

# 3 Ways to Improve the Patent System and Protect Inventors

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For many developing countries, the promise of innovation-fueled economic growth remains unfulfilled. Even with well-established intellectual property systems in place, few local innovators benefit. Instead, patent grants to foreigners far outnumber those to local applicants, despite a strong local innovative culture.

Patents drive value creation for individual inventors and small enterprises that can help these countries grow. They attract investment. And they provide protection when small firms need to collaborate with third parties to implement their vision. Without access to patents, innovators find themselves at palpable disadvantage in the market. When these inventors cannot compete, we are all deprived of their innovation.

More than 80% of the world lives in less developed regions, which means most of us live in places where securing patents remains a real struggle. And yet, none of us can predict the source of the next breakthrough. Even more so in the face of the Fourth Industrial Revolution and the large-scale democratization of data it brings with it. We therefore have a global imperative to unlock all of humanity's ingenuity. This cannot happen without empowering inventors to protect the fruits of their imagination.

Creating an environment where inventors thrive requires an emphasis on innovation infrastructure. Inventors excel at solving problems, but generally lack the legal training to navigate the patent system. A sustainable innovation ecosystem needs to connect genius with legal expertise. Together, these two disciplines must aim to secure protection that enables success on a global scale. Without this conscious focus, the job creation and economic growth that have the potential to flow from a nation's brilliance are likely to go unrecognized.

## **1. Translate ingenuity into intellectual assets**

In many developing countries, the share of patents granted to locals is far lower than the level of innovation in the country. Why? Few inventors get the professional support they need to secure critical assets. Instead, they usually represent themselves before their local patent office due to their limited means and the cost of hiring a specialist. Discouraged by the complexity of the patent grant procedure, they give up in the early stages of the process - and their inventions never get evaluated on their merits.

Recognising the importance of patents to progress, some countries are playing an active role to ensure that great ideas can be transformed into intellectual assets. Five countries – Colombia, Ecuador, Morocco, South Africa and the Philippines – are making this happen through the [Inventor Assistance Program](#) (IAP). The programme, led by the World Intellectual Property Organization (WIPO) in cooperation with the World Economic Forum, levels the playing field for inventors by matching them with patent experts who offer their legal services at no cost. For many inventors, the IAP offers the only hope to protect their inventions.

## **2. Build a local patent profession**

Without highly skilled professionals, few inventors in developing countries will protect their ideas with patents. But not all countries have established patent professions, particularly in the absence of clear demand. In other countries, patent professionals build their practices focused on serving foreign clients. Normally, another professional drafts the patent application and directs the technical and legal strategy for the entire resulting patent family. This requires a much narrower skill set than needed to support local inventors.

Inventors who come with an idea rather than a prepared patent application require additional assistance. Patent professionals must understand the technology driving the invention to draft a patent application in the first instance. Using this knowledge, they must also predict how it will be developed and fit into supply chains. So while in some countries, the legal skills to prosecute cases before the local patent office can be readily honed, in others those skills must still be developed. Compounding the challenge, most developing countries do not require training in a scientific discipline to practice before the national patent office.

Countries must prioritize building patent protection capacity. Local champions will understand the environment and be passionate about helping their fellow citizens succeed. The alternative – hiring an expert abroad – will be cost-prohibitive for many inventors. Ultimately, many will forgo protection altogether.

Authorities should also consider whether a wider set of professionals should be permitted to practice before their patent offices. In most developing countries, only attorneys can practice before the patent office. Yet few attorneys in these countries also have the technical skills necessary to craft patent applications. On the other hand, allowing professionals without a legal background to create and advocate complex documents having significant legal implications, such as is the case with patent applications, may raise other concerns for patent offices. Patent office staffing levels and the volume of applications require structured communications to run efficiently. Balancing all of the above constraints, some countries require those seeking to practice before the patent office to demonstrate legal proficiency through an exam. While there are no easy solutions, a focus on developing a cadre of skilled local patent practitioners is critical to building national patent capacity.

## **3. Make it affordable to file abroad**

Few enterprises operate in a single country. Yet patents only provide rights in a specific country. If business plans will take inventors to other markets to sell, partner, or manufacture, then securing protection abroad is essential. But this added protection comes with a hefty price tag.

Consider an inventor in Morocco, a country with a gross national income per capita of \$2,860. To protect an invention in just two countries, the cost of the official fees alone can easily exceed

a year's salary. Add in the expense of hiring professional help to navigate the patent system, and the amount is likely out of reach. Few inventors in developing countries can self-finance this level of investment.

The above figures reflect existing discounts available to inventors in developing countries. For example, WIPO, using the Patent Cooperation Treaty (PCT) system, offers a [90% reduction](#) to certain fees for nationals from developing countries, and the European Patent Office [brings down its fees by 75%](#) for individuals from low- and low-middle-income countries. However, outside of LDCs, these discounts are only available to individuals and not to the small businesses which may be best positioned to implement the technology. However, a growing number of countries (including the US), aware of the important function these enterprises serve to grow their economies, are now offering discounts to small entities.

If we want to unleash the benefits of global participation in innovation, we need concrete action. Patent offices should consider reducing or waiving fees for developing country inventors, for both individuals and enterprises. Agencies focused on small businesses, like those in [Colombia](#), [South Africa](#) and elsewhere are galvanizing resources to help inventors secure protection beyond their borders. These programmes ensure a country's most promising inventions are well-positioned to compete. Development banks can also play an integral role.

We need innovation from everywhere if we are to tackle the challenges ahead for our world. And we cannot afford to let an inventor's country of origin determine whether a solution makes it to the market. To achieve this, inventors need support. They need access to capable professionals who craft patents that allow them to deal with partners and better resourced competitors. And they need financial backing so they can protect their innovations in the places where their solutions will have an impact. With these elements, we empower inventors to lead their countries on a path to prosperity, and the rest of us to a better future.

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