

Intellectual property issues

One of the SMEs' strengths is their technological advancement in a specific domain. To highlight this advantage, SMEs should therefore focus on carrying out innovation activities.

How to apply for a patent

Protecting your intellectual properties by applying for a patent is a necessity for innovative companies. In the defence sector, patent application is subject to national laws and the normal practice requires filling out a national application prior to submitting an application in another State or at the EU level. The protection of certain innovations can require specific protection, which necessitates that your country will have to check whether the patent could require a specific classification. You are thus invited to apply first in your national Patent Office. A patent will give you the right to protect yourselves from third parties, by prohibiting the making, using or selling of the invention without the owners' consent.

After the publication of the patent, you can extend its geographical scope, notably with the help of the European Patent Office (EPO).

The European Intellectual Property Rights (IPR) Helpdesk (<https://www.iprhelpdesk.eu/>) can support you free of charge on Intellectual Property matters. To use these services, or to train in events on Intellectual Property management, you will have to register on the helpdesk's website. There are three other IPR helpdesks worldwide: South East Asia IPR SME Helpdesk, China IPR SME Helpdesk and Latin America IPR SME Helpdesk.

Procedures related to patent applications are well described in the EPO website at <https://www.epo.org/learning-events/e-learning/modules.html?topic=0003>.

The deposit of a European patent application requires the payment of various taxes.

Expenses and fees mentioned in the figure below (originally from the EPO fee group "all fees")

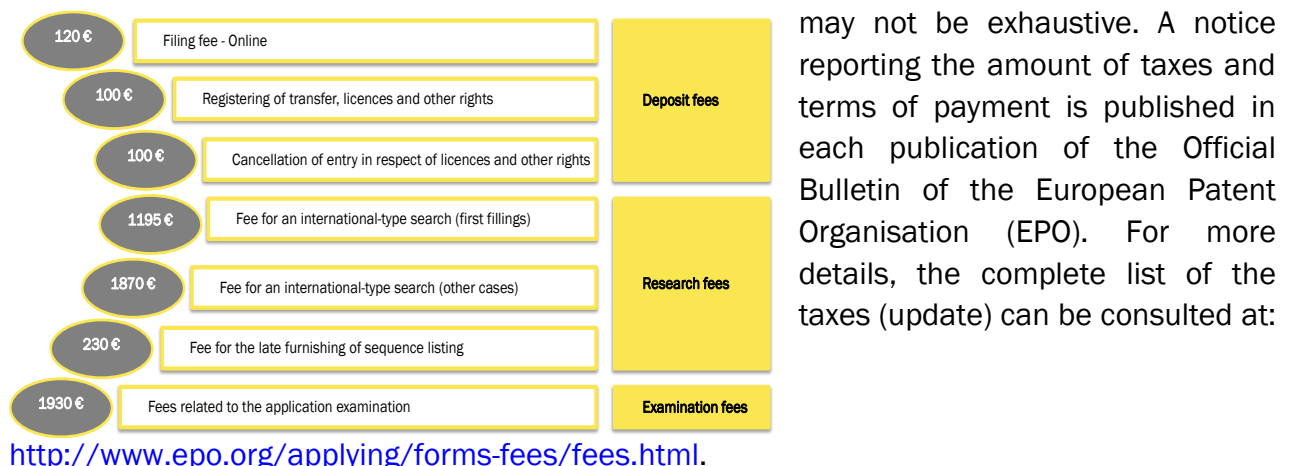


Figure 10 : Patent application fees

How to buy existing patents

For several reasons and purposes, you may need to use existing patent(s). [European Patent Register](https://www.epo.org/searching/free/register.html) (<https://www.epo.org/searching/free/register.html>) contains all publicly held information on European patent applications.

How to negotiate a license

In some cases, depending on the invention and its potential applications, as well as your goal (for instance, commercialisation of the invention), it could be appropriate to negotiate a licensing deal with the owner instead of buying his patent.

It means that if the owner licenses its patent to your SME, you can manufacture the patented product. However, in return, following the agreement reached, you will need to pay either a lump sum or continuing royalties to the owner. The EPO website provides information for licensing agreement negotiation purposes.

Tips to successfully manage intellectual property issues

Definition of your innovation strategy:

- ▶ Defining a very detailed business plan is important as it allows you to have a clear strategy for your business and to be more comfortable in managing potential difficulties.
- ▶ Use patent information available in patent databases (in particular on the European Patent office (EPO) website) to build your business strategies.

Protection of your innovation:

- ▶ Identify the patentable elements within your innovations and make sure they are patented early enough to avoid losing the invention to competitors.
- ▶ The protection of your innovation involves being clear about the contractual terms and IPR requires a precise analysis of the expected scope of the patent and its related costs. For export-oriented SMEs, make sure Intellectual Property is protected in all potential export markets. In the case of patents, it is important to bear in mind that a company generally has 12 months from the date of filing a national application to file the same patent in other countries.