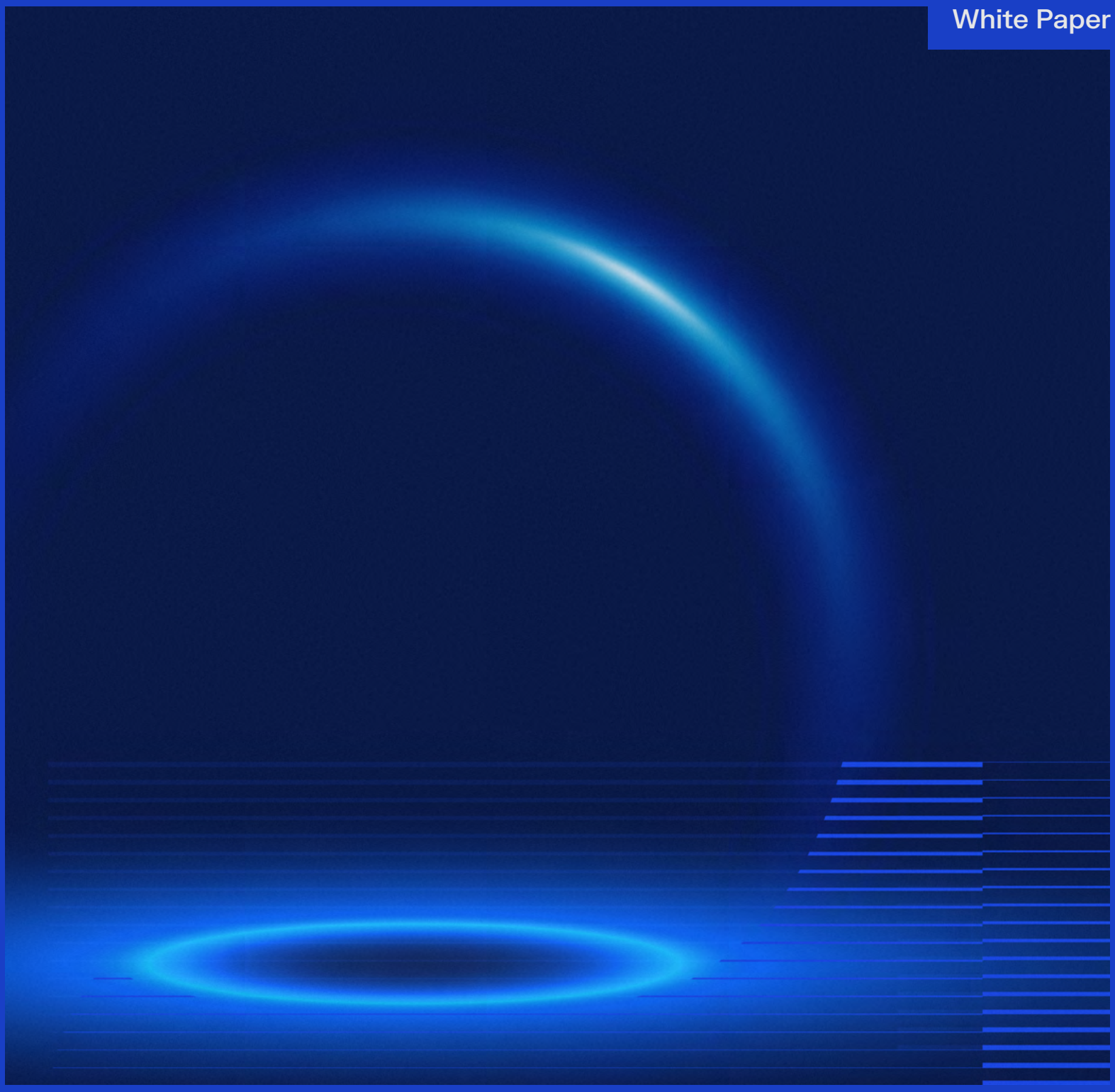
White Paper



Essential Business Principles for Patenting in Artificial Intelligence

A Practical Guide for
Entrepreneurs, Leaders and Investors.

SCALE AI

Note: This guide deliberately avoids using legal jargon. Business people do not need it.

Introduction

Patents are fundamentally a tool of business, conceived to harness the commercial value of innovation. Yet most entrepreneurs and business leaders mistakenly view them as a complex legal exception, overlooking their true strategic potential.

In fact, every critical area of business — from venture financing to corporate governance — has legal underpinnings. Effective leaders navigate these complexities, not by becoming legal experts, **but by applying applicable business principles**.

Patents should be no exception. However, no established set of business principles for patenting has been readily available to leaders (outside of big companies), particularly in the AI space. **Until now.**

This guide introduces 20 essential *business principles* vital for patenting in AI. These principles will empower entrepreneurs and business leaders to make **strategic patent decisions** crucial for their AI ventures – no legal degree required. Careful legal advice may still be required, at the appropriate moment, just as in any other complex business area.

It's crucial to approach this guide with an open mind, because traditional patent thinking from other tech fields often doesn't translate directly to AI — for reasons we'll explore.

Embracing these 20 business principles will transform your approach to patents, from legal afterthought to a basic tool enabling effective AI business strategy.

> **"If you only do what you can do, you will never be more than who you are."**
>
> Master Shifu, Kung Fu Panda

20 Essential Business Principles for Patenting AI

These principles empower the application of business intuition and common sense to patents in context of AI business strategies:

01	Patents Are Business Tools.	11	Effective Patenting Requires 'Why, What and When.'
02	Effective Patents Require Strategic Planning.	12	Effective Patents Need Participation and Perseverance.
03	The Bar for Patenting Is Lower Than You Think.	13	Cutting Corners Results in Weak Patents.
04	Patenting Involves a Strategic Compromise.	14	Granted Patents Can Be Invalidated.
05	Not All Patents Are The Same: The Role of the Claims.	15	Using Your Patented Concept Can Infringe Other Patents.
06	No Patent Can Prevent Copying or Stop Competitors.	16	You Can Influence the Speed of the Patent Process.
07	Most Patents Miss Their Potential Business Value.	17	Big Companies Have Different Patent Goals.
08	Detectability: The Hallmark of Effective Patents.	18	What You Think About Patents Isn't Always the Point.
09	The 'Goldilocks' Time for Filing a Patent.	19	You Get to Decide Who Uses Your Patented Concept.
10	Patenting AI is Different than Other Technologies.	20	Monitoring Competitor Patents Provides Business Intelligence.

Principle 01. Patents Are Business Tools.

They can be extremely useful business assets with strategic advantages, even without the need for judges and courtrooms. In fact, their *primary* purpose is to provide a framework for **leveraging the commercial value of innovation.**

Obtaining a patent is exciting, but it's not the end goal – it's just the beginning. The real goal is to use this asset to add value to your business. A business asset like a truck isn't purchased just to sit idle in a parking lot.

Like any business asset, patents should be put to work. They can:

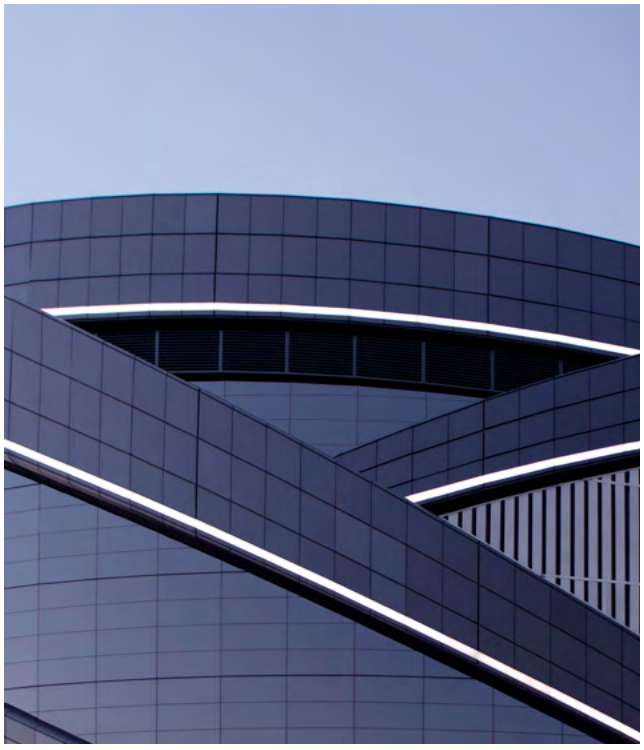
- → Increase investment or acquisition interest,
- → Attract collaboration opportunities,
- → Provide leverage in business negotiations,
- → Create marketing buzz and customer excitement,
- → Enhance your company's technical credibility.

Even without litigation, a patent's mere existence can deter many competitors, much like a locked door discourages unwanted visitors.

Given these diverse potential use cases, it becomes clear why your patenting efforts must align to your value proposition and support your overall business strategy.

"Patents add the fuel of interest to the fire of genius."

Abraham Lincoln, who himself held a patent: US Patent No. 6,469.



Principle 02. Effective Patents Require Strategic Planning.

They aren't merely a follow-on from technology development. **A patent's value stems more from its alignment with your core value proposition than from the technological advancement it covers.**

In fact, a strategically-patented simple innovation often provides more business value than a technologically impressive invention with a poorly-planned patent. **The key is to focus on patenting what matters most for your business success**, not just what seems most technologically advanced.

For AI businesses, this means integrating patent considerations early in the development process, not as an afterthought. Ask yourself:

- → How could the right patent support our business goals?
- → What are investors or potential acquirers looking for?
- → What is our core competitive advantage?
- → What are the technology bottlenecks in our product space?

Did you know?

Apple patented its Slide-to-Unlock feature because it addressed a frustrating problem facing all smartphone users – accidental touchscreen activation. Despite all of the impressive patented technology in the iPhone, **this simple patent was one of Apple's most successful ever**, and a great example of how business strategy drives effective patents.

For patents, it should be a solid business strategy that drives locating the right technology opportunity – not the other way around!

Principle 03. The Bar for Patenting Is Lower Than You Think.

Contrary to popular belief, patenting doesn't require revolutionary breakthroughs. Essentially, any new technical concept can potentially be patented. (There are additional legal requirements that we can leave to the patent experts). The key to effective patenting isn't how impressive the advancement is, but its potential to generate business value.

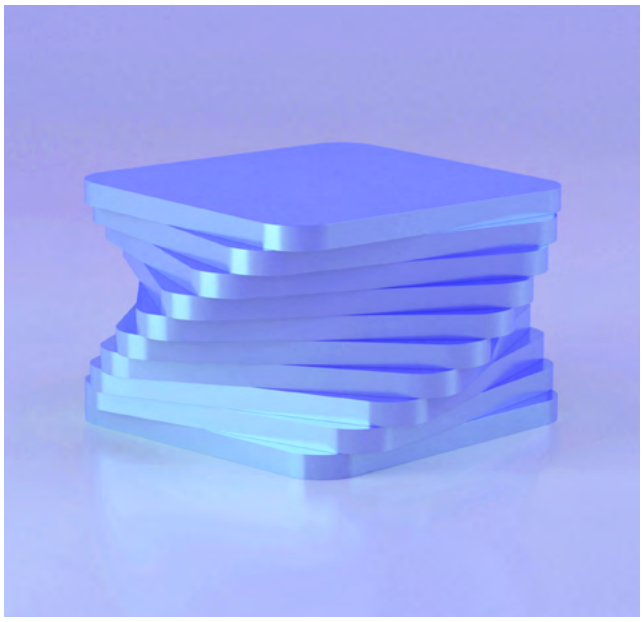
Many strategically useful patents cover relatively simple innovations that solve specific problems or improve existing processes. For instance, Apple's Slide-to-Unlock feature was more than technically sufficient to qualify for a patent. Similarly, Amazon's One-Click patent for its online ordering process is another example demonstrating how patents for seemingly straightforward (but new and technical) concepts can become useful business assets.

In fact, the most effective patents often cover small but significant improvements to existing technology. Successful patenting isn't about award-winning innovation, it's about understanding your differentiators and leveraging them effectively in critical market spaces.

"Things don't have to change the world to be important."

Steve Jobs

Recognizing this lower threshold for patenting can be a competitive advantage, because it opens up strategic opportunities and expands the pool of potential opportunities within your technology stack. Don't be tempted to overlook the simpler innovations that could be converted into your most useful patent assets.



Principle 04. Patenting Involves a Strategic Compromise.

They can become a useful business asset, but there's a strategic cost: you must disclose the details of your innovation. Understanding this trade-off is crucial for making good patenting decisions.

A patent application consists essentially of a **detailed description** and **claims**. The description, which is published 18 months after filing, must detail how your concept works, giving competitors the opportunity to study and learn. You cannot patent a concept and keep it secret.

But what most misunderstand is that **this description does not provide any patent protection whatsoever**. The description is only the *quid pro quo* you must give up in order to receive patent protection in return – protection which is defined only by the **claims**.

The **claims** are a series of numbered paragraphs of legalese at the end of the patent, and are the most critical part of the patent. Think of them as a 'recipe' for the protected invention — infringement occurs only when all elements of a claim (think 'recipe') are used without permission. Precise wording is crucial; poorly crafted claims can render a patent worthless. **In claims, the words really matter** — as we'll see repeatedly throughout this guide. The claims are the beating heart of your patent.

Remember: The description is the 'price' you pay in return for the protection offered by the claims. Understanding this compromise is essential for making informed decisions about which innovations to patent, and appreciating why it is the claims that must capture and align with your value proposition and goals.

Key Fact

Always weigh the strategic cost of patenting. For concepts that will inevitably be exposed through use, the strategic cost of disclosure in a patent is minimal. But for things that will remain hidden in use, like most AI algorithms and techniques, carefully consider the strategic cost of publicly disclosing them in a patent. (We'll explore this further in Principle 8: Detectability).

Principle 05. Not All Patents Are The Same: The Role of the Claims.

This bears repeating: not all patents are the same. Some are broad, many are narrow. Some are strong, while others are weak. The variation primarily stems from the specific focus and wording of the claims, underscoring the critical importance of business planning.

The words in the claims matter tremendously. They determine the scope of protection and, consequently, the patent's value. For instance, a patent with broadly worded claims might capture a wide range of business opportunities, while narrowly worded claims might only protect a specific implementation.

This means that patents are far from being a commodity. Some companies possess hundreds with little practical value, while others maintain only a few worth millions. The difference lies in the strategic alignment of the claims (the words!) with the company's value proposition and business goals.

For a given innovation, two competent patent experts could even produce markedly different but valid patents. **The focus of the claims and the specific language used can dramatically alter the patent's strength and usefulness** – i.e. whether it hits or misses its business target. If those two patent experts receive differing (or little) instruction, the more likely their patents will significantly differ.

If you think of patent claims as recipes, the difference between good and terrible chocolate chip cookies can be as small as a single ingredient or instruction. The same holds true for patent claims.

This variability in patent strength and scope underscores why careful business planning is crucial. **It's not just about getting a patent; it's about getting the *right* patent** – one that aligns with your core value proposition and business strategy to meaningfully cover your innovation. Understanding that every patent is different is key to understanding why your strategizing is so vital.

> "If you're a tech startup, and you've decided to pursue patent protection, find out what you can do to give yourself the best chance of success. Don't just file a patent application and think, 'mission accomplished.'"
>
> Daniel K. Henry

Principle 06. No Patent Can Prevent Copying or Stop Competitors.

No single patent — not even a strong one — can do those things. Patents can be circumvented by clever design-arounds, some competitors unaware of your patent may inadvertently use your concept, while others may simply choose to infringe and gamble on the uncertainties of litigation. Therefore, we must have realistic expectations of what patents can accomplish. A patent is not a fortress, but more like a lock on your front door – many may be deterred, but not all.

"We do advise the companies we fund to apply for patents, but not so they can sue competitors."

Paul Graham, founder Y-Combinator

This reality is why seeking patents solely for 'protection' is often the least optimal strategy, especially for smaller companies with very few patents. Patent litigation is extremely costly and time-consuming, potentially harming a company's business operations even if it ultimately prevails in court. This underscores why patents should be viewed as part of a broader business strategy, not just as defensive tools.

Having several effective patents, however, can provide more protection. Like people, patents can provide more strength in numbers.

Nevertheless, it's unwise to patent out of fear, or with the expectation of winning a litigation lottery. Fewer than 1% of patents will ever find themselves in a courtroom. Instead, having more realistic and business-focused expectations for your patent provides a much greater likelihood for yielding effective patent outcomes.

Principle 07. Most Patents Miss Their Potential Business Value.

Almost everyone gets this wrong: patents are not meant to cover technology, ideas, or even products. **Instead, *effective* patents cover the solutions to problems** – problems that people care about. A recipe people want to use. This shift in focus is essential to obtaining effective, business-relevant patents.

Most patents fall short due to their technology or product-centric approach. Technology itself rarely solves a problem – it's how it's applied that matters. While specific products may solve important problems, product-focused patent claims can often be circumvented if competitors modify the product to still solve the problem while avoiding the claim wording.

Having the wrong focus results in claim wording that misses the business opportunity. For instance, patenting an AI algorithm won't be effective if another algorithm performs almost as well. However, a solution to a widespread problem – like preventing accidental activation of a touchscreen – can have significant business value because it addresses a real, persistent need.

Effective patents cover economically valuable solutions, underscoring the need for a strong business voice in the patenting process. This requires a shift from a technology-centric, competitor-focused approach to a customer-centric, solution-focused strategy. Only by aligning business objectives, value proposition and patent focus can you capture the full potential of an effective, business-oriented patent.

> "Successful startups either get bought or grow into big companies. If a startup wants to grow into a big company, they should apply for patents to build up the patent portfolio they'll need to maintain an armed truce with other big companies. If they want to get bought, they should apply for patents because patents are part of the mating dance with acquirers."
>
> Paul Graham, founder Y-Combinator

Principle 08. Detectability: The Hallmark of Effective Patents.

There is no “patent police.” Patent holders themselves are responsible for identifying potential infringements. Logically, this means that the most effective patents have claims that cover something detectable when someone else uses it.

The most effective patents, therefore, focus on externally “visible” aspects of your innovation.

In the AI context, this could include:

- Technical aspects of the business model, such as how or when to use AI,
- Novel use cases and verticals,
- User interfaces or areas of human-machine interaction,
- Visible design elements that differentiate your platform,
- Hardware components like processors or sensors used with AI, or
- Ways that AI models manifest themselves in your product or processes, such as how inputs or outputs reveal the underlying workings of the AI.

These visible elements, especially if they’re important differentiators, should be top contenders to consider for possible patenting.

Conversely, this explains why patenting algorithmic inventions doesn’t often lead to effective patents, because infringement will be near-impossible to detect. Sometimes detectability is a lesser concern, for example if you are patenting solely to improve your technical credibility or create a marketing buzz about your product. But in most cases, detectability is of utmost concern for small companies. (Not necessarily so for big companies, though, as we’ll discover in Principle 17).

By focusing on detectability, your choices for pursuing patent protection will have the best chances for yielding practical, enforceable business value. For anything that is not detectable, it may be better to protect these as secret.

Did You Know?

A lawsuit against Mailchimp over a startup’s patent on a backend server process was recently thrown out of court. The patented processes were not visible or detectable when used, meaning that the startup **was unable to provide any evidence that Mailchimp** was infringing, forcing the judge to dismiss the case.

Principle 09. The 'Goldilocks' Time for Filing a Patent.

The timing is crucial: there's a sweet spot that's neither too early nor too late.

Filing too late risks losing your right to patent. In most countries, you must file before the public (i.e.. non-confidential) disclosure of the concept – however, in Canada and the US you can file after public disclosure, and up to one year after the first public disclosure. But even when you meet these deadlines, if someone files a similar patent before you, the 'first to file' principle means you'll also lose your right to get a patent. For these reasons, many patent experts will encourage you to file early.

But it's not that simple. **Filing too early risks missing the true business value**, leaving you with a low-value patent. **Once filed, you cannot change your patent to add to or improve it**. Improvement or a pivot means you must file a new patent. According to Y-Combinator, 75% of startups pivot at least once, further questioning the wisdom of very early filing. If you are following the *Lean Startup* methodology but have not found your problem-solution yet, or market fit, it's probably too early to file.

The 'best' time to file is unique to your situation, requiring consideration of your business objectives, risk appetite, and filing budget. This critical decision will significantly impact your patent's value and effectiveness.

> "We must take time to learn what customers really want – not what they say they want or what we think they should want."
>
> Eric Reis, The Lean Startup

The ideal filing time is an optimization that requires careful thought and closely monitoring development. Many startup experts suggest two possible strategies:

- → Find product-market fit first, then file in Canada and the US within 1 year. This helps ensure a higher-impact patent, minimizes wasted resources and distraction on low-value patents, but does limit patenting to Canada and the US; or
- → File early, and file again as significant developments are made. This requires more resources, keeps international options open, and earlier filings can be abandoned if later irrelevant.

Principle 10. Patenting AI is Different than Other Technologies.

There's no one-size-fits-all approach. Effective patenting in AI diverges significantly from other technology sectors.

In fields like tech hardware or pharmaceuticals, reverse engineering poses a serious threat to products as they enter the public domain, allowing competitors to study and replicate them. Patenting is often the only way to protect the intellectual property. The calculus is relatively simple – since product features are well-defined and concrete before market entry, and there is no other way to protect them, it is abundantly clear what to patent, and when.

AI is different. Most of the technology is not accessible, making reverse-engineering near impossible. At the same time, remembering that patent filing involves a public disclosure of the innovation (Principle 4), the risk-reward profile for patenting in AI is fundamentally different versus hardware and pharma. Meanwhile, the black-box nature of AI provides more options for protecting AI-related IP — but this also means more complex decisions.

These realities further elevate the importance of having a clear business strategy driving patenting in AI, and meticulous planning, to ensure AI patents provide meaningful protection and business value. Simply patenting your most interesting innovations is less likely to yield effective patents in AI.

These realities underscore the need for an AI-specific approach to patenting and IP strategy. Refer to Scale AI's white paper *Intellectual Property Strategy Foundations for Artificial Intelligence*. In particular, three key questions must be answered, as we'll explore next.

> "The single most powerful pattern I have noticed is that successful people find value in unexpected places, and they do this by thinking about business from first principles instead of formulas."
>
> Peter Thiel, Zero to One

Principle 11. Effective Patenting Requires 'Why, What and When.'

In all fields, but especially in AI, effective patenting stems more from strategic business decisions than from technological discoveries alone, as we have seen in Principles 1-9.

Concretely, to patent effectively in AI, you must answer three core questions:

01. WHY DO YOU WANT A PATENT?

Your purpose affects the focus of your patent and claims. If you don't aim your arrow, you're unlikely to hit the target. **Understanding 'why' is how you aim**. As we've seen in this guide, patenting is more challenging in AI than in fields like hardware, because there are many more ways one could define a given concept in the patent claims. A clear purpose is absolutely essential – the clearer, the better. Ask yourself why you want a patent: *'What job do I want this patent to do?'* If you can't articulate how a patent will help you, it probably won't.

02. WHAT SUBJECT MATTER WILL ACHIEVE THIS PURPOSE?

In real estate, location is paramount. In patents, it's all about the subject matter covered by the claims. Worthless real estate is a place no one wants to be – and a worthless patent claims a solution no one needs. Choosing the right subject for your patent claims requires strategic business thinking, as we saw in Principle 2. Moreover, in Principle 7 we saw that most patents miss their business target – often because they focus on technology instead of being driven by business thinking. Effective patents cover solutions to customer problems, because this is a 'location' where customers (and competitors) want to be.

03. WHEN IS THE RIGHT TIME TO FILE?

As we saw in Principle 9, timing can significantly impact the effectiveness of your patent. However, your answers to 'why' and 'what', along with your business strategy considerations, will help you determine the optimal timing for filing.

> "When we know WHY we do what we do, everything falls into place. When we don't, we have to push things into place."
>
> Simon Sinek, Start with Why

Principle 12. Effective Patents Need Participation and Perseverance.

It's not a spectator sport. Patenting requires three distinct skill sets: a patent expert, a technology expert (inventor), and a business expert. All three must pull their weight.

It's naturally comforting once the patent expert gets involved, even creating an irresistible desire to delegate. But they are just that – *patent* experts — **your technology, product, business, strategy and customers are your expertise.** If you delegate all to the patent expert – which is quite common, actually – you're almost *guaranteed* a patent that misses its business target. This is another reason why so many patents miss their mark. Don't delegate – *participate*.

> "Great things in business are never done by one person. They're done by a team."
>
> Steve Jobs

Even once the patent is filed you can't disengage, because **the process is only beginning.** Now the patent office examination begins (known as '*patent prosecution*'), where an examiner reviews the patent and **invariably demands changes to the claims**. Remember: the claims are the beating heart of your patent, meaning that making changes to them is akin to open-heart surgery – very serious. **One huge mistake people make is giving in to 'patent fatigue'**: they lose interest during examination, or worse, try to save money by speeding through it. Would you want your open-heart surgery done as quickly and cheaply as possible, without all the necessary experts present?

The focus and wording of patent claims are crucial to effectiveness, and that effectiveness hangs in the balance every time claim changes are made – which can happen multiple times during examination. Therefore, to obtain an effective patent requires keeping your objectives in sight, participating as the business voice, and persevering throughout the entire patent process, all the way to grant.

Principle 13. Cutting Corners Results in Weak Patents.

Not all patents are the same (Principle 5). Effective patents require planning, participation and perseverance (Principle 12).

While smart cost management is possible, prioritizing saving money over effective patenting usually leads to weak patents. **A weak patent is often worse than no patent at all**, because it wastes precious cash, distracts attention from other critical tasks, and provides a false sense of security that can lead to misguided business decisions. Moreover, it publicly discloses your innovation without providing meaningful protection.

Cutting corners – whether through rushed preparation, inadequate review, delegating, or fatigue during examination – typically results in patents that fail to meet their intended target. To avoid this, **ensure you allocate sufficient resources and maintain focus throughout the entire journey**.

But you do not need to write blank cheques. Discuss with your patent expert how costs can be managed or deferred – and their effect on the resulting patent. **Some activities can help save costs and actually increase the effectiveness of your patent**, like actively assisting the patent expert to understand the innovation and your business, and assisting with detailed descriptions and figures to aid in patent preparation.

"The big secret in life is that there is no big secret. Whatever your goal, you can get there if you're willing to work."

Oprah Winfrey

Principle 14. Granted Patents Can Be Invalidated.

They can be powerful business tools, but aren't invincible. Even after grant, a patent can be challenged and potentially invalidated by courts or the patent office. This vulnerability is crucial for both patent holders and competitors to understand.

A patent can be invalidated if a court or patent office panel determines that key requirements for getting the patent are missing, such as: the concept is no longer new as of its filing date in light of additional information that's just emerged, or the patent claims are determined to be unclear. An invalidity challenge can be initiated in a patent lawsuit or through a process known as re-examination.

As a patent holder, this means your patent might not be as bulletproof as you think, and you may need to defend it. As a competitor, it presents opportunities to challenge patents that impede your business operations.

While patents are potentially valuable assets, realistic expectations about their power and limitations are essential for developing a robust AI patenting strategy. Understanding that no one patent is invincible is key.

Understanding patent weaknesses are vital for effective business planning in AI for two key reasons:

01. It emphasizes the importance of well-planned patents with clearly defined objectives and claims, as these are more likely to withstand challenges; and

02. It highlights the potential weakness of relying on one single patent, underscoring the value of a portfolio-based, strength-in-numbers approach to patenting.

"Everybody has a plan, until they get punched in the mouth."

Mike Tyson

Principle 15. Using Your Patented Concept Can Infringe Other Patents.

Surprisingly, **having a patent does not give you free rein to use the concept** without concern for other patents. Unlike real estate ownership, patents don't automatically provide the freedom to use them however you wish. In other words, patents do not guarantee a 'freedom to operate' even within the scope of the patent.

This stems from a legal peculiarity: patents provide only a 'negative' right – the right to preclude others from using the claimed concept. **There is no 'positive' right allowing you to use the concept yourself**. If your patented concept builds on a previously patented concept (whether you know it or not), then using your concept (which includes theirs) potentially infringes their patent.

Although initially counterintuitive, **this principle makes sense** in a world where technologies build upon one another. Imagine that you have a patent, and then a competitor patents an improvement to your approach: you wouldn't want them using your patented concept without your permission simply because they made an enhancement, right? Logically, acquiring new patent rights shouldn't diminish or erase the rights of prior patents.

Learning this fundamental characteristic of patents is crucial for developing effective strategies in the AI landscape, where innovations frequently overlap and build upon one another.

> "The only way to win is to learn faster than anyone else."
>
> Eric Ries, The Lean Startup

Principle 16. You Can Influence the Speed of the Patent Process.

Many perceive the process as too slow for the rapidly-evolving AI field.

AI technology progress is measured in weeks or months, while patent processes can take much longer, but this doesn't necessarily diminish the value of patents in AI. Consider this:

01. Effective AI patents often focus on customer pain points rather than the latest technological developments. Well-planned patents won't just focus on the current technology, but will also thoughtfully account for future development, sometimes referred to as 'future-proofing' a patent. Patents bring value by strategically protecting the future state of the markets.

02. The speed of the process can be controlled to some extent. For instance, U.S. Track One accelerated examination can yield a granted patent in about one year – plenty fast for most AI startups.

03. A well-planned patent application, even if not yet granted, represents future value to investors and acquirers, creates uncertainty for competitors regarding your future patent rights, and can provide a basis for partnership discussions – i.e. many potential concrete benefits.

04. The slower speed allows costs to be spread out over time, which can facilitate cash flow management.

Remember, patenting isn't just about the end result; it's a journey meant to help achieve your business goals. You can actively manage, plan for and benefit from the apparent mismatch between your business timeline and the patent process.

> "That's the hard thing about hard things—there is no formula for dealing with them."
>
> Ben Horowitz, The Hard Thing About Hard Things

Principle 17. Big Companies Have Different Patent Goals.

They approach patenting with vastly different resources and objectives than small companies.

Already leading their market segments, big companies often see patents more as a threat to their position than as an opportunity to grow. In response, they build massive patent portfolios as a countermeasure, emphasizing quantity over quality, to provide Cold War-style deterrence against attack. Big companies file defensively in another sense, as well, patenting first to prevent others from later patenting the same thing. Some big companies also generally try to dissuade smaller competitors from filing patents that might restrict the big company's future growth (for example, see the quotations on this page).

This 'more-is-more' approach often requires overlooking key principles in this guide. But small companies need to be more strategic.

For small companies, every patent must closely align with their core value proposition to achieve their growth objectives. Each patent has to be an *effective* patent. Principles like strategic planning (Principle 2), capturing the economic value (Principle 7), and detectability (Principle 8) are hugely important for small companies, for greatest impact and to efficiently use their limited resources. Each patent must pull its weight in leveraging specific market objectives. However, as small companies begin to scale, their strategies should also evolve more into a big company strategy, to prepare for the 'big leagues'.

Understanding these differences explains why big companies don't always provide good examples for small companies to follow. A good patent for a big company is not often a good patent for a small company. Recognizing this distinction is crucial for developing an appropriate strategy for your AI business.

Did you know?

The Microsoft 'Azure IP Advantage' offers startups using Azure with certain benefits under Microsoft's sizable patent portfolio – **but the startup must agree not to sue Microsoft for patent infringement**. Does this provide a false sense of security for startups, believing that they don't need their own patents?

"Patents are for the weak"

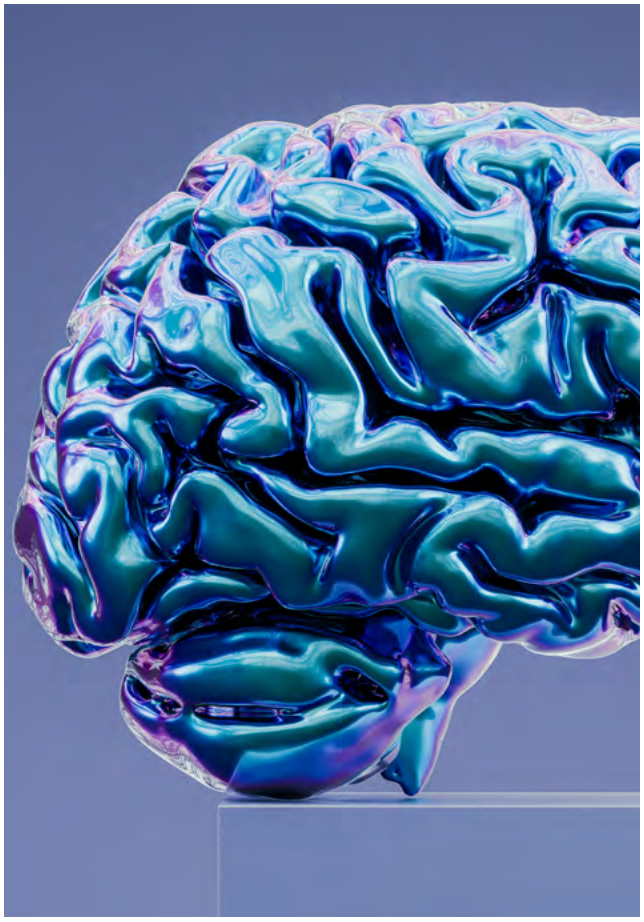
Elon Musk, founder Tesla

Principle 18. What You Think About Patents Isn't Always the Point.

When it comes to patents, your personal opinions aren't the only ones that matter. The views of potential investors and acquirers can also have significant impact.

Investors and acquirers seek businesses with unique value propositions and *sustainable* competitive advantages — exactly what effective patents can provide. This makes startups with good patents inherently more attractive as targets.

Even if your business isn't fending off copycats yet, remember that your success will breed imitation and drive investment interest. Effective patents will be useful for both. Keep in mind, as well, the Goldilocks zone (Principle 9) - by the time you want or need a patent, it's too late to start.



"Most startups that succeed do it by getting bought, and most acquirers care about patents."

Paul Graham, founder, Y-Combinator

Principle 19. You Get to Decide Who Uses Your Patented Concept.

Contrary to popular belief, having a patent doesn't necessarily mean restricting others' access to your innovation. It just provides you with the ability to decide how and where the innovation is used. Moreover, your patent ensures that no one else can patent and try to stop you from using it (also a key consideration for big companies: Principle 17).

Few realize that top AI open source codes and models are often covered by numerous patents. This is why open source licenses like the MIT license include patent license provisions. If you plan to release open source, the strategic compromise involved in patenting (Principle 4) is inherently reduced, potentially making patenting more attractive to achieve business goals like enhancing your technical reputation or stoking marketing interest among customers.

Seeking business benefits through patenting, as outlined in this guide, doesn't require changing your competitive outlook or values. **Effective patenting is about growing your business, not impeding others**. It provides the power to decide, rather than being at the mercy of others.

"Don't be trapped by dogma - living with the results of other people's thinking. Don't let the noise of other opinions drown out your inner voice. And most important, have the courage to follow your heart and intuition."

Steve Jobs

Principle 20. Monitoring Competitor Patents Provides Business Intelligence.

The patent description requirement (Principle 4) means that competitors' patents often represent the richest source of technical information available about their activities. Their patents provide insights into their R&D, potentially providing a deeper understanding of their strategies and future activities, which can help anticipate market shifts, spot emerging trends, and identify future threats or opportunities.

This monitoring can also help shape your own strategic decisions, for example by revealing market gaps where your company could innovate and establish a stronger position, or identifying areas where you need to catch up. Potential partners for collaboration or acquisition may also be identified through their patent activities. You can also be alerted to potential IP conflicts before they become costly disputes.

Free web-based tools like Espacenet (https://worldwide.espacenet.com/) facilitate keyword searching of patents.

Patent monitoring offers business intelligence to support informed decision-making and strategic planning – yet another essential business value provided by patents.

> "A good hockey player plays where the puck is. A great hockey player plays where the puck is going to be."
>
> Wayne Gretzky

Conclusion

These 20 principles move patents out of the legal domain and squarely into the realm of everyday commerce, enabling you to apply your business intuition and common sense to all aspects of your AI business, including patents.

This is a game changer because it empowers you to encompass and leverage your intellectual property in a more integrated way with your overall strategy. Indeed, leaving the legal mindset behind is a competitive advantage because it opens the possibility for new patent use cases better-aligned to your value proposition. The disadvantage for those who continue to disregard patents, or see them purely within the legal realm, is akin to having one hand tied behind their backs.

It's time to grow your perspective. Embrace these principles as a new way of thinking about patents in the AI space. Reflect on how they can be tailored to your business and your value proposition. Initially, it may feel unfamiliar – that is normal! — but like any skill, practice brings clarity and proficiency.

Remember, success in AI requires more than great technology — it demands expert execution to leverage that technology and drive your business forward. It's time to get your intellectual property working harder for you.

"The person who moves a mountain begins by carrying away small stones."

Confucius

About the author:

Todd Bailey, Scale AI's Chief IP Officer and General Counsel, leverages extensive business, legal and technical expertise to help Canadian SMEs embrace a practical "IP thinking" approach to artificial intelligence, encouraging leaders to integrate IP strategies seamlessly into their daily and long-term business plans.

Reach Out ↓

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