



# Patent Search

Patent searches are important for managing intellectual property, giving you a complete picture of existing inventions and technologies, through a thorough prior art search and identifying potential conflicts or overlaps with inventions/technologies of other patentees. These searches are essential for identifying prior art, assessing the patentability of inventions and lowering the risk of infringement. Patent searches are categorized into different types, each with a specific purpose, to address multiple objectives.

## Types of Patent Searches

- ❖ Novelty/Patentability Search
- ❖ Validity and Invalidity Search
- ❖ Nullity Search
- ❖ Freedom to Operate (FTO) Search
- ❖ Infringement Search



## Novelty/ Patentability Search

A **Novelty or Patentability Search** is a pivotal step in the patent application process, designed to determine whether an invention is genuinely new and non-obvious in light of existing prior art. This search involves an in-depth examination of various sources, including previously granted patents, pending patent applications, scientific publications, technical literature, and other publicly accessible documents. The goal is to identify any disclosures that could potentially impact the patentability of the invention.

- By meticulously evaluating these resources, inventors and legal professionals can assess the feasibility of securing a patent while identifying possible hurdles at an early stage. This proactive approach not only ensures that the invention meets the stringent criteria of novelty and non-obviousness but also maximizes the chances of filing a successful patent application.



## Novelty/ Patentability Search

### Why Conduct a Patentability Search?

Conducting a **novelty or patentability search** offers a multitude of benefits, making it a highly advisable practice for inventors and organizations. Some key reasons include:

- **Verifying the Novelty of the Invention:** Ensures that the invention is truly novel and distinct compared to existing technologies, thus meeting the essential patent criteria.
- **Evaluating Patentability:** Assesses whether the invention satisfies critical patentability requirements, such as **novelty**, **non-obviousness**, and **industrial applicability**, ensuring compliance with patent laws.
- **Avoiding Wasted Resources:** Identifying potential roadblocks early, preventing unnecessary expenditure of time, effort, and resources on developing or filing a patent for an unpatentable invention.
- **Identifying Prior Art:** A thorough search uncovers prior art that could impact patentability, allowing inventors to address these concerns proactively in the patent application.



## Novelty/ Patentability Search

- **Reducing Legal Risks:** Ensures that the invention does not infringe on existing patents, minimizing the risk of future legal disputes and challenges.
- **Guiding R&D Efforts:** Insights gained from the search help guide research and development towards truly groundbreaking and innovative solutions, steering clear of over-explored areas.
- **Enabling Informed Business Decisions:** Equips inventors and businesses with critical information for making strategic decisions about the commercialization and protection of the invention..
- **Strengthening Patent Claims:** By understanding the scope of existing patents, inventors can refine and strengthen their patent claims, ensuring comprehensive protection for their invention.
- **Exploring Licensing Opportunities:** It unveils potential licensing opportunities or partnerships by offering a clear view of the current patent landscape, enabling inventors to position their invention effectively.





## Validity and Invalidity Search

A ***Validity Search*** is conducted to assess and evaluate whether the existing patent meets all legal requirements—such as novelty, non-obviousness, and adequate disclosure—to be enforceable. This type of search is often undertaken in response to patent infringement allegations, and as part of due diligence during mergers and acquisitions.

The primary objective of a validity search is to review patent claims and identify prior art that may have been overlooked by the patent examiner during the initial examination process—ensuring that the patent holds up under legal scrutiny. Such prior art, if discovered, can potentially challenge or invalidate the patent's enforceability.

- By performing a validity search, companies can defend themselves against infringement claims, strategically challenge the strength of a competitor's patent, and potentially eliminate the need for royalty payments or damages. This proactive approach not only helps mitigate legal risks but also strengthens a company's negotiating position in disputes or business transactions.



## Validity and Invalidity Search

***Invalidity Search*** is aimed at challenging a patent's enforceability by rigorously identifying prior art and other factors that may undermine its legal standing. This search is typically conducted:

- To develop a defence strategy at the time of countering infringement claims, and proving a competitor's patent is weak;
- During due diligence, before investments or licensing negotiations, to assess potential vulnerabilities.

Invalidity searches provide critical insights that can alter the dynamics of a legal dispute or a commercial transaction. By thoroughly examining the patent's claims against relevant patent and non-patent literature, we help clients:

- Challenge the validity of a patent to avoid or mitigate infringement liabilities.
- Assess the patent's strength and commercial potential before entering licensing or acquisition deals.
- Prevent costly licensing fees by determining if the patent can be invalidated on legal or technical grounds.



## Nullity Search

A Nullity search is an exhaustive investigation conducted to invalidate an entire claim set, or a specific embodiment or set of patent claims— aimed at avoiding or addressing an ongoing patent litigation. A nullity search is conducted mostly during a patent infringement proceeding to challenge the claims or rights of a patent for which an infringement suit has been filed in a Civil Court. The main goal is to find evidence that a patent does not meet the required criteria for novelty or inventiveness. In other words, a nullity search looks for:

- **Prior Art:** Existing patents, publications, or public documents that existed before the patent was filed. These may show that the invention is not new or lacks an inventive step.
- **Legal Deficiencies:** Errors or issues in the patent application process such as vague or ambiguous claims, insufficient disclosure, or procedural mistakes.
- **Overlapping Technologies:** Other innovations that suggest the patent does not bring any truly original or exclusive advancements.



## Freedom to Operate (FTO) Search

***Invalidity Search*** is aimed at challenging a patent's enforceability by rigorously identifying prior art and other factors that may undermine its legal standing. This search is typically conducted:

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# Infringement Search

An **Infringement Search**, also known as a Right-to-Use Search, is a critical investigation conducted to determine whether a specific product, process, or technology infringes upon any existing patents. This type of search focuses on analysing patent claims to identify any overlap with the features or functionalities of the new product or process.

- The primary goal of an infringement search is to avoid potential legal disputes by ensuring that the new product does not violate another entity's intellectual property rights. This proactive measure is particularly crucial before the launch of a new product, as it helps companies mitigate the risk of costly litigation, market withdrawals, or damage to reputation.
- To complement an infringement search, an Evidence of Use (EOU) analysis is conducted. This analysis involves a direct comparison between the patented claims and the product or process in question, providing a clear assessment of potential risks of infringement.