

How to patent an idea? It is not enough just to have it

If you are here, you are probably wondering **how to patent an idea**. The first thing you should know is that one of the most common mistakes in Intellectual Property matters is to think that it is enough to have a good idea to apply for a patent.

Can you patent an idea?

As a starting point, the general answer to this question is **that ideas, as an abstract concept** (e.g. "it would be great to have an app that translates thoughts in real time"), **cannot be patented as such**. What can be patented, as long as certain requirements are met, is the **concrete and practical development of an idea**.

As stated in the Spanish Patent Law 24/2015, of July 24, 2015, **inventions that are new, involve an inventive step and are susceptible of industrial application are patentable**.

An invention, unlike an idea as an abstract concept, is a specific technical solution to a problem so that it leads to a new result to satisfy a need (mechanical, electrical, electronic, chemical, food, pharmaceutical, microbiological, etc.).

In order to be protected by a patent, the invention must:

1. Meet certain legal requirements established by patent Offices both nationally and internationally and;
2. Pass different examinations.

Although **an idea as an abstract concept cannot be patented**, it is advisable not to disclose the idea publicly before filing an eventual patent application, since there is a possibility of losing the novelty requirement.

In addition to ideas, as stated in the Spanish Patent Law, the following are not considered patentable inventions:

- Discoveries, scientific theories, and mathematical methods.
- Literary, artistic or any other aesthetic creation, as well as scientific works.
- Plans, rules, and methods for the exercise of intellectual activities, for games or for economic-commercial activities, as well as computer programs.
- The forms of presenting information.

Thus, for example, if a new method is developed to solve second-degree equations more quickly, that formula or method itself would not be patentable, since the regulations expressly exclude mathematical methods and scientific theories from patent protection.

For something to be patentable, it must be a concrete invention with industrial application, not an abstract concept or a purely intellectual solution.

What does it take to patent an idea?

The first step in patenting an idea is to **convert it into a patentable invention**, which requires technical, legal, and strategic knowledge.

Analyzing and checking whether the requirements of novelty, inventive step and industrial application are met requires advice from an **expert patent agent**, since it is sometimes difficult to prove that the patentability requirements are met.

In addition, it must be taken into account that not all inventions can be patented. It is also highly advisable to analyze whether it is really viable to opt for the patent route or, on the contrary, it is advisable to opt for another type of Intellectual Property (e.g.: utility model or design, among others).

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On the other hand, before applying for a patent, it is advisable to carry out a search in order to find out the existence of prior art and, based on the results obtained, to study and decide what, how and where to patent.

Once the previous analysis has been carried out, in order to patent an invention, a detailed description of the invention, drawings (if necessary to understand it), a summary of the invention and the claims, which define the protection requested, are required.

In short, for an idea to be legally protected by a patent, **it must materialize in a concrete technical solution and comply with the requirements of the law.**

Do you need advice from an expert patent agent?

Transforming an idea into an invention requires rigor, documentation and strategy. At **UNGRIA** we have **expert patent agents** who can advise you and help you establish the best Intellectual Property protection strategy that fits your specific needs.

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