Working as a Patent Attorney

Intellectual property covers any creation of the mind, including art, writing, patents, inventions, and more. Lately, it’s become a hot field, with a lot of discussion happening over who owns what sort of intellectual property and how it can be used. Patent attorneys cover one segment of intellectual property, helping to defend their clients’ patents against misuse or wrongful use. Since the laws surrounding patents can be surprisingly complex, there’s a reasonable amount of specialized training required to become a patent attorney, on top of the education needed to practice law.

Definition

Patent attorneys are lawyers who have the special qualifications and knowledge required to represent clients for the securing of patents, as well as to act in regard to any procedure or matter relating to patent law. This also involves filing opposition. It’s important to note that the term “patent attorney” means different things in different countries. That means that in some locations, patent attorneys may not require the same kinds of qualifications as an ordinary lawyer. Some jurisdictions also use the terms patent agent and patent lawyer interchangeably. Others have specific requirements for each term.

Patent Attorneys in the United States

In the US, it’s possible to be either a patent agent or patent attorney. Both have the same ability to represent clients before the patent office. Both may file, prepare, and prosecute patent applications, and may also provide patentability opinions on an invention or process. However, patent attorneys, unlike patent agents, are also admitted to practice law in at least one state. The largest number of patent attorneys and agents are in California; New York and Texas follow.

In addition to other qualifications, both patent agents and patent attorneys need a technical degree, such as a bachelor's degree in physics, chemistry, or engineering degrees. They must also pass an examination to practice. Patent attorneys, unlike patent agents, may also provide legal services if they are practicing within their jurisdiction. These can include advising clients on licensing matters, whether to sue, whether to appeal, and when infringement is occurring. Patent agents may not do this; they are also not able to represent clients before the Trademark Office.

Registration as a patent attorney or agent requires passing the USPTO examination, also called the Patent Bar. It tests candidates’ knowledge of policies, procedures, and patent law. Slightly more than half of candidates who take the exam will pass. Attorneys and agents who practice outside the United States but are licensed domestically must be citizens.

Patent Attorneys in Other Countries

In Canada, becoming a registered patent agent requires a year of work experience, and completion of a series of four qualifying exams.

Australian patent attorneys must pass nine topics, hold an appropriate tertiary educational qualification, be a resident of Australia, and have a full year’s experience in an appropriate field.

The EPO, which operates in most European Union countries, requires that patent attorneys be registered officially to represent clients. A rigorous examination is required, and to enroll in this exam, a degree in a scientific or engineering field must be obtained. Alternatively, some candidates may be able to use long experience in a scientific field to qualify. The candidate must also have practiced national or European patent law under supervision for three or more years.
Japanese patent specialists, called benrishi, must take an exam to receive their title. They are not qualified as attorneys (bengoshi), but they have many similar powers, including the ability to represent their clients in arbitration and litigation, as long as it applies to patent law in Japan.

In the United Kingdom, anyone can act at the Patent Office. However, in order to be a patent attorney/patent agent, or registered patent attorney/agent, qualifications must be met. This requires passing the JEB patent foundation level papers or gaining an exemption through university courses and then passing the advanced papers.

**Job Outlook and Pay Rates**

Patent attorneys are generally in demand, although becoming one can be quite difficult, especially if you wish to practice internationally. The requirements for being a patent attorney are often strict, and take some time to meet. However, the growing awareness of intellectual property law, and the complexity of that law mean that there are many cases where the services of a patent attorney are needed.

**Patent attorney salaries** in the United States vary by geographical location and job specifics. A survey conducted by the AIPLA (American Intellectual Property Law Association) states that the average patent attorney makes around $180,000 per year. At the top of the scale are partners in private firms, earning as much as $300,000 per year. Associates in private firms make around $125,000 per year, with the average starting salary being around $100,000.

A background in science and engineering is required, excluding many attorneys from practicing patent law. This increases the demand for qualified patent attorneys. Patent agents, because their qualifications are lower, make less - an average of $75,000. This is still more than most professionals with the same degree, but without the patent certifications.

**Conclusion**

For those with the correct background and willingness to obtain everything needed, becoming a patent attorney is a lucrative and rewarding field. The demand for these attorneys continues to grow, especially as the supply of available professionals is low. Practitioners of international patent law must take particular care to meet all appropriate qualifications, since rules change between countries.

- See [Top 10 Reasons Most Law Firms Have No Idea How to Hire and Evaluate Patent Attorneys](https://www.intellectualpropertycrossing.com) for more information.