

### Board Games & Puzzles

Quite a lot of people think of new games and puzzles, and wonder whether patenting would help them to make money. Generally speaking, it is very difficult for a private inventor to make money from any invention. It is particularly difficult if you are trying to interest existing manufacturers in your idea, rather than trying to produce and sell it yourself. Ideas involving games are among the most difficult, since there is much competition. Furthermore, getting a patent in the UK may be difficult and of little value. This sheet explains the reasons why this is so, and describes how to go about obtaining a patent if that is the route you choose to take.

#### Why not patent your game?

It is generally difficult or even sometimes impossible to obtain useful patents for games, since they are not really the kind of invention for which the patent system was set up. (It is more suited to machines and technical processes). As a general rule, you cannot patent something which is merely a printed sheet differing from other printed sheets only by virtue of what is printed on it.

Secondly, it generally takes at least two and sometimes up to four years to get a patent granted. A very large number of new games are invented every year. Most of them get nowhere. Of the few that do get somewhere, the majority will probably have just a brief lifetime (e.g. one Christmas) before vanishing to be replaced by the next novelty. Thus the fact that you might get a patent in a few years' time is not of much help.

Apart from the possibility of getting a patent, there are some other rights that you may have already. You may well decide to rely on these instead of seeking a patent. For example, if you have drawn a board (or anything else), then this drawing is probably a copyright work. You do not have to do anything to get copyright; it comes into existence automatically. It is a good idea to sign and date a drawing when you make it, and keep the original in a safe place to make it easier to prove that you have this right. You could sell or license the copyright to a manufacturer.

However, copyright does not protect the idea behind the board; anyone would be free to make a board for playing the same game provided they do not copy your board to make their board did not look substantially the same as yours. Similarly, if you have designed an article having a new shape, then you may already own the design right (a similar right to copyright) in that work. Again, this may be infringed by someone copying the article.

#### When might a patent be needed?

Assuming your game is still confidential, you can offer to sell your confidential information to a game manufacturer.

The difficulty here is that you must persuade the manufacturer to agree to receive the information from you in confidence in the first place and not to make use of it without your permission.

At this stage you can only give the manufacturer a rough idea as to what your game is. Manufacturers are often reluctant to make binding agreements like this.

Some manufacturers insist that you should make a patent application and rely on this for protection. Given that it does not give you full protection for several years, this is less than satisfactory. But you may still feel that you want to make a patent application in order that you can at least say "patent applied for".

Even if you have already filed a patent application, there can be certain advantages in making it a condition of disclosure that the recipient does not publicly disclose the invention.

Additionally, the game may employ the use of objects or technical devices. Such objects and devices may be patentable in their own right, as distinct from the game.

#### Applying for a patent

The full process of getting a patent granted, extended over several years, is likely to cost at least £3000 to £5000 plus VAT per patent using a patent attorney. The cost of the first step (preparing and filing the application) may be around £2500 or more (plus VAT) if you employ a patent attorney, but there is (now) no cost for the first step if you do it yourself. Whoever makes the initial application, further steps must be taken within twelve months. If you do then decide to continue, you may want to go back to a patent attorney for expert advice.

If you decide to make a patent application yourself, it is important that you provide a full description (with drawings) of the invention in as much detail as possible. The description should contain a definition of the features which distinguish your invention from what is already known, and definitions of the most important preferred features. You should send this to the UK Intellectual Property Office with a signed form PF1/77. This must be done when the invention is still completely secret. Further information and forms can be obtained from us or from the UK Intellectual Property Office.

### Registered design protection

An alternative way to protect your game may be to apply for a registered design. A registered design can protect the appearance of an article (for example the board). Again, however, a registered design does not protect the idea underlying the game. A registered design is typically granted within a few months of applying and usually costs significantly less than a patent.

If we were to file a UK registered design application on your behalf, this would typically cost about £200 to £300 (plus VAT). If you wish to file your own application, you should prepare drawings or photographs showing the article from all directions and send these, together with a signed designs form DF2A and a fee of £60 to the UK Intellectual Property Office. Again, further information and forms can be obtained from us or from the UK Intellectual Property Office.

An alternative would be to file for a Registered Community Design (RCD) which covers the entire EU. If we were to file an RCD application on your behalf, this would typically cost about £500 to £600 (plus VAT). See our information sheet entitled Designs: Registered Community Designs for further details.

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#### London

33 Gutter Lane  
London  
EC2V 8AS

**Tel: 020 7776 5300**

Fax: 020 7776 5399

#### Bristol

22-24 Queen Square  
Bristol  
BS1 4ND

**Tel: 0117 945 1234**

Fax: 0117 926 5692

#### Manchester

Bridgewater House  
Whitworth Street  
Manchester M1 6LT

**Tel: 0161 247 7722**

Fax: 0161 247 7766

#### Cambridge

Newnham House  
Cambridge Business Park  
Cambridge CB4 0WZ

**Tel: 01223 420383**

Fax: 01223 423792