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Patently Enabled January 2025, Part 2: Utility Models Are Another Kind of Patent Protection

Key Takeaways

- Utility models are a form of patent protection available in many foreign jurisdictions, though not in the United States.
- They can be obtained more quickly and at lower cost than traditional utility patents, but generally offer shorter terms of protection.
- Utility models may be advantageous in key manufacturing or high-risk markets when integrated into an international filing strategy.
- Enforcement requirements vary significantly by jurisdiction and should be evaluated carefully before relying on utility models.

When companies think about protecting innovation abroad, the focus is often on traditional utility patents. While those patents remain a cornerstone of most global patent strategies, many foreign jurisdictions also offer utility models, which can provide meaningful protection under the right circumstances.

Utility models are not available in the United States, but they are recognized in numerous countries worldwide. Unlike traditional utility patents, utility models are typically examined only for formal requirements rather than for novelty and inventive step prior to issuance. This streamlined examination process allows utility models to issue more quickly and at lower cost, making them an attractive option when speed to protection is critical.

Once granted, a utility model generally resembles a traditional patent. It includes a written description, drawings, and claims that define the scope of the protected invention. From a practical standpoint, this means utility models can serve as a deterrent to competitors and provide leverage in early-stage commercialization.

That said, utility models are not without limitations. One of the most significant differences is term length. In many jurisdictions, utility model protection lasts approximately 10 years, compared to the roughly 20-year term available for utility patents. In addition, not every country offers utility models. Major jurisdictions such as the United States, Canada, and the United Kingdom do not provide this form of protection at all.

As a result, utility models should generally be viewed as a supplement to traditional patents, rather than a replacement.

In jurisdictions where they are available, utility models can be especially valuable. Countries such as China, Germany, Italy, Japan, South Korea, and Mexico recognize utility model protection, along with several emerging markets. In regions where competitors are likely to manufacture or copy products—or where early enforcement leverage is important—utility models can provide efficient, cost-effective protection during critical stages of market entry.

Utility models also fit neatly into the existing international patent framework. A U.S. utility patent application can serve as a priority filing, preserving absolute novelty for later foreign applications. From that priority application, corresponding utility model filings may typically be made within one year under the Paris Convention, or at approximately 30 months if the application proceeds through the Patent Cooperation Treaty (PCT). This allows applicants to maintain flexibility while deferring jurisdiction-specific decisions.

One area that requires careful consideration is enforcement. Enforcement procedures for utility models vary widely by country and may differ substantially from those applicable to traditional patents. For example, in China, a utility model owner generally must obtain a favorable Patent Evaluation Report (PER) before initiating infringement litigation. The PER process can delay enforcement and may reveal patentability issues that undermine the utility model's effectiveness. In practice, this means that although utility models may issue without substantive examination, their claims may still face rigorous scrutiny when enforcement is attempted.

Ultimately, utility models are not appropriate for every invention or business strategy. Their shorter duration and jurisdiction-specific enforcement requirements must be weighed against their speed and cost advantages. However, when used thoughtfully—particularly in key foreign markets—utility models can provide an efficient and strategically valuable layer of protection as part of a broader international patent portfolio.

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