

## 1. Invention or discovery?

A discovery is a naturally occurring substance or physical law that has been detected or recognized for the first time. A discovery is *not* patentable. An invention refers to the solution of a particular problem by technical means.

## 2. What may be patented

An invention can be patented if it

- a) is novel
- b) involves an inventive step
- c) is industrially applicable.

## 3. When is an invention new?

An invention is considered to be new if it has *not* been publicly disclosed, no matter how or in what form: whether in journal articles, blogs and data bases, or at conferences in the form of presentations, posters or discussions, etc. Deadline for establishing novelty is the day on which the patent application was filed, known as the 'priority date'.

## 4. Why Publication Screening?

Scientists at HZI are obliged to send all planned publications (also abstract, posters etc.) to [papers@helmholtz-hzi.de](mailto:papers@helmholtz-hzi.de). Screening all scheduled disclosures avoids that results relevant for patent applications are released before a patent application was filed.

## 5. Will Publication Screening delay my work / publication?

No. Scientists will get feedback within three working days (for abstracts one working day) either by approval for submission or by requests regarding the results. If necessary a patent application can be filed very shortly.

## 6. Who belongs to the team of inventors?

All those who played a significant part in the inventive process count as inventors. A scientist who merely carried out routine analyses during the development of a new procedure is no more entitled to belong to the team of inventors than the head of the research group, assuming he or she did not contribute directly to the invention.

## 7. What is an invention disclosure?

According to the German Employee Inventions Act ('Arbeitnehmererfindergesetz'), an employee must inform his employer of his invention immediately. This is done by submitting an invention disclosure. The employer, here the HZI, then has up to 2 months in which any missing information or documents pertaining to the invention can be requested.

## 8. What means claiming an invention ("Inanspruchnahme")?

As soon as HZI has received the complete notification of the invention, the employer has 4 months to evaluate the invention and decide whether or not they wish to claim it or release it. After claiming the invention HZI must file a patent application, in Germany at least, and give the inventor a share in any revenues arising from successful commercialization.

## 9. Are patent applications confidential?

No. Patent applications will be published 18 month after filing by the patent office. Immediately *AFTER* filing the patent application inventors can publish their results.

## 10. What is patent worthy?

An invention is *patentable* when it fulfils the criteria named above (FAQ 2). It is only *patent worthy* when a patent application appears worthwhile to the prospective patent holder. To evaluate this patenting and eventual development costs are correlated to possible revenues from commercialization.

## 11. What use is a patent?

A patent grants the holder the right of exclusion. Without his permission, others may not use, make or sell his invention. Of course, he may enter agreements with third parties granting them the use of the invention, e.g. by licensing.

## 12. What is the scope of a patent?

The scope of protection is defined by the patent claims as they appear in the patent application.

## 13. Where does a patent apply?

Patent protection only applies in those countries in which the patent was filed and subsequently granted by the relevant authorities. A patent can either be applied for separately in individual countries, or e.g. in a joint application to the European Patent Office for all European countries.

## 14. How long does patent protection last?

A patent is valid for 20 years from the date of the priority-based application. In the case of approved medicines, an application can be made in some cases to extend the duration of protection for a maximum of 5 years.

## 15. Who owns the patent?

In Germany, the employer of the inventor or inventing team owns the patent, unless they decide otherwise.

## 16. Is a patent required in order to market a product?

No. Unpatented materials, tools and animal models are often of great interest to the pharmaceutical industry and are sold or licensed directly.

## 17. What are the options for commercialization?

Possibilities include licensing, sale, cooperation or founding a start-up. Together with the inventor(s) and HZI the best options for each project will be determined in order to successfully bring it to the market.

## 18. What determines the price of a licence?

Ultimately, the market. In general, the costs for the licensee increase the further down the development pipeline the product is, the more comprehensive the intended usage rights are (areas of application, geographical area, exclusivity) and the more interested parties exist.

## 19. What share of profits does the inventor receive?

After the deduction of a contribution towards patenting and exploitation expenses, the proceeds are distributed to the inventor and the institute.