

# FAQ: Foreign Patent Applications

## ***I have filed a regular US Patent Application and want to get patents in other countries. What's my deadline?***

One year from the US filing date is the typical first deadline. Most foreign countries are members of the international Patent Cooperation Treaty (PCT). This treaty gives applicants the legal benefits of an earlier filing date **IF** the foreign application is filed within one year from the date of the earliest filing date for an application covering the invention. One year is also the deadline for filing foreign application outside the PCT procedure.

Another option is to file without claiming the benefit of an earlier filing date. Additional inquiries may be needed to determine whether this third option is available in light of any prior public disclosures or sales.

## ***How do I figure out where I should file my application?***

The decision of where to receive a patent grant should be a business-generated decision. We generally recommend that patent protection should be considered where: (a) your company does business, (b) imminently plans to do business, or (c) has a licensee or opportunity in place to commercialize the invention and where sales are likely to be enough to justify the costs of bringing a lawsuit to stop infringement.

## ***How much do foreign applications cost?***

The actual cost will vary depending on the country, length of the application, number of claims, the need for a translation, possible opposition from competitors, and changes in annuity fees. A reasonable estimate is \$5000 per country to get the application on file and a total of \$15,000 per country to prosecute the application to grant. Oppositions can be like a trial on validity and increase the costs substantially, i.e., \$200,000 and up.

Many countries also charge an annual fee to maintain the patent grant in force in their country. That annual costs needs to be factored in to any budget calculation.

## ***How long does it take to get a foreign patent?***

On average without opposition or significant prior art impediment, many foreign application will issue in 7-10 years after the US filing date. Applications in the US generally take 3-5 years to issue, on average.

## ***When is the latest that I can give you my decision about foreign filing?***

We need one month to be able to guarantee that your application will be received and properly filed by our network of associates. We cannot guarantee a filing date if we receive your instructions any later than that although we will make every reasonable effort to assure that the application is filed.

Johnson Legal PLLC can provide your company with more specific information once we understand your business situation. Give us a call. The consultation is free.



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