A Holistic Approach to obtaining Patent Protection

Abstract

In order to obtain a patent for an invention, the invention must, in the first place, be “patent eligible”. This means that it must relate to subject matter that is patentable “in principle” in the country in question. For example, methods of treatment of the human body may be patent eligible in Australia however they are not patent eligible in Europe. The invention must also be novel, and it must be inventive. However, even if these fundamental requirements are all met, too often valuable inventions fail to fulfil their potential, or even worse fail altogether. This is because other seemingly less important issues are ignored, or are not fully understood. One such issue is the need to define the proposed business model at the outset. Doing this enables the patent application to be used effectively as a business tool during the application stage, without endangering potential patent rights by doing so. Another issue is the need to balance the requirement for confidentiality against the commercial imperative to publish and advertise the invention during the application process. A further issue is how to spend money effectively and where it counts. Fully understanding and utilizing these ancillary issues can substantially improve commercial outcomes during the patent application stage.