



How to protect your invention abroad?

Both patents and utility models have territorial validity. Therefore in case of extension abroad it would be wise to apply for protection of an invention also in relevant countries.

The main goal of patenting an invention abroad is the same as in the Republic of Estonia, i.e. an inventor's intention (will) to enjoy the exclusive right to the invention abroad (i.e. monopoly and use).

Anyone can patent the invention in any country. The state does not interfere in patenting abroad. Patenting abroad should be part of the business plan for the inventors bearing in mind doing business.

Unfortunately two misconceptions are rather widely spread. According to the first one it is thought that a patent obtained in any country will protect the invention in countries all over the world. According to another misunderstanding a patent application filed under the Patent Cooperation Treaty will provide a patent valid worldwide.

Actually an invention can be patented either separately in every country or simultaneously in particular groups of countries using the possibilities provided by international agreements.

A patent application in a foreign country should be compiled and filed pursuant to the legislation of the relevant country. As a rule the application has to be filed in the official language of the country. Besides that, a local patent attorney should be authorised as a representative in communication with the patent office. The expenditures are higher when the invention is protected separately in every country, but if the number of countries where protection is required is small an application should be filed with the patent office of the relevant country. Every country deals with the application pursuant to its legislation.

The main international agreements for patenting abroad are the Patent Cooperation Treaty (PCT), the European Patent Convention and the Eurasian Patent Convention.

Patent Cooperation Treaty (PCT)

By filing one international patent application, complying with the PCT formality requirements, under the [PCT](#), applicants can simultaneously seek protection for an invention throughout the world.

An applicant files an international application with a national patent Office of that country where they domicile (natural persons also with a national patent Office of the country which citizens they are) or regional patent Office or the International Bureau of WIPO in Geneva, complying with the PCT formality requirements. The states where the patent is applied for should be designated in the international application. The International Bureau will forward copies of the international application to all national offices of designated states at the due time prescribed in the PCT. The role of the International Bureau will end at that. Further the applicant has to communicate with the national offices of designated states in order to obtain a patent. As a rule a local patent attorney has to be authorised to represent the applicant. The national office of each designated state will make a decision on the grant or refusal of the patent, regardless of the developments in the proceedings in the other designated states.

The Estonian applicants can file an international application directly with the [International Bureau of WIPO](#).

You can file an international application with the Estonian Patent Office and a state fee of 120 EUR

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should be paid for forwarding it. PCT application should be filed either in English or German.

ePCT-Filing is the most convenient and favourable way of filing an International application. ePCT is a WIPO online service that provides secure electronic access to the files of international applications filed under the PCT as maintained by the International Bureau (as on 1 January 2009). Detailed guidelines for e-filing of an international application are available in English in [ePCT-Filing. Guidelines for filing international applications using the ePCT system](#), published by WIPO.

ePCT-Filing for the Estonian applicants is enabled since 1st May 2015.

ePCT-Filing is only available via ePCT private services at <https://pct.wipo.int/ePCT> which requires the use of a WIPO user account authenticated with a digital certificate. Instructions for creation of your account and uploading your digital certificate to your ePCT user account are available at [ePCT User Guide for Applicants and Third Parties](#).

The supported browsers for WIPO Accounts and the ePCT system are:

- Mozilla Firefox version 3.6+ (recommended)
- Internet Explorer 7.0+

European Patent Convention (EPC)

The [European Patent Convention](#) enhances currently 38 European states (The full list of the contracting states of the European Patent Organisation and the date of their accession are available on the [EPO website](#)).

The European Patent Convention enables to apply for a patent simultaneously in several contracting states by filing a single patent application compiled in accordance with the uniform formal requirements. The states where protection is applied for should be designated in the application analogously to the international application (PCT application). The difference lies in the fact that the EPO makes the decision of the grant or refusal of the patent. The patent granted by the EPO is valid in all designated states, if the applicant has submitted the required translations and paid the state fees in time.

The European patent application can be filed with either the EPO or the national patent office of a contracting state.

Eurasian Patent Convention

The [Eurasian Patent Convention](#) enhances some of the CIS countries. Out of valid International agreements only the Eurasian Patent Convention enables to apply for a patent valid in all contracting states. It is recommended to use the assistance of the [Estonian patent attorneys](#) at applying for protection to the invention abroad. The attorneys can provide help also at finding patent attorneys abroad and authorisation of them as representatives.

Was this information useful? * Yes

No

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