

# The Medium

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## Utility Models, Petty Patents & Innovation Patents: Efficient IP Protection for SMEs

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For small to medium sized enterprises (SMEs), patent protection can be complex and costly. And yet, for many of them, patent protection is a must to maintain their competitive edge. A fast and cheap option for protecting mechanical inventions, products, and in some cases compositions are utility models, also often called “petty patents” or “innovation patents”.

Utility models are similar to patents in that they provide an exclusive right to prevent unauthorized commercial use of the invention for a period of time. The period of protection for utility models is shorter; typically 7 to 10 years, which cannot be extended or renewed. As such utility models are ideal for products with an anticipated short commercial life.

While utility models are not offered in Canada, the US or the UK, they are an option for a number of industrialized countries including Argentina, Australia, Brazil, China, France, Germany, Italy, Japan, Mexico, Republic of Korea, Russian Federation and Spain. In some countries, utility model protection can only be obtained for certain fields of technology and only for products, not processes.

The requirements for acquiring a utility model are less stringent than for patents. Novelty is required, but an inventive step or non-obviousness often is not.

Utility models are often registered within three to six months, without examination. With quick registration comes quicker publication, which otherwise takes 18 months post-filing in patent applications. If patent protection is also being sought, it is important to consider both timing of filing the utility model in relation to patent applications, and the novelty requirements in the countries of interest. Where an invention has already been made public, a number of countries that do not provide a grace period for patent filings may provide one for utility models.

Quick registration also means that the registered utility model can be enforced against potential infringers much sooner than a patent application, which can sit pending at the Patent Office for years. In most countries, utility models follow the same legal proceedings as patent litigation. Validity of utility models is thus assessed by a civil court or similar body.

Another appealing feature is that a utility model can be branched off a pending patent application. A utility model may claim priority from an earlier patent or utility model application. It is also possible to use a PCT application as the basis for a utility model application in the national phase.

Also, during a limited period, many countries allow conversion of a patent application into a utility model application. Some countries even allow conversion after a patent application has been refused. In some countries, it is possible to obtain and keep both a patent and a utility model for the same invention.

In summary, utility models are much more cost and time efficient to obtain and to maintain than patents and are therefore considered particularly suited for SMEs, in particular, SMEs who make "minor" improvements and adaptations of existing products, who may not otherwise meet the inventive step requirements for a patent.

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