of another company. For example, the design and/or function may already be patented by a company, in which case they can force you to recall all imported goods – with a limited chance of ever receiving compensation from your supplier.

## Trademarks

To protect your brand name, you need to apply for trademark registration. A trademark can include words, colors, and logos. The cost and procedure differ between countries. However, in most developed countries, you can pay and apply for trademark registration only. You can take legal action against any business or individual selling items with your trademark.

### Costs

- United States: \$275 to \$325 per trademark
- United Kingdom: From £170 per trademark

### Links for online application

- United States [www.uspto.gov](http://www.uspto.gov)
- European Union: [www.tmdn.org](http://www.tmdn.org)
- United Kingdom: [www.gov.uk/how-to-register-a-trade-mark](http://www.gov.uk/how-to-register-a-trade-mark)
- Australia: [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)

### Worldwide trademark registration

Trademarks can be registered worldwide (member countries only) via the Madrid protocol ([Link](#)).

# Patents

A Patent can protect the design and/or function (utility) of your product. Compared to trademark registration, the application process is more expensive and time-consuming. There are two types of patents:

## A. Design Patents

A design patent ensures that you have the exclusive right to certain design elements. It is a type of design right and prohibits companies from selling products with the same design.

## B. Functional / Utility Patents

Legal protection for a new invention or new improvement of an existing function. Other companies must pay a license fee and obtain approval from the patent holder to sell the same or a similar product.

### Application cost

\$100 to \$150 per page (a simple patent filing may include 5 to 10 pages while a more complex patent filing may include as many as 25 pages)

### Links for online application

- United States: [www.uspto.gov/patent](http://www.uspto.gov/patent)
- United Kingdom: [www.gov.uk/apply-for-a-patent](http://www.gov.uk/apply-for-a-patent)
- European Union: [www.epo.org/applying/online-services/online-filing.html](http://www.epo.org/applying/online-services/online-filing.html)
- Australia: [www.ipaustralia.gov.au/patents](http://www.ipaustralia.gov.au/patents)

## IP Ownership Assessment for ODM (Private Label) Products

Use the following two methods to assess if a product you have found online is infringing the IP of a patent holder

### Step 1: Review product listings on Amazon.com

Go to Amazon.com and search for various related product terms. If there are many sellers offering the same product, the product is less likely to be patented. However, if a product (including the design and/or function) is unique to a certain brand or company – it is more likely to be protected by a patent.

### Step 2: Patent search

You can also search existing patents and compare them to your ODM product of choice. You can use the following databanks:

- United States: [www.uspto.gov/patent](http://www.uspto.gov/patent)
- European Union: [www.epo.org/searching-for-patents.html](http://www.epo.org/searching-for-patents.html)
- United Kingdom: [www.gov.uk/search-for-patent](http://www.gov.uk/search-for-patent)
- Australia: [www.ipaustralia.gov.au/patents/understanding-patents/searching-patents](http://www.ipaustralia.gov.au/patents/understanding-patents/searching-patents)
- Step 3: Trademark search
- United States: [www.uspto.gov/trademarks-application-process/search-trademark-database](http://www.uspto.gov/trademarks-application-process/search-trademark-database)
- European Union: [euipo.europa.eu/ohimportal/en/search-availability](http://euipo.europa.eu/ohimportal/en/search-availability)
- United Kingdom: [www.gov.uk/search-for-trademark](http://www.gov.uk/search-for-trademark)
- Australia: [www.ipaustralia.gov.au/trade-marks/applying-for-a-trade-mark/searching-trade-marks](http://www.ipaustralia.gov.au/trade-marks/applying-for-a-trade-mark/searching-trade-marks)

# FAQ

The FAQ below answers general questions about trademarks and patent filings. Notice that the requirements and processes may differ between countries. In most countries, you are allowed to handle the application process yourself, without an attorney or other legal support (although that is recommended in some cases).

## a. Trademark

What do I need to prepare to file a trademark?

- Brand names / statements
- Logo / graphics

How long does it take?

Normally 20 to 30 days

How do I know if I can get a trademark?

You should do a Trademark search (see links above) to ensure that the brand name is still available for registration. A Trademark must be unique, and cannot be too general or non-distinctive.

## b. Design Patents

What do I need to prepare to file a design patent?

- Title
- Product description and use
- Design drawings (front, rear, sides, top, bottom)
- Photographs (if any)
- Product specification sheet

How long does it take?

It can take anything from 3 to 12 months (or longer)

How do I know if I can get a design patent?

Your product design must fulfill the following criteria:

- It must not describe a new function (in which case you should apply for a utility patent)
- The design/shape must be new
- It must be your IP (i.e., created by you / your company)

## c. Utility Patents

What do I need to prepare to file a utility patent?

- Professional technical drawings
- Functional description
- Invention process records
- Summary of invention

How long does it take?

It can take anything from 6 months to 3 years. However, in many countries, you can develop and launch your product with a patent-pending status.

How do I know if I can get a utility patent?

- The invention must be new
- The invention must be 'useful'
- The invention must be 'non-obvious'