

Description

It’s D-day! Finally, years and years of hard work have paid off – the invention you were working on is a success! You are extremely eager to unwrap and reveal your “creation” to the world. You gear up to write that cutting-edge paper and publish it in a top-notch journal. But wait! Are you ruining your chances of winning a patent by publishing it first? Are you jeopardizing your prospects of monetizing the invention arising from your cutting-edge research?

The “Publish or Perish” Culture

In scientific disciplines, there is a notable emphasis on “first to publish”. Scientists have a strong tendency to reveal inventions and publish findings at the earliest. It stems from the academic ideology “publish or perish” that researchers thoroughly believe in! Furthermore, a researcher may attempt to publish first rather than patent an innovation for several reasons.

- Researchers, especially academics are under pressure to increase their publication count in order to establish their expertise in their respective fields.
- Early career or young researchers with limited exposure to the potential worth of a patent may be unaware of the significance of keeping their key research findings confidential.
- The economic costs involved in applying for a patent may exceed the rewards of doing so. This especially stands true for small innovations.

Why is Patent Protection so Crucial?

As a scientist, your most valuable asset is your research idea! Without a patent, anyone can copy your invention with complete liberty. Filing a patent gives you the exclusive right to “stop” others from exploiting your patent for their own gains. In exchange for this monopoly, the patent owner must disclose technical information related to the patent.

Patenting your research findings helps you to benefit commercially from the invention and have gratifying financial returns. Therefore, researchers must delay their publications at least until a patent application is filed.

Several countries may bar you from patenting your invention the moment you make a public

Copyright: Enago Academy under the CC-BY-NC-SA 4.0 license

disclosure. Notable exceptions include countries such as the United States, Australia, South Korea, and Japan. These countries provide a “grace period” whereby an applicant can file a patent application within a stipulated time (6 or 12 months in most cases) after publicizing the invention and, then the previous disclosure would then be disregarded as “prior art”. For instance, after filing a US patent application, inventors enjoy a grace period of one year post the public disclosure of the invention. However, counting on that grace period is still not a good option. Once the invention becomes public, competitors may find ways to improve the invention and file a patent based on those improvements! Therefore, scientists must ensure they file a patent application first and then publish it in an academic journal.

What Constitutes a Public Disclosure?

A public disclosure does not necessarily mean a scientific presentation at a conference or an official demonstration at a tradeshow. It could also be by way of a conference abstract, a letter to the editor, a journal article, via emails, public forums, or a poster. Once something is made public (discussed, presented, or published) it is considered state of the art and is no longer novel. Therefore, it cannot be protected or patented.

How do I Publish Patent Related Content?

Before discussing your findings with anyone, remember to discuss with your supervisor if the research has the ability to result in intellectual property. If you decide to publish a paper associated with your patent, it is advisable to inform the same to the journal editor as a pre-submission query. The journal editor may inform you about any rules related to the publication of patent-related content. Furthermore, get your scientific paper reviewed by the IP office or a patent counselor before submitting it to a journal.

The Golden Route to Balance Patents and Publications

To succeed in the scientific arena, it is crucial for a researcher to continue presenting at conferences, publish papers, and win grants. So how do you achieve the best of both worlds?

1. Take advice from your institution’s technology transfer department and Intellectual Property (IP) offices to develop strategies for ensuring patent protection. All this while you amaze the scientific community with your knowledge and acumen.
2. File a patent before you speak about, present, or publish your work in the public domain.
3. Be cautious while presenting your work or writing an abstract. Refrain from divulging too many details that can actually enable a third party to copy your invention.
4. Broadly outline your work, without spelling out each and every aspect, while discussing with potential organizations or companies.
5. If you intend to have business discussions with a third party (potential investors/buyers), ensure that a confidentiality agreement is in place prior to the discussions.
6. Use codes to describe your data, elements, or any principal components.
7. Take assistance from legal experts about how to best present your work.
8. Make general statements regarding your work instead of being explicit and precise about your findings.

Copyright: Enago Academy under the CC-BY-NC-SA 4.0 license

For a win-win situation, all you need is a little planning, self-discipline, forethought, and vigilance.

Have you ever tried publishing information related to a patent? How was your experience? Do let us know in the comments section below!

Category

1. Publishing Research
2. Understanding Ethics

Date Created
2020/11/23
Author
shwetad

Copyright: Enago Academy under the CC-BY-NC-SA 4.0 license