

INTELLECTUAL PROPERTY GUARD



**Safe Guard Your Work From
Potential Thieves And Annihilate
Anyone In Court If They
Mess With Your Property!**

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Introduction

What Are Patents?

When someone has an idea for a new product, it is necessary to file for ownership of the idea, especially if the industry is competitive enough for someone to want to steal it. In order to be recognized as the legitimate owner of something you have invented, you will need to fill out a patent application with the United States Patent and Trademark Office (henceforth USPTO), to legally hold ownership for this invention. This right of ownership of the invention prevents other people from manufacturing the product without your consent.

According to the Patent Law, patents are granted for a period of approximately twenty years, depending on the patent. This would mean that the inventor of the product then possesses ownership of that trademark for a twenty-year period.

However, even though the United States Patent and Trademark Office will issue the patent to you, they do not enforce these patents. After you have been granted a patent, you must be vigilant in making sure no else illegally uses your product without their knowledge.

The purpose of this e-book is to explain in more depth what types of patents exist for you to apply for, what criteria your invention must fulfill to qualify for these patents, how to choose a patent lawyer and check their credentials, the various steps in the application process, and co-patent ownership. This e-book will also touch on appealing a patent application rejection, dealing with patent infringement as a patent owner, and filing your application based on an existing international patent treaty.

The History of Patents

The first written mention of modern patents we know of are in 15th century business documents from Italy. Italy was one of the first countries to make it possible for an investor to protect an idea by obtaining government or official recognition of the creative act. This early experiment in intellectual property rights led to a ferment of growth and discovery in Italy and elsewhere.

After Italy issued the first set of patents, their use did not widely spread to neighboring European countries until the 17th century. From there, the concept of patents in the United States was first recognized in the Patent Act of 1790, which consisted of a brief collection of patent rules and guidelines on how to obtain a patent. Under the Patent Act, different members of the government were given the ability to grant a

patent. For example, both the Secretary of State and the Attorney General were legally allowed to approve patents.

However, as a result of the influence of Thomas Jefferson, and complaints by the general public, the 1790 Patent Act was changed in 1793 to encompass a broader set of standards and rules. The revised Act allowed inventors to obtain patents for machines, substances of matter, or objects of art. However, unlike the patent applications of the current day, these early patent applications required only a brief description of the item the inventor was requesting a patent for.

As time passed, inadequacies in the patent structure became apparent. The governing body responsible for patents at that time realized that with the increase in the amount of foreign nationals moving to the United States, the Patent Act needed to allow foreign inventors the right to apply and obtain patents. Applicants were required to reside in the United States for at least two years before submitting an application.

The Patent Act was further amended in 1836, when it was realized that a more thorough description was needed; without a thorough description of the invention, it was harder to file a lawsuit against someone accused of illegally using the patent.

After this amendment was made to the way in which patents are described, the patent act underwent major changes in 1836. These changes were the result of complaints lodged against patented items, which were not found to be new ideas. Eventually, the patent laws were changed to reflect that an invention had to be novel.

Another component of the law was changed during 1836, with the removal of patent rules stating that a person from another country had to be living in the United States for two years. After 1836, anyone residing in the United States was able to apply for a patent. However, the application fee of United States citizens was less than someone from overseas.

In 1839, the patent rules were further changed to give the inventor the ability to appeal the negative decision of the Patent Office. The first patent for a design was granted in 1849; at the same time, the stipulation that an invention not be obvious was added to the rules. In 1930 the Patent Office began accepting patents for plants, as horticulturists continued to develop new breeds and hybrids of commercial value.

These ongoing revisions to the law proceeded until around 1952, when the regulatory regime stabilized and the rules did not change much from year to year, until the next major change arrived in the form of the Patent Reform Act of 2005. The most notable change to the rules is that the patent

applicant does not have to be the earliest person to invent the idea, but rather the earliest person to file the application. However, this reform does stipulate that the earliest person filing cannot steal the idea from another inventor. They must have each independently conceived the idea. The earliest application to file is now given priority, rather than the earliest work on the idea, largely because the Patent Office can easily determine the date of a filing, and cannot easily determine the date when an idea was actually invented.

Future changes to patent law are likely, given that this experiment in intellectual property law is still relatively new by the standards of law. Inventors and innovators should be aware of the possibility for changes in the law going forward.

Section 1 – General Information on Patents

Trademark, Copyright or Patent

It is important to clarify what is meant by the words “copyright”, “trademark” and “patent”. Many people will often use these words interchangeably. Yet, each of these words refers to a different thing.

A trademark is issued for the use of a symbols or markings. For example, the “golden arches” are the (world-famous) trademark for McDonald’s. Sometimes a trademark can also be a name or a word used to identify the brand.

A copyright is issued to protect an artist or writer from having their work copied and sold without their permission. For example, if you created an article about dogs with the title “How to Take A Dog For A Walk”, then you would own the sole copyright for the way the words are arranged on the page in the article. However, you would not own the copyright for the subject of “dogs”, and anyone else would be able to write about dogs however they wished.

The Federal office responsible for patents registers trademarks as well. This registration prevents other people from using that symbol. Trademark infringement is usually

seen when people create fake designer clothes, perfume, or cologne, but trademark infringement can occur in almost any industry.

Types of Patents

There are three types of patent that you can apply for. These patents are called plant, utility, and design patents.

Plant Patents

The first type of patent is called a plant patent. It is usually given to people who have invented a new plant hybrid. It is also given when a new variety of plant has been discovered, and the person has successfully been able to reproduce it. Not every plant can be patented; for example, the Patent Office will not issue a patent for a tuberous plant. A plant patent is usually given for a duration of twenty years.



A plant is considered by the Patent and Trademark Office as being living thing that has its own natural composition. The natural composition of a plant is made possible by the genes the plant possess. These genes can be reproduced in an asexual capacity, allowing the genes to be transferred to daughter plants.

The most common forms of plants granted patents are mutants, hybrid plants, and plants which have undergone a type of transformation. A mutant plant can be from one of two sources – discovered naturally, or created. The same is true of hybrids, which can be found in nature or created intentionally.

The general guidelines for determining whether a plant is suitable for patenting are as follows:

- The plant should be different from any other plant that already exists, with at least one change in its composition. When compared with another plant that is a relative, the potential patented plant should have at least one thing different about it.
- The plant must be new. It can be considered new either by having been created in a nursery or greenhouse, or new because of its discovery in nature.
- A newly discovered plant, or one that has been created, can only enter into the patent application process if the

person who first discovered or created it, makes the application.

- At the time of the application, other people in the plant industry must not have thought it an obvious invention.
- The plant can not previously have been offered for sale prior to the patent application.
- The plant can not have been available to the public for more than one year prior to the patent application. This one year limitation includes the sale of the plant, but also the description of the plant in a publication, such as a botany journal.

In order to qualify for a plant patent, the applicant must have successfully reproduced the plant via asexual methods. Many people are not sure of what asexual reproduction means, but generally it results in a next generation of plants that are an exact replica, in appearance and genes, as the mother plant. This is in contrast to reproduction in a sexual way, in which the offspring are not an exact replica. Animals engage in sexual reproduction, and offspring varies in appearance from their parents. Examples of what the Patent Office considers to be asexual reproduction in plants include bulbs, grafts, runners, cuttings from roots, plants created in the layering process, or corms.

It might seem strange that having discovered or created a new plant would not be enough to gain a patent, and that it must also be reproduced asexually. However, this second

criteria allows the Patent Office to see if more plants can be reproduced in this way, and that the offspring will show the exact same genetics as the mother plant. This shows that the plant species is quite stable, and could be grown on a much larger scale. This would show the practicality of having a patent for the plant.

Like most patent applications, the descriptions of the claims and the drawings of the invention are important as well. The applicant should be able to give details on how and where the plant was created or discovered. If this is a new variety of plant, then the original plants used to make this variety should be named and detailed in the description of the claims as well. Not only is the description of the plant important, the Patent Office is expecting to see thorough and specific details of the asexual reproduction method used.

You should describe the height of the plant, the color of its leaves, and any flowers or buds produced by it. Details of the texture or color of the stems, or the description of the fruit it produces, also need to be mentioned. However, the most favorable plant patent application will also vividly detail how the plant was reproduced, possibly with a step by step description, which gives a better explanation. The Patent Office must see that the species, either created or discovered, is stable enough to carry on in further generations.

As previously stated, the drawings submitted for the plant patent should show the details of the information contained in the description of the claims. A plant drawing can be submitted as a photograph, which is the best way to show the plant you have been describing. The plant photographs should be taken at almost every angle possible and with the best possible lighting.

Other than using photographs, some people seeking plant patents use regular colored drawings to show the Patent Office the plant they are describing--even hiring a professional artist to produce these drawings for them. In this aspect, plant patents have both components to design and utility patents.

Design Patents

The second type of patent is the design patent. Like the name suggests, a design patent is used to grant the inventor rights to how an invention actually looks. The design patent is unique because it is only given when the inventor has created something that is new, and it only protects the appearance of the invention.

Therefore, design patents are only concerned with the aesthetics of the invention, and not how it is constructed or the materials that compose it. Usually the design patent protects the inventor for a period of fourteen years.

The design patent specifically protects the way in which the invention appears. To be approved for a design patent, the Patent Office must be convinced that the design being patented is unique only to this invention, and nothing else looking like it has ever been made before. Even though the Patent Office will not patent an invention that does not have unique design, any designer seeking a patent needs a design which can be reproduced again. A reproducible design is another criterion for a design patent. Since the design patent is based on the way the object looks, an application will be more favored when it is able to show that the product's appearance is a result of artistic skill or specific technique.

As previously stated, in a number of cases the design patent is assigned in situations where a utility patent will also be issued, protecting both the function and the look and feel of the invention.

The most common examples of design patents are found within the computer industry. It is not the program functionality that is being patented, but the overall design and interface look. Anyone can write a program that copies a file; a design patent may protect one particular way of showing the files being deleted. As new technology is discovered, computer manufacturers look for more and more ways to protect the aesthetics of their products. A computer

such as the iMac is an example of an invention that has both a design and a utility patent.

Utility Patents

The third type of patent is called the utility patent; this is what most people think of when they think of patents at all. Utility patents are awarded in the case of inventors who have designed a new machine, or discovered a more useful way to do something. A utility patent is also given for a new type of “matter” which is invented. The most common examples of utility patents are those filed by pharmaceutical companies for a new medication. Another example of a utility patent would be a new computer system and all the hardware parts associated with it. Overall, a utility patent is more concerned with the function or the job of the invention. The function of the invention should be thoroughly described on the application. A utility patent is granted for a period of twenty years from approval of the patent.

These patents can be further divided into non-provisional utility patents and provisional utility patents.

Non-Provisional Utility Patents

A non-provisional utility patent application differs from a provisional utility patent application in that, exactly as the

name implies, it is not a temporary application. A non-provisional application is also known as a regular, normal, or standard utility application, whereas a provisional utility patent is temporary. Like all the applications submitted, a utility patent application should include the application claim form, the drawings describing the invention, a solemn declaration or oath, and the necessary filing fees.

Provisional Utility Patents

Provisional utility patents are common for inventors who need a quick patent, but do not have time to wait for a regular one. By filing a provisional patent, the invention is granted a “temporary” patent until a more detailed application can be filed.

A provisional patent application is seen as the low budget version of the patent process. It is usually carried out by companies or inventors wanting to find a cheaper way to file a utility application with the Patents and Trademark Office. The reason many people prefer to file a provisional application is due to the fact that a provisional application can be used when an invention has to be altered or changed during the life of the invention, and it can decrease the amount of money spent during the patent process. The provisional application is also used by inventors to increase the number of years available on the patent. For these reasons, many people will

file a provisional application rather than a regular patent application.

Like any other type of patent application, the Patent and Trademark Office would be responsible for provisional applications. Some things to consider include:

- They are no longer valid one year after they are filed.
- Since they have such a short termination date, the process involved in a provisional application is not as intense or as complicated as a non-provisional application.
- The Patent Office does not complete an in-depth review of these applications when they are filed.

Other differences between a provisional and a regular utility patent application are seen in the information to submit with them.

As stated previously, normal patent applications must be accompanied by detailed drawings of the invention the applicants are requesting a patent for; the drawings in a provisional application are not required to be as detailed as with a standard utility application. Another major difference with a provisional application is the use of claims. Claims must be filed with completing a standard application, but in the case of a provisional application, claims do not have to be sent in with the application. Usually a provisional patent

application is used as a queue holder for a regular or nonprovisional utility application that is later submitted after the provisional application expires. Think of the provisional application as protecting the space on the line for the nonprovisional application to be later submitted.

There are, however, some disadvantages and advantages to filing a provisional application. Even though the provisional application is seen as a less complicated process than a standard nonprovisional application, many people are not aware of the risk they put themselves at by only submitting a provisional application. The patent will expire twelve months from filing; in order to retain rights to the patent, a utility patent must be filed. This is fine if the patent being requested is not within a competitive industry or not likely to have others lined up outside shops to purchase it. However, in a competitive industry, a provisional patent runs the risk of having the applicant's secrets revealed.

Another disadvantage to the inventor in filing a provisional application lies in actually filling out the application. Since the application is only provisional, many inventors do not take it as seriously as a standard non-provisional application. As a result, they feel it is only necessary to provide a general description of the invention. A few people prefer to leave the more detailed description of their invention for the ordinary application. In doing so, they risk not being granted a standard utility application.

If an inventor has only a provisional application without any specific information, the application submitted by competitors with more detailed information may be viewed as the original designer.

These advantages can be overcome, as long as the application is filled out correctly with an in-depth explanation of the invention. The last thing you would want to do is to lose your patent rights because you failed to properly inform the Patent and Trademark Office of what your invention was about!

Overall, the distinct advantages to a provisional application are that it allows inventors to save money, giving a person who has created something time to accumulate all of the necessary funds to pay the lawyer fees and the application fee. Another advantage of a provisional application is that the application is used as a queue holder for the regular utility application. By filing a provisional application, a normal patent application does not have to be placed at the bottom of the application pile, but instead can stand in the place of the provisional application.

Even if the inventor files temporarily, the patent is valid from the date in which the standard or regular application is filed, giving an extra year from the time of first submission. Based on the cost effectiveness of a provisional application, it is hard

not to recommend inventors use them, as long as you fill in thoroughly the description of what you have invented.

Business Method Patents

Since the Supreme Court's decision in 1998 to grant patents based on business methods, the Patent and Trademark Office has been inundated with applications of this type. There is currently a four-year wait for patent application approvals.

Before 1998, it was normally the assumption that a method of doing business could not be patented, and only a few property protections were in place. But in 1998, a landmark case between Signature Financial Group and State Street Bank and Trust, handed down a decision that a patent could be obtained based on a method of doing business. The dispute between these two companies involved a way to calculate concerning mutual funds, and the Supreme Court agreed that a particular method for calculating them could be patented under a business method patent.

As the name implies, business method patents refers to the method or the way in which the company does business. Business method patents are not a new major category of patents like plant or design patents, but is instead a type of utility patent. Patents for business methods belong to the same family of utility patents that are granted for new

electronic equipment, or pharmaceutical products. The business method patent is classified at the Patent Office as a "Data processing patent (in the) financial, cost, management, or business determination".

For an example of a business method patent, consider a web site or company that invents a new way of advertising for customers on the World Wide Web.

Business method patent applications have exploded with e-commerce and the Internet. If an e-commerce company can continually generate a profit with a new technique and can also prevent their competitors from using this method for at least seventeen years, then e-commerce of this sort becomes very attractive to many entrepreneurs. Previously, business methods on the internet were fair game for anyone who figured out how to implement them. With a business method patent in place, this changes dramatically!

Since the flood of applications to the Patent Office, various online companies have applied for and been granted patents on a wide variety of methods, many of those involving Internet shopping or Web commerce advertising.

In order to qualify for a business method patent there are various criteria that must be met. First of all, a business method patent is granted for a method or type of business

software that is practical in its purpose. This is a criterion which is common for granting of all patents.

Another criterion is that the business method must not be obvious. The Patent Office will not approve applications for methods that they have deemed to be entirely obvious. It is easy to prove that a method is practical, but a little harder to prove it is not obvious.

A third criterion a business method patent must fulfill is that it should be something that worth patenting. The Patent and Trademark Office will not just approve almost anything that comes through their office, but will scrutinize the applications to make sure they are worthy of being patented. This is the most subjective of the criteria that are applied, but it is not generally difficult to demonstrate that an idea is worthwhile, if it actually is.

Lastly, the method to be patented should be something that is new to the industry. The Patent Office will not patent anything that has been in use for a long time. The method or software must have been in use no more than one prior to the date of the patent application.

Like the other patent applications, the costs of the business method patent can vary from \$2,000 to \$10,000 or more depending on the costs of the patent lawyer's fees (if you use

one). Since the business method patent is a form of a utility patent, the patent owner must pay maintenance fees for the patent. These fees are approximately three times the application fee, spread over the course of the life of the patent. Usually the business method patent is valid for an average of twenty years. However, with the popularity of this type of patent, expect at least a two to three years' wait before the patent is approved.

Section 2 – Patent Eligibility

Who Is Eligible To Apply For A Patent

If you are the person who has created the new invention, then you are eligible to apply for a patent. If anyone else applies for a patent, and pretends to be the inventor, this person would be subject to criminal proceedings.

If more than one person is the inventor, than they both can apply as co-inventors for a patent.

In special circumstances in which the inventor has died or is medically insane, the person who is executor of the estate, or the guardian of the medically insane person, can apply for a patent for an invention.

The only individuals who cannot hold a patent are those directly employed with the USPTO, unless the patent is bequeathed to them.

Why You Would Need a Patent

The purpose of a patent is to protect the intellectual property of the inventor. Patents prohibit anyone other than the patent holder from making or selling the patented item (or using the

business method, or planting the new plant, in the case of those patent types) without the permission of the patent holder. Some patent seekers intend to manufacture and sell the patented item themselves, while others intend to license the patent to others – in effect, selling the right to produce the invention while retaining ownership of the idea for a period of time.

Protecting Yourself

Protecting your ownership of an invention is the main reason why you should consider getting a patent. When you want to hold the ownership rights for an invention, it is imperative that you file for a patent as soon as possible. As the owner of the item it is very important to establish your rights.

Preventing Other People

The second main reason for obtaining a patent would be to prevent others from stealing from you. Without a patent, anyone can make, market and sell your product without you receiving any compensation. This is especially important in situations where your invention will end up becoming popular, possibly making a lot of money.

By preventing others from distributing, selling, or manufacturing your invention, you preserve your right to earn profits from the invention. This is usually the reason why large companies quickly seek patents for a new product ideas, especially in the pharmaceutical industry.

What You Can Patent

The USPTO have established a broad area of things on which it will consider granting patents. It is possible to patent anything that you have invented or designed, a new plant you have found, a business method, or an improvement of a previous invention.

Items that have historically been granted patents are usually:

- Items which are new to the general public.
- Items which are considerably different than any other item which has received a patent.
- Items which are practical.

These are the types of inventions that the USPTO will generally look favorably on.

Think of all the items used on a daily basis - from the linen on your bed, to the shampoo you wash your hair with, the nondairy creamer in your coffee, to the parts on your car, and

the desk you sit behind at work – all these have, or used to have, patents which their manufacturers used to protect their rights.

What You Cannot Patent

There are certain things that you cannot patent, including ideas. There have been cases in the past of people suing others for stealing their idea, creating the product and patenting it. Believe it or not, this is perfectly legal.

Another thing that cannot be patented is nuclear energy, or anything that is associated with constructing nuclear bombs. Inventing machinery or tools for nuclear warfare are destructive and not useful items, and therefore will not be granted a patent.

The Patent Office will refuse to patent any item that has already been sold commercially. Therefore, before distributing or selling your invention, obtain a patent.

Section 3 – Patent Laws

An Overview of Patent Laws

For a more detailed description of each section, the exact wording of the patent laws can be found at:

www.uspto.gov/web/offices/pac/mpep/documents/appxl.htm

These laws are difficult for a non-lawyer to understand, but not impossible.

The patent laws administered by the Patent and Trademark Office are contained within Title 35 of the United States Code. The USPTO oversee the laws dedicated to patents. Title 35 of the United States Code is further divided into four parts:

- Title 35 - Part I – provides details on information pertaining to the Patent and Trademark Office, and its role in granting patents.
- Title 35 – Part II – discusses the ability of the inventions to be patented, along with how patents are granted.
- Title 35 – Part III – information discussed within this section of the United States Code deals mainly with patent infringement and what rights are available to you as a patent holder.

- Title 35 – Part IV – can be used to find more specific information pertaining to the Patent Cooperation Treaty, and filing a patent internationally.

United States Code – Title 35 Part One

This section of the United States Code on patents goes into depth on the role of the Patent Office in administering patents to those who qualify. The first four sections of the patent laws start with an introduction on the role of the Patent Office, and then describe the officers who have been placed in charge of administering patents on behalf of the government. The last section within this section explains how to search the Patent Office database, and the fees required for filing an application.

United States Code – Title 35 Part Two

Part two of the United States code on obtaining a patent is quite lengthy. It starts off describing the different criteria that must be met by the invention before it can be patented. This section of Title 35 also deals with the various types of patents available, along with how to submit an application to the Patent Office. Part two of the patent laws also contains information on the guidelines used in assessing your application, and the process involved in issuing the patent.

United States Code – Title 35 Part Three

This section of the United States Code on patents addresses the legal issues associated with patents. It describes the patent laws involved in the ownership of the patent, especially in the case of co-ownership. It also describes the role of the government in regards to patents, and goes into the patent laws that prevent someone from infringing on your patent rights. This section would be of interest to anyone wanting to know what the patent laws state about infringement, and what can be done as a solution to stopping someone from stealing your invention.

United States Code – Title 35 Part Four

Part four of the patent laws gives an overview of the Patent Convention Treaty. It describes the patent process on not only a national level, but also on an international level as well. This section is recommended to anyone interested in patenting a product overseas, and would like to know what the rights would be as a citizen of a member country.

Section 4 – The USPTO

An Overview of Its History

The USPTO (USPTO) has its roots in a Patent Office created in 1802. During the late 1830s, the USPTO was officially recognized, and the previous administrator who had overseen the distribution of patents was given the title of Patent and Trademarks Commissioner.

During this time, the USPTO was under the control of the Department of State. However, in 1925, the USPTO was moved to the portfolio of the Department of Commerce, which still presides over it.

The Hierarchy of the USPTO

Based on this, the administrative hierarchy of the USPTO has the Patents and Trademarks Commissioner as the head of office. The next senior person below the Commissioner is a Patents and Trademarks Deputy Commissioner.

The job of the Patents and Trademarks Commissioner is to grant patents and trademarks as a representative of the United States government. The Assistant Secretary of Commerce is also under the Patents and Trademarks Commissioner.

Further down the hierarchy are various staffers involved in helping to issue patents and trademarks. These include a number of junior commissioners, and various subgroups whose main functions are to review each application for a patent, dependent on the patent category.

In total, the USPTO employs more than 7,000 employees. These employees are responsible for approving or denying the more than 400,000 patent applications received annually.

The Role of The USPTO

The purpose of this office is to issue patents and trademarks for anyone who is requesting one for their new invention. As stated previously, different types of patents are assigned based on the type of invention you, and each patent type varies in the number of years it is valid for.

Another function of the Patent and Trademark Office is to provide information and a hardcopy collection where anyone can conduct research to see if an invention has already been patented. This is done through the patent database.

The role of the Patent and Trademark Office is **not** to enforce the restriction of patents. This is the job of the inventor, with the help of the courts. Along the same lines, the Patent and Trademark Office does not endorse any inventions or patents, but only acts as a governing body in their issuance. It also

fulfills the same role regarding the issuance and registration of trademarks.

Contacting the Patent and Trademark Office

If you need to contact the Patent and Trademark Office for any reason, you can send them a letter. The address for the Patent Office is: Mail Stop (code), Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or 1800-786-9199 by telephone for general enquiries. The mail stop “code” is found on the Patent Office website and will vary depending on your query. The list of codes is available at

<http://www.uspto.gov/web/offices/com/sol/og/patboxs.htm>

When you are writing about your patent application, the Patent Office requires that each query include all of the necessary information to help respond quickly. Anyone writing to the Patent Office about a query must include the application number, the date the application was filed, the inventor’s full name as written on the application, and the name of the invention. When querying about a patent that has already been approved, any queries should include the patent number and the date in which the patent was issued for the invention. When the query is specific to your application, then you should also include the items mentioned previously along with the Group Art Unit number where appropriate.

The Patent Office requires each query to be addressed on a single page. You are not required to put each of these letters in a different envelope, but rather each query should be on a different sheet of paper within the same envelope. These different queries you have should be written on a different piece of paper according to the subject of each query. For example, a query about the application form, and a query about a patent that was issued for another product should not be included together on the same form. This is because each query is for a separate subject, and must be placed on a different sheet of paper.

The Patent Office is prevented from discussing any application with the general public. This rule is to protect themselves and the various companies they do business with. Some of the patent applications submitted could contain sensitive information that could be used by a competitor. This is why the applications for a patent are not in the public domain while the patent approval process is taking place.

When contacting the USPTO, it is best to contact them only for a query on your patent application form already submitted, or an application that has a patent pending. The Patent Office will not respond to queries from anyone wanting to sue someone accused of patent infringement. The Patent Office also will not advise you on the possible outcome of an application before it is submitted. The Patent Office will not

give information on whether an application has been filed for a particular invention, or give out information on who has patented or requested a patent for a particular invention. The Patent Office provides a search feature to look through the patent database for this sort of information.

Preparing Yourself to Navigate Through the Patent Maze

Before you embark on the process of obtaining a patent for your idea, realize that obtaining a patent is not an overnight process. It involves countless hours of detailing or describing how your invention works, along with thoroughly and correctly filling out the parts of the application form. If you have a wonderful invention, it is a good idea to have realistic expectations of what you can expect to undergo during the patent process. This will save you a lot of trouble and frustration in the long run.

The first thing you should do is read as many of the guidelines and documents that the Patent Office itself publishes as you can. The Patent and Trademark Office has numerous guides and publications available at

www.uspto.gov/main/definitions.htm

outlining the steps involved in receiving an approved patent.

By reading as much literature as possible before you submit your application, you decrease the chances of filling out the application incorrectly, and will have a better understanding of the various stages of submitting a patent application and having it approved.

Another aspect to consider when thinking about filing a patent application is your reason for doing so. If you are filing the application just so you can brag to your friends about having a patented product, then stop and think about the fees you will be paying for an invention that will never be manufactured or sold. The patent application route can become expensive for the lone person filing an application, or for someone who has taken a few wrong turns here and there. However, if you plan to sell your product and make back the expenses after paying for the patent, then consider filing the application.

Before putting in the application for a patent, it is also recommended that you think seriously about the invention you have. Can your invention realistically be patented? There really is no point in going through the process of obtaining a patent lawyer and filling out the paperwork only to have the Patent Office reject your application because you failed to consider your invention realistically based on the Patent Office criteria. Even though it might be painful to reach this

conclusion, if your invention will not fit the criteria for obtaining a patent, it is best not to submit an application.

Section 5 - The Patent Application Process

The patent application process might seem straightforward enough on first glance. However, depending on what your invention is, this can be a complicated process. Depending on the amount of experience you have with the USPTO, you might prefer to apply for a patent with the help of a lawyer.

When starting the filing process, the first stage is to ensure you have a unique invention, which has not been patented before. To ensure you have a unique invention never before patented, you have to do a search of previous patents issued by the Patent and Trademark Office.

Researching Previous Patents

Not only is it the job of the United States Patent Office to issue patents, it also maintains a database of the patents that have been granted. The majority of patents issued by the Patent and Trademark Office are utility patents. With such a large amount of these patents issued yearly, it is necessary for the inventor to research whether someone else has already patented their newest invention.

A search of previous patents can be done in a variety of ways. These methods include accessing the Patent and Trademark

database by searching online or going to the library of the USPTO and completing a patent search there. When visiting the USPTO, the patent database is available on microfiche, paper, and CD-ROM.

An initial search on the www.uspto.gov website can show if the patent has already been released for the product you plan to apply for. By doing this search, you reduce the risk of wasting your time putting in an application for an item that has already been patented. Another reason to consider using the patent database for research when submitting an application is that it can help reduce the time taken for your application to be processed. The Patent Officer looking at your application file will have an easier time when they search the database, and discover no other patents exist. This might speed up the approval process on your application.

Using the online search tool is great if you have a patent that is easy to find. If you are not located within driving distance of the Patent Office, it is possible to request lists of patents be sent to your home address, though there is a fee for this service.

Patent searches can be conducted in other ways. The Patent and Trademark Office distributes a weekly list of the patents that were successfully approved during the previous week. This listing is important in competitive patent categories such

as pharmaceutical research, to keep abreast of the competition.

For more complicated searches, a visit to the library can be done to review the various patents. Another way in which to research previously issued patents is to use the Patent and Trademark Office's "Classification and Search Information System (CASSIS)" to search for an old patent. "CASSIS" is available on CD-ROM for anyone who has a slow Internet connection, or anyone who wants to spend more time looking for a specific patent.

The research process for a single patent application is not usually overwhelming. When using the government's uspto.gov website, it is pretty simple. When searching other forms of the patent database, the patents are arranged by the various subject groupings. Other forms of the patent database such as the microfiche can be used to search by category.

However, even if you know that a patent has not been previously issued for your invention, there is no guarantee that an application has not already been filed, but is not yet approved. If there is the possibility that another patent application is being processed for an invention similar to yours, then you will need your patent lawyer to carry out a more extensive search for you. A more extensive search completed by a patent lawyer will be able to correctly

determine whether someone else has filed a previous patent application for a similar invention.

This search is recommended because it will save very valuable time by discovering if the invention you want to patent has already been patented.

After it has been established that your invention has never received a patent for an invention of this sort, it is now time to either consult a patent lawyer if you will need legal representation, or obtain the application form, if you have decided to apply without legal representation.

Obtaining the Application Form

Once you are ready to file the application, download it from the Patent and Trademark website. The forms are available from this website:

www.uspto.gov/web/forms/index.html.

You can search for the application form you want by using the number on the form. You must have a PDF reader such as Adobe installed on your computer to be able to read and open the application.

There are various items which have to be completed to properly fill in your patent application form:

- The first is the paper application it self, which varies depending on the type of patent you are applying for. This is where you will describe your invention.
- The second component is the drawings of the invention.
- The third component is the fees. These will vary depending on the patent application filed. For example, the base fees are around \$300 for a utility patent.

Filling In the Form

Some of the forms available from the uspto.gov website can be filled in directly on the form, and resaved for submission as a PDF file. Those forms which can be filled in directly online in PDF format will have this information listed on the uspto.gov website. Once you have filled in the form online, it can be saved to your hard drive using the Adobe Acrobat reader.

Those forms that are not offered on the website with the ability to fill them in directly online or on the computer have to be printed and filled in by hand for submission.

Eventually all of the forms on the uspto.gov website will allow the user to fill them in directly either online or after they have downloaded it to their computer; if you are filling in forms regularly because you file a lot of patents, be sure to check

back periodically to see if the forms you use have been computerized.

The Oath

When applying for a patent application, the Patent Office requires that the person swear under oath that they possess the ownership rights to the patent. In these cases, a written oath should be submitted along with your application testifying to this, along with your signature and the signature of a notary public who attests that you signed the oath in their presence.

Drawings and Photographs

This might seem like a trivial part of the patent application, but the Patent Office makes it mandatory that applications include a drawing of the invention they would like patented. When submitting your drawing for your invention, keep in mind that the exact specifications for drawing submission must be adhered to. The Patent Office expects to see the drawings in different angles, made on white, strong A4 or 8 1/2 by 11 inch paper. In instances where a photograph is submitted, it must be on heavy photography paper or properly mounted. This is only a limited description of the

specifications for patent drawing submission. More detailed information can be found in the "Patent" section:

www.uspto.gov/main/patents.htm.

Filing The Application

The patent application form can be filed using the paper version of the application or by going through the process of online filing by visiting the Patent Office at:

<https://sportal.uspto.gov/secure/portal/efs-unregistered>.

Along with filing in the application, you must submit a number of claims and limitations. A patent claim in more simple terms is description of the invention, and how it functions. For an invention the patent claim is further comprised of various limitations.

These limitations are basically the components that are constructed together to produce the desired invention. A single invention can have various patent claims and limitations. For example, a cellular mobile telephone can make the claim that it is a miniature telephone used to make calls.

Processing Of the Patent Application

After you have submitted your application for a patent, the USPTO will review the application to determine if you need a patent, if a patent already exists.

Once your patent application has been filed with the USPTO the application will undergo a first glance by the Patent Office. This first glance of your application is only for the purpose of reading over which type of patent you are applying for, and in what category. This first glance is not used to approve or deny the application, but to redistribute your application to the right area of the USPTO for a more in depth review.

Various areas of the Patent Office carry out the more “in depth” review of a patent application. These areas will be responsible for handling the category you are applying for. The applications are held within a queue so the quicker you are able to submit your application the better. Each application in the queue is dealt with on an individual basis as they come through. The reason it takes numerous years for a patent application to be approved is due to the extensive work that must be carried out on them.

The Patent Officer examining the application has to look through the database of patents already granted, to see if someone else has already patented your new invention. They will closely read through the supporting documentation you

have submitted to confirm if your new invention would be practical for other people to use. The Patent Officer will also have to confirm that your new invention is not completely obvious. It should be considerably different than any other product that is similar to it, or which has been already patented.

If the patent application convinces the Patent Officer that it meets the basic criteria for new patents, and a patent of this kind has not been granted in the United States or abroad, then a patent will be issued for your new invention. Congratulations! You're a proud new patentholder.

Depending on what category the patent application is made in there is overall a 67% success rate for patent applications submitted to the Patent Office. Considering that there are over 400,000 applications submitted to the Patent Office yearly, this overall success rate is favorable towards you if time is spent beforehand, correctly preparing the application and documents for submission. It must be said that, in general, it is a good idea to at least consult with a patent lawyer. It does improve your chances considerably.

The patent approval process can take anywhere from two to over three years. The Patent Office sends the patent holder a letter when the patent has been approved.

The Patent Application Fees

The fees associated with a patent application are not trivial.

They can be viewed by visiting:

<http://www.uspto.gov/web/offices/ac/qs/ope/fee2007february01.htm>

However, if your product becomes an instant success, you can easily recoup the fees in sales. Good luck!

When filing a standard patent application, expect to pay approximately \$500 for the application fee. However, this does not include the fee to have the patent drawn up and given to you. Another fee, called the issuance fee, of \$800 (at least for the design patent) will be collected from you before the USPTO will give you the patent.

However, there fees do not stop there; you will also need to have it made public that the patent was granted for your particular invention. The Patent Office charges a further \$300 for this service. So in total, as an inventor, your fees for a standard application will be around \$1500. This fee can vary as well, depending on the number of claims or the amount of pages you submitted with your application. Some inventors needing to use a patent lawyer can expect the total fee for their patent to be even higher.

Below are examples of fees an inventor is expected to pay. The fees paid will vary for each type of patent. The fees listed below are only examples of the basic services:

- The Utility Patent Fee – \$300
- The Plant Patent Fee – \$200
- The Design Patent Fee – \$200
- Search For Design Patent Fee – \$100
- Search For Utility Patent Fee – \$500
- Search For Plant Patent Fee – \$300
- Fee For The Initial Appeal Process – \$500
- Fee For An Oral Hearing During The Appeal - \$1000
- The Utility Maintenance Fee required at ~ 4 years – \$900
- The Utility Maintenance Fee required at ~ 8 years – \$2300
- The Utility Maintenance Fee required at ~ 12 years – \$3800

In general, expect to pay quite a large amount of money when patenting your invention – particularly if you're relying on narrow claims of difference. You really do have to come up with something new.

Section 6 – When A Decision Has Been Made

When Your Application Is Approved

You are notified by the government if your patent is approved. With an approval of the patent application, the

Patent Office will request the issuance fee. This fee is collected by the Patent Office for all of the work that goes into issuing the patent, and must be paid in full before the patent can be issued. Usually the applicant is given approximately 120 days to pay this fee from the date on which the applicant is informed of an application approval. Only in special cases will the applicant be able to pay this after the 120 days deadline. If the applicant fails to pay the issuance fee on an approved application, then the application is treated as having been “abandoned” by the person who made the application.

If the issuance fee is collected for the patent application, the patent is then issued. If the application is for a utility patent, then the person who was approved for the patent must pay a maintenance fee collected three times during the lifetime of the patent. The maintenance fees for a utility patent are mandatory, and if your account is unpaid, the United States Patent Office does have the right to expire your patent.

When the issuance fee has been paid, the Patent Office will send out the patent. After the patent is sent out to the lawyer or the inventor, it is available for anyone else to see. The drawings of the invention are also released with the patent for everyone to see. Based on this, there is only a short time between the patent being issued and it being available in the patent database.

If Your Application Is Rejected...

The Initial Rejection

After reviewing your patent application, the decision on whether the application will be approved or not is sent in writing to the relevant applicant(s). If the application is not initially approved, then the process of you trying to convince the USPTO to reconsider will begin.

If you have received a rejection after the first in-depth review of your application, carefully read the letter to find out the areas or problems the Patent Officer pointed out as the reasons for his or her negative decision. If you filed with a patent lawyer, the first step for you and your lawyer would be to sit down and go over the initial reasons for your application's reject.

From there, take the necessary steps to contact or send information or any amendments to the Patent Officer who handled the first in depth review of your application. You must positively show them the areas that they have negatively pointed out in your application with any supporting documentation. This should include submitting amendments to the application to refute the Patent Officer's reasons for not approving the application. Remember it is the applicant's job to show verifiable reasons why the patent application should be approved.

When the application is initially rejected, the best thing would be to remain calm, and start collecting the necessary information. Simply replying to the Patent Officer that they are wrong or unfair in their decision on your application will not be strong enough to have the initial rejection of your application overturned. The USPTO does give people ample time to respond with further information or other amendments to an application which has been refused. In some cases, a meeting can be arranged with the Patent Officer who reviewed your application. This especially handy if you can more convincingly describe face to face why the patent should be approved, compared to your descriptions on paper.



The Final Rejection

After this additional information or any amendments are sent to the Patent Office, the Patent Officer handling the case will go over the application a second time and reconsider this additional information or amendments. Based on this the Patent Officer will either reverse its decision and approve the application or send a final letter of rejection.

In the cases where the USPTO has sent a final rejection, the person who has submitted the application can have it cancelled or start the appeals process for their rejected patent application.

The Appeals Process

If an application is rejected for a patent, the inventor has the right to appeal this decision. The Board of Patent Appeals and Inferences handle the appeals process.

The members who reside on the Board of Patent Appeals and Inferences include the patent judges, Patents and Trademarks Commissioner, and the Deputy Commissioner. At one time only 3 of these will preside over an appeals process.

Usually the appeals process for an application that has received its final rejection is quite straightforward. After someone is informed of the rejection of an application, they are informed of how they can start the appeals process.

In order for the appeals process to take place, the applicant must pay a fee for their application to be considered again. This fee is collected along with a statement from the applicant providing information as to why they are appealing, and why their application should be reconsidered.

Instead Of A Patent

You do face a risk by putting in an application for a patent. Even though their invention is useful, it might not satisfy all of the criteria for patent issue as set forth by the USPTO. When they are denied a patent, a company can also face the risk of someone stealing their idea, and having the competitor submit an application that does receive a patent. These are just some of the risks that companies face in the patent application process.

If your patent is denied, you are probably wondering what your alternatives might be. Your options are pretty limited. Therefore it is best to send as much information to the Patent Office as possible after the initial review. This is your best shot at convincing someone to change his or her mind. However, if all else fails and you are given a definite refusal for your patent application, one option you might qualify for is known as a defensive publication.

By issuing a defensive publication on the invention that failed to be patented, you are protected from competitors wanting to steal your idea and patent it themselves. This is a pretty straightforward process. A publication is compiled to describe the invention a company has created, along with the method of how the item works. According to defensive publication laws, this publication has to be made public, and will be considered a work of art, with all the rights accordingly. Doing this doesn't grant you any special rights to exclusivity, like a

patent would, but it does mean that your work is protected from another company trying to patent it.

The main purpose of a defensive publication is to deter others from patenting your invention. Based on this, a defensive publication is an excellent way to protect your ideas for an application that was rejected by the Patent Office, and you'll have the materials on hand from your application already, so it will be easy to put together.

Section 7 – After the Patent Is Issued

Congratulations! You've got your patent. Now what?

After the government has issued the patent to the inventor, the Patent Office is no longer responsible for the patent. It is the inventor's responsibility to maintain the patent, keep aware of the patent's expiration date, and monitor and prevent other people from infringing on the owner's rights to the patent.

The only time the Patent Office will make changes to the patent is if it is printed with incorrect information. Then the patent owner can apply to have this corrected if the error was the fault of the Patent Office. If the error was on the part of the inventor, then it can be corrected, for a fee.

After the patent has been approved, the person issued the patent has the right to do almost anything with it. Therefore, as an official document of ownership, it can be bequeathed to your next of kin, used as collateral for a loan, or sold to the highest bidder. It's your property, to dispose of as you see fit.

If you own a patent and would like to bequeath it to your next of kin or a close friend, this information should be included in your will along with the other property you plan to leave to

family and friends. As a legal document, it can be bequeathed in the same way you would leave your house or other property to a son or daughter. Even though a patent is granted in the case of an invention, it is not unheard of for senior family members of large corporations to bequeath their patents to a son or daughter who will be running the family business after they have departed. This is usually seen when the product patented in the family business is quite popular, or when people would like to make an ongoing donation. For example, a person wanting to give to charity can bequeath profitable patents to the charity of their choice. Stipulating who will inherit your patents will ensure the safety of the company's products, and keep these inventions in the family for years to come.

A patent can also be used as collateral on a loan. This might seem like an absurd use of a patent, but if the inventor is in need of a loan, they can put up their patent against the sum they want to borrow. However, in order to do this, the invention has to be profitable enough in sales to be worth a sum equivalent of the loan amount, plus whatever risk premium the bank needs to assess. The patent is held during the life of the loan, and released when all of the loan money has been repaid. In this way, it is possible for a new inventor to raise capital to manufacture the product, sell the product, and then repay off the loan. However, like any collateral, keep in mind that if the loan is not paid off, the patent can be taken from you, and possibly auctioned off, leaving you

without your patent for the invention you worked so hard to create, and even more in debt than before.

As the owner of a patent, you do have the right to sell your patent to whomever you want. This is a great idea for a small inventor who has a patent for an invention that could be quite lucrative. However, without the resources or manpower to manufacture the invention, the single inventor may not be in a position to fully capitalize on the idea; an interested company may be willing to put up a sum of money to own that patent, taking a share of the profits for themselves. Some patent holders have been known to lease their patents to multinational companies who are given the right to manufacture and sell the invention, and pay the patent holder royalties on any sales.

There are many ways to profit from a patent, and we have only scratched the surface here; the possibilities for exploiting your patent are endless.

Section 8 – Consulting a Patent Lawyer

Introduction

If you are seriously thinking about filing a patent application, the best advice would be to seek legal help. A patent lawyer can help your application when applying for a patent for a new invention.

When deciding on legal representation for your patent application, it is important to spend the extra money and choose a lawyer who specializes in patents. All lawyers are not created equal, and patent law is a somewhat unique field with its own tricks and snares. A respected patent lawyer will have experience dealing with cases like yours, and can quite possibly save you the heartache of having your application refused.

When looking for a patent lawyer, first ask yourself a few questions. These questions will help you choose the right patent lawyer to take your case:

- Where did the patent lawyer complete his or her schooling?
- How many years of experience does the lawyer have in filing patent applications?

- What is the lawyer's success rate in the filing of patent applications on behalf of other clients?
- What are the opinions of the lawyer's previous clients?
- What is the lawyer's overall reputation within the patent industry?
- Have any complaints been filed against the lawyer with its law association?

The USPTO will not be able to suggest any suitable patent lawyers. Ways of obtaining a patent lawyer include looking in the local directory, searching online for patent lawyers in your area, asking other inventors who have used a particular patent lawyer, or doing your own investigation of lawyers in your area.

The use of a patent lawyer will usually boost the fees for an application by from \$3000 to \$6000, depending on the complexity of the application. There are also costs associated with maintenance on the patent, which will further increase the total bill. With any patent lawyer you contact, make sure you know what the fees are beforehand, and read the "fine print" on any documents you sign.

If the fees for a patent lawyer are more than you would like to spend, you might take the route of hiring a patent agent. A patent agent is someone who does not have the formal legal qualifications that a patent lawyer would have, but still is proficient in helping obtain patent approvals. Patent agents

are a more affordable alternative to a patent lawyer, but provide only a subset of the full array of legal services.

Planning a Visit To Your New Patent Lawyer

When using a patent lawyer to submit your application, keep in mind there is an extra document that has to be filled out to indicate that the lawyer is acting as the representative on your behalf. This document should be included in the forms for your patent application. The USPTO will thereafter correspond with your patent lawyer or patent agent, and not directly with you.

The first thing the patent lawyer will do is review your invention and decide whether they will take the case. Sometimes this decision is based on how profitable or easy it might be to obtain a patent for you. Afterwards, a patent lawyer will review the application to discover ways to tweak it towards your favor of successfully receiving an application. This includes using the right words to describe the invention, and making sure everything is contained within the application pack.

For things to go smoothly during your first visit it is suggested that you bring items such as notes, pen and paper, tape recorders, etc. along with you. Below is a checklist of questions that YOU should have answers ready for.

- What is your invention called?
- What day did you create it?
- What is the purpose of your invention?
- What are the benefits or usefulness of your invention?
- How is your invention operated?
- Has anything like this ever been created before?
- What does your invention look like?
- Where you the sole inventor, or was there a co-inventor?
- Who have you told about this invention?

These questions are the basic ones you should be thinking of in regards to your first visit to a patent lawyer, because they are the basic elements of your case. You must be able to clearly explain what your invention is all about.

If your invention is something that can be loaded into the back of your car, depending on its size, by all means bring it along to your first meeting with a patent lawyer. If this is not possible, take as many pictures of your invention all from different angles, or bring all of the drawings of the product you have invented. Being able to see pictures or drawings of your invention, while you explain to a patent lawyer how it works, can help him or her considerably in being able to draft the patent application on your behalf.

Reviewing the Credentials Of A Patent Lawyer

Depending on your invention, having an incompetent patent lawyer can spell disaster for your patent application, as this lawyer will be your representative to the Patent and Trademark Office. Don't make this decision casually or lightly.

Anyone who has decided to use a patent lawyer should start by reviewing the business qualifications and credentials of the lawyer, before they allow him or her to start representing you on the patent application. There are usually two places you are able to check the credentials of a patent lawyer, the state's Bar Association, and Better Business Bureau.

Your state's Legal Bar Association should have a record of any complaints previously lodged against any patent lawyer licensed within your state. This information is freely available to the public. It is important to know beforehand if the patent lawyer you would like to hire is the right one for you and your application – check the records!

The next place to check the credibility of a patent lawyer would be the state Better Business Bureau. The Better Business Bureau for your state will list any complaints against a patent lawyer who is operating a business with the state they have jurisdiction over. The Better Business Bureau was established within each state to protect the rights of

consumers. The Better Business Bureau provides a history of the business practices of an individual or company.

Another important way to check if the lawyer would be suitable is by looking at the Patent Office website. The Patent Office maintains a searchable list of suitable patent lawyers on the web at:

<http://des.uspto.gov/OEDCI/>.

These lawyers might have been approved by the Patent Office, but still carry out your due diligence before hiring them.

One of the best ways to find a suitable patent lawyer IS asking friends or family members to recommend someone to you. This is often the best way because this person is someone you know, and they can advise you if a particular patent lawyer is dependable and professional. It is also recommended that you find a patent lawyer who has handled your type of patent before. For example, a patent lawyer who handles plant patents might have a hard time handling the process for a utility patent, or vice versa.

Another way to find a good patent lawyer is to circulate in the investor community and look for first-hand recommendations. This type of “word of mouth” referral is the perfect way for you to discover if a particular patent lawyer will be suitable to

handle your application. If another inventor feels that their patent lawyer was professional and competent enough to handle their patent application, this will allow you to feel more comfortable with that lawyer's abilities.

Section 9 – Patent Expiration

Like milk in the refrigerator, a patent does have an expiration date. Depending on the patent type, it varies widely from fourteen years and up. When the patent expires, the USPTO does not automatically renew it. If the owner of the patent fails to renew it, then any other person can manufacture, distribute, and sell this product.

Some patents can be renewed for one or more terms; the opportunity and costs for doing so vary widely and change frequently as Congress tinkers with intellectual property rules. Consult the USPTO for the most up-to-date terms.

Of course, eventually all patents expire and items enter the public domain. This means that anyone can manufacture them. Things such as brand names are still protected, of course, but the reason that anyone can start a car company is that the patents on the automobile expired long ago.

Section 10 – Patent Pending

Patent pending is the term used to inform the public that the inventor is currently in the process of already applying for a patent, and is waiting for its approval. Some businesses use this phrase to deter people from copying their inventions. They reason that if you let people know an application has been filed for a patent, when it is approved, anyone infringing upon it can be fined.

It is common for large companies to start manufacturing their product before receiving approval for a patent, if they feel their application will be successful. In order to do this, the company will place the phrase words, “patent pending” on the product to let everyone know that a patent has already been applied for, and the application is pending

“Patent pending” is a legal term that should only be used in the situation when the inventor has submitted an application to the Patent Office. As a legal term used only when an application has been submitted, a company that has not applied for a patent, but uses the term “patent pending” on its products, is breaking the law, and can be asked to pay a fine for falsely advertising the submission of a patent application.

While an application is in the “patent pending” stage, the contents of the application is not released, so a company located within a competitive industry should not have any worries about someone finding out information contained within a patent application. Since a patent application can take years to receive approval, many companies will start on the production of their invention while the patent application is still being examined. This will give the company time to obtain the supplies needed to produce their product, develop expertise in its manufacture, develop variants, etc.

This working scenario is perfect for large companies who need to have their product available as soon as the patent is granted. By doing it this way, the term “patent pending” can protect your invention while it is manufactured and waiting for patent approval. After you are approved, the patent number for your invention should be used.

Section 11 – Patent Infringement

If you have successfully obtained a patent but discover that someone else is making or selling your invention, this is known as patent infringement.

Patent infringement is determined on the strict guidelines set out by the United States Patent Laws. According to section 271 of the US Code, a company or person guilty of infringement is described as someone has manufactured, used, or sold an invention not patented by them, while the invention was patented.

If someone else has infringed your patent rights, they can be sued for patent infringement, and ordered by the court to stop manufacturing and selling a product. This is not a trivial process, as recent high-profile cases involving computer software companies and patents for things like Java indicate. These cases can go on for years; hopefully, however, your case is much more clear-cut (and there is less money at stake) and the system can resolve it quickly.

When trying to prove your claim against another person or company for patent infringement, it is necessary to gather as much information as possible to present.

This information includes providing the necessary documents showing you are the legal owner of the patent, with the ownership of distributing and selling it yourself. This is not hard to prove, as you can get this information from the copies of your correspondence with the Patent Office, and the official copy of your patent.

The other thing you will need to do to be successful in a patent infringement case is to successfully convince the authorities of the similarities between your product and the one that another person is selling. This will involve substantially more work, and is at the “heart of the matter” in a patent infringement case. Your words have to be convincing enough to show that another person or company is selling something that you invented and possess the patent for.

In some instances, the Federal Government has been accused of patent infringement. However, since the government grants a patent to the inventor, by law it has a right to use any patented invention. However, the inventor is not entirely helpless and can file for compensation in a Federal Claims court.

However, be prepared for patent infringement to occur if your invention is highly desirable. Some companies will ignore the fact that you possess a patent and still market and sell the item you created. The toughest part of patent infringement is trying to enforce your patent rights on an international scale.

This is usually seen in popular electronics, in which other companies on the other side of the world will produce and sell an invention with no plans to compensate its rightful patent holder. Any inventor, with a popular product, should prepare his or herself to deal with patent infringement not only on a local or national, but on an international level as well.

Filing a Lawsuit Against Patent Infringement

When you discover a patent infringement, it is almost entirely up to you to enforce your rights. If another person or company is found to be illegally using the patent without your permission, it is best to start off with a letter to them, letting them know you are the rightful owner of the patent. As the rightful patent owner you could ask them to cease production of your invention, or arrange an agreement where they can license the patent. In some cases, the company or person will claim they were unaware of the patent, and will arrange a license to compensate you. In other cases, the person or company will continue to produce and sell your invention without responding to you. In cases such as these it will be necessary to enforce your rights to a patent via a lawsuit.

No one enjoys going to court, but in instances where the person refuses to respect your ownership of the patent, it might be necessary. Lawsuits involving patent infringement can be lengthy processes that are not always wrapped up within a year. In many important patent cases involving large

companies, the lawsuits can be wrapped in “red tape” for years with both sides maintaining their “standoff” position. This is fine if the person infringing against you is a single person or a small company. However, when you are a small company accusing a larger multi-national corporation of patent infringement, then the scales are tipped against you. This does not mean you will not be able to win your case, but it will be a whole lot harder, because your opponent can afford to stall and delay and run up huge legal bills that you cannot match. By far the most basic thing to consider when thinking of filing a lawsuit against someone would be if you have enough money to sustain you for the duration of the lawsuit. As previously stated, a patent application can drag on for years – draining wallets and draining bank accounts. If you can reach a decent settlement outside of the court system – do it!

Usually a patent lawsuit against someone is submitted to the United States Supreme Court in whatever state has jurisdiction over the defendant. The court will oversee the hearing for the patent lawsuit, and determine if an infringement has indeed taken place. However, the Supreme Court does not only review the information submitted for the patent infringement, it actually starts its process at the “heart of the matter” by first reviewing the information to see if a valid patent does indeed exist.

The next step for the court is to review whether the plaintiff in the case is indeed the owner of the patent. Following this, the Supreme Court will then review the information presented by the prosecutor, and use this to determine if the defendant is in fact infringing on the patent owner's rights. In many cases the job of the court is also to look at the behavior of the inventor to determine if some conduct on their part has led to the alleged infringement. When an infringement case is presented before the court, there is a *lot* of information to be scrutinize – it isn't just legal tactics and delays that take all of that time!

The outcome of a patent infringement hearing is decided by a jury; therefore the information presented must not only convince the judge in the case, but the jury as well. This can be a challenge, since patent cases are often very technical and dry – this is where a good patent attorney is a lifesaver.

Proving that an infringement has taken place is a difficult process and can occur in various stages. The main step of proving infringement would be to directly show that the person accused has manufactured a sold a product exactly like what is described in your patent application, and in which only you have sole rights to. Some inventors think that they are not able to sue for patent infringement when the accused person has been selling a product that is not exactly like their product, but possesses minor changes. However, the court will hear lawsuits from a patent holder to discourage other

people from violating a patent by only changing a few times contained within the patent claims.

As described earlier, the first step the legal body overseeing the case will go through will be to review your patent to see what the description of the invention or claims are associated with it. Both the patent holder and the accused person are required to submit information outlining what is understood by the information within the patent claims. They will both provide their interpretation of it, and the court will review their interpretations. Afterwards, the court will then look at the product the defendant has been manufacturing and selling, and determine if it does in fact infringe on the patent holders rights to exclude.

In some instances successful lawsuits can be filed against someone who did not completely produce and sell your product, but rather produced constituent parts that were made solely for your invention. Think of a machine that has received a patent. This machine has special parts that were only created for this machine – a special cam, perhaps, or a unique fastener assembly. If someone were to produce any of these special parts to sell to a third party that is producing your invention, you can sue both parties. This is because the claims within your patent will have also covered the special limitations of your invention. i.e., any special components created to be used only on your machine, are patented as well.

Getting Help Outside the Courts

Other than the Supreme Court for the state having jurisdiction over the alleged infringer, a hearing for a patent infringement can also be brought before the International Trade Commission when there are international issues at play. For example, a hearing under the International Trade Commission might be appropriate in circumstances where someone with a patent within a country is infringed upon by someone who buys illegal copies of the product in another country for shipment to the original patenting country.

Unlike a lawsuit in the federal court, a hearing before the International Trade Commission does not result in the patent holder being compensated. However, if patent infringement has occurred and is proved, it will result in the person accused being prevented from selling your product in the future.

In some instances the International Trade Commission does not have to wait for the patent holder to lodge a complaint against the person accused of the importation of goods leading to patent infringement. They can initiate an infringement hearing at their own discretion. However, you should probably not count on this!

When Your Patent Cannot Be Enforced

Hearings or trials can result in the Court deciding that it is not possible to enforce your patent. Situations like these arise when invention is not considered to comply with the standards in the industry, e.g., an engineering tool failing to meet safety regulations.

Another reason why the patent owner might be found unable to enforce his or her rights to a patent could simply occur because of fraud. Fraud towards the Patent and Trademark Office is a common reason why a patent holder might not be able to exclude others from producing his or her invention. In cases where the patent holder willingly kept information away from the Patent Office at the time of their application, which would have might have affected the outcome of the patent application, subsequently the court can determine that your exclusion rights do not exist.

An inventor's exclusion rights can be removed if the courts discover a scenario in which the patent owner states they will not enforce their rights, and then later turns around and sues someone for infringement. Cases like these do exist, and it is up to the defendant to present specific information to support that the patent owner made it known that they were making the patent available for use.

Exploitation of a patent is also a reason for it to be determined that exclusion rights are not longer in effect. The court can determine this if the patent owner exploits their ownership of a patent. This is sometimes seen in the cases where a monopoly is established with a very popular product. By placing added and unfair stipulations on the sale of the invention, this exploitation can result in the inventor not being able to enforce his or her patent rights.

Patent Infringement Outcomes

If you have been a victim of patent infringement, and have won the case, there are many possible outcomes. The person found guilty of patent infringement will either be told to pay fines, told to hand over any money made from the unlawful sale of your invention, and/or ordered to stop producing and selling your product without your permission.

A common outcome to a civil lawsuit results in the patent holder being awarded money in the case. Depending on the circumstances of the case, the patent owner can be awarded compensation originating from two different sources. The judge in the case might award the patent holder money that the other person made on the sale of their product. This is common in civil lawsuits when assets are seized and turned

over to the winning party. To the court this would be profit they would have made had the person not used their patent.

The judge could also award the winning party money from damages. This is different than the money the person who have made if they had sold the invention themselves as in the previous scenario. For example, this money hypothetically could be the amount the owner would have made had they leased out the patent to the person accused of infringement. It is at the court's discretion to grant money in either of these situations to compensate patent holder.

Other than this, the main outcome against someone accused of patent infringement involves the court declaring that the person is not further allowed to produce or sell the patented product. This injunction against them does not always occur at the end of an infringement hearing. Some patent owners are able to stop the person accused of patent infringement even before the infringement trial starts. However, an injunction is harder to obtain at the beginning of the infringement case because the accused person has not been yet been found guilty of anything. In some cases, where an injunction is obtained at the beginning of the patent case, and eventually the accused is found not guilty, the owner of the patent could find themselves faced with a counter civil lawsuit claiming damages resulting from the injunction filed against them.

When You Are Accused Of Patent Infringement

When someone is accused of patent infringement, and they feel they are not guilty because their product is not described within the claims of the patent holder, they can request that the Patent and Trademark Office review the claims of the patent already granted. The new review of the patent is done on description and drawings submitted with the application, as well as on new information submitted after the first application review.

When the Patent and Trademark Office is asked to review the application of a patent which has already been issued, the Supreme Court can postpone a lawsuit hearing placed before it until the Patent and Trademark Office makes a decision. This is sometimes done as a "delaying tactic" by someone accused of patent infringement.

Removal of Patent Validity

Even though a hearing occurs to determine if patent infringement has occurred, during the hearing it could be determined that no infringement has occurred because the patent is not valid. This might seem confusing, but instances have previously occurred where the patent that was granted is not valid, and subsequently the person is not infringing on your rights.

One reason for a patent being not valid has to do with the inventor failing to inform the Patent and Trademark Office of all the particulars surrounding the invention. This is also the reason why a patent cannot be further enforced. By failing to inform the Patent Office of any safety issues, by only giving a general description of the invention, the inventor runs the risk of later being told their patent is not valid.

Another instance in which the validity of a patent can be called into question is seen when reviewing the exact details of the new invention. The most basic criteria for anyone receiving a patent involves the inventor showing that patent is practical and has a purpose, has not been patented by someone else before, or that the use of the invention is not obvious. Even after a patent has been granted, someone can question the validity of the patent, if they do not feel your invention adheres to these three criteria.

A third reason where the validity of a patent can be called into question occurs if the person did not file their application at the appropriate time. The Patent and Trademark Office requires that an application be submitted to them within a one year period of the product being used or being sold publicly.

Section 12 – International Patents

The Rights of Foreign Nationals When Applying For US Patents

Regardless of where you reside, or what country you are a citizen of, it is possible to apply for a patent with the Patent and Trademark Office. The two most general stipulations set forth by the Office in filing a patent application in the United States from an international country are that the actual inventor must place their signature on the application, and must submit an oath on the truthfulness of his or her ownership of the invention. There are also certain other guidelines that must be adhered to.

When another application has previously been made in a country that belongs to one of many treaties or conventions to which the United States are signatory, the inventor is entitled to make an application for a patent in the United States based on the date of this previously filed application. However, according to the rules stipulated in most treaties or conventions that the United States is a member of, this time period must be within one year from the date in which the first application was made abroad. Therefore, the USPTO will refuse to accept any patent application under a treaty or convention, in which the one-year time frame has passed.

For applications where the two countries do not have a patent treaty or convention agreement between them, then the Patent and Trademark Office will only accept patent applications for an identical invention within a one-year period from first application for all patent types, except the design patent which has an eligibility period of six months from first application.

A treaty or convention agreement between the United States and your country allows you to jump the application queue based on an application filed in an international country. However, you must submit documents and an oath attesting to this. The Patent and Trademark Office would want to see copies of the application submitted, with the relevant information of when and where the patent was applied for. In all cases, the Patent Office requires an international applicant to submit an oath detailing the particulars of the first patent application submitted abroad.

Another factor to consider when making an application for an American patent from an international country is legal representation. Like American inventors, international inventors are allowed to use patent lawyers to stand in as their representative during the patent filing process. This is highly recommended; while an American resident might be able to handle an ordinary patent without formal legal help, it would be very difficult for a foreign national to do so, simply on grounds of convenience.

The Rights of Americans When Applying For International Patents

If you reside in the United States and want to file a patent in a country other than the United States, there are various things you have to be aware of before submitting your application to other Patent Offices.

If filing for an invention in a country other than the United States, remember that not everything will go as quickly, and many countries will have their own processing timeframes. This is important to keep aware of if the patent has to be approved by a certain date, or if the patent is for a product in a competitive category. Some Patent Offices outside of the United States will not issue the patent approximately one year and six months or almost two years after the application has been approved – and that’s on top of however long it took to get the application approved!

There are many similarities between having applying for a patent in the United States and applying for one in an international country. Depending on the type of patent, most countries around the world will expect you to pay a maintenance fee while the patent is valid. Just like in the United States, in some other countries, you are refused a

patent if you have already manufactured and sold the product for a substantial period of time before you apply for a patent.

In the United States, the patent laws prevent other people from manufacturing or selling your product without your permission. However, in another country, this might not be the case. A patent law there might only grant you ownership of the invention, but not exclude others from selling. This is something you have to keep in mind when thinking about obtaining a patent overseas. It might sound lucrative to have a patent in another country, but in the end that country's patent laws might work against you. It's a good idea to hire a local attorney versed in the patent laws of the foreign country, to serve as your representative in your patent cases and activities.

If you are only considering patenting your invention in another country to increase your customer base, then selecting the right country is essential. It is also important to think about the fees associated with having your invention patented in another country. Even though it might be cheaper to manufacture your product in another country, the costs involved in obtaining a patent can include legal fees, actual application fees, or "special" fees to the Patent Officer who seems oddly reluctant to approve your application. After spending a lot of money and time on a single patent application, you might wonder what the purpose was of saving money by setting up in another country.

When looking to apply for patents in a country or countries outside of the United States, there are two options available. You can make an application in a specific country, or you can take advantage of border agreements and make one application in different countries.

An example of a specific country that United States-based inventors apply for patents in is China. Many products can be manufactured cheaply within this country, for resale to the United States. A strong workforce makes China a great country to consider for serious manufacturing. However, before considering them, review this country's patents laws on your rights as the patent holder.

An example of using one application to apply for patents in different countries is the European Union. Becoming patented in the European Union gives the inventor the ability to be patented in more than fifteen countries. Almost all of these countries have a stable economy, and they are great places to manufacture and sell your invention. With so many countries to choose from, and more being added every few years, a patent in the European Union can be a wise economic investment.

Section 13 – Patent Conventions and Treaties

There are two international treaties that have a major impact on the international patenting process.

The Patent Cooperation Treaty

While various patent treaties exist, the Patent Cooperation Treaty is one of the most influential. The Treaty was established in 1970 amongst a group of more than seventy-five countries, and specifies the way in which the patent application process should be handled. The Patent Cooperation Treaty seeks to develop a standardized patent process for people needing to apply in different countries.

The Patent Cooperation Treaty makes it easier for those applying for patents in different countries participating in the Treaty to use a standardized process for applying for patent protection for the same invention. An example of this includes a standard application form available in the appropriate translations to all citizens of countries in the Treaty.

The Patent Cooperation Treaty also allows citizens of member countries to file within the first country, and have this be their application filing date for all the other member countries they file with. However, the time frame between filing the first

patent application and making subsequent applications in participating countries must be within one year.

The Paris Convention for the Protection of Industrial Property

The “Paris Convention for the Protection of Industrial Property” is an agreement between a group of over one hundred countries establishing the guidelines for patent applications for citizens of each member country.

The terms of the Paris Convention are pretty straightforward. When anyone residing in a country that is a member of the Paris Convention applies for a patent in their first country, all other countries will use this date as the time when the patent application was filed in their country. This occurs even though the inventor does not really submit the application until sometime later. By first submitting the application in a country adhering to the Paris Convention for the Protection of Industrial Property, your application in a second country can jump the queue because it was filed earlier in the first country.

The Paris Convention has the same timeframe or grace period as the Patent Cooperation Treaty. Inventors are allowed a time period of one year from the date which their first application is made in a member country. They are then able

to apply throughout the year to other member countries on the basis of this first application.

Section 14 – Interference: Deciding the Right Patent Owner

Anyone who is up to date with American football terminology will understand what the term interference means.

Interference in sports is usually used to describe an instance when two team members try to make a play, and a player from the other team disrupts the move they are trying to make.

Even in a more general sense, the word “interference” is used to describe a disruption in an outcome you are trying to achieve. In the patent industry, “interference” has a similar meaning.

Interference is the term given to describe the situation in which you file an application, and another inventor has filed an application for the same or similar invention. It is the Patent and Trademark Office’s job to discover who the rightful owner of the patent should be, so this situation enters into an Interference hearing with the United States Board of Patent Appeals and Interferences.

It might seem like the simplest solution to this problem would be to grant the patent application to the first of the two inventors who filed their application with the Patent Office.

However, the situation is not handled this way. For example, the first person to file the patent application might not have created the actual invention until a week after the second person that filed. The second person to file might have wanted to spend more time trying to “polish up” their application before submitting it.

In an Interference hearing, the responsibility is on each inventor to convince the USPTO that they are the rightful owner of the invention they would like patented. This is done by a presentation of evidence of development, lab notes, submission of existing prototypes, etc.

There are two main criteria the patent judges will use to determine who the rightful patent owner is. The first criteria in an Interference hearing involves determining exactly when the inventors each thought of the idea of the invention, and started gathering the information and supplies needed to build it. This is important as the invention might have only been the original idea of one inventor, while the other has “borrowed” the idea and then filed for a patent.

The second criteria used by the Patent Office during an Interference hearing is the actual date the invention was created. This can be shown using any sort of dated notes, or dated pictures taken of the invention.

Based on these two criteria, the patent judges will determine the owner of the patent. In some cases, inventors will not have all of the notes or proof needed to show that they are the rightful inventor, and in this case, the patent judges use the date of the application submissions as the date to go by.

Interference hearings are not only for duly submitted applications still in processing. An Interference hearing can also be called for on a patent that has already been approved within one year of the second inventor filing their application with the Patent Office.

Undergoing an Interference hearing is not as simple as it may sound reading this. There are various extenuating circumstances that the patent judges have to consider before choosing either inventor as the rightful patent owner. A patent attorney is strongly recommended for interference hearings. It would be a shame to lose your rightful patent just because the other side sent a lawyer to the hearing and you didn't.

Usually about 1% to 2% of the applications received by the Patent and Trademark Office will have to undergo an Interference hearing to select the true inventor.

Section 15 – Co-Patent Ownership

Having a case of co-patent owners is different than the situation of Interference. In co-patent ownership, both inventors went through the process of creating the invention and both names are listed on the application for a patent. When the patent is issued, they are considered by the USPTO to be equal owners of the patented invention.

This is not a problem if both patent owners are partners in the business, and have set up a company to sell their invention to make a profit. However, there are some instances where only one of the patent owners would like to manufacture and sell their invention. Can this be done?

According to the Patent and Trademark Office, a co-patent owner can manufacture and sell the product that is patented, even if the patent is shared with another person. This can be done as long as one of the owners of the patent does not infringe on the rights of the other patent owner.

Not only is it possible for a co-patent owner to manufacture and sell a patented invention they own with another person, it is also legal for one patent owner to lease or rent out the share of the patent to a third party. Eventually, if one of the co-owners of the patent would like to sell his part of the

patent, this is also perfectly legal. But in regards to these situations, it is recommended that both original owners of the patent sit down together, and draw up conditions or stipulations when one owner wants to lease or sell their share of the patent. This is especially important in avoiding problems later, when a third party enters the picture.

It is possible to own a patent with another person, and still be able to sell this product, as long as the other co-owner's rights are not violated.

Section 16 – Mistakes You Cannot Afford To Make

Have you really considered the problems that could go wrong with a patent application? As described previously, the patent application process can be a complicated nightmare. Some inventors have the misconception that the process of filing a patent only involves putting in your application and waiting for your number in the queue to “come up”, and then the patent is automatically granted, i.e., they believe that submission equals acceptance. If only it were that simple! This section will focus on potential problems that might occur because of a mistake you made – and thus, that you can fix yourself.

Patenting Something without a Market

80% of the time, people patent their inventions to eventually sell this product after it's been patented. If you are thinking of selling your invention, it is better to first consider whether there is a market waiting for your invention, before you patent it. If no one is interested in buying your product, then you are only left with an extremely expensive ornament to keep around the house. Before starting the patent process realistically consider if anyone would be willing to buy your new invention.

Waiting Too Long To Patent

Once you have created an invention, it is a good idea to try to patent it as soon as you have a solid understanding of all areas of the invention and can explain it to the Patent Office. It doesn't have to be perfect to get a patent – it just has to be new, and well-described. Waiting too late to patent – overpolishing – could result in another inventor or company filing for a patent before you, with exactly the same idea. Once another company has filed, you will have a hard time proving who the rightful owners of the patent are. In some cases it can be impossible.

Applying Before the Invention Is Ready

This is another mistake people make when patenting a product. The patent application should be filed when all the major areas of your invention has been worked out. This is because you need detailed information on how the invention should look and work to submit to the Patent Office with your application. Even though waiting too long can be a mistake in the patent process, applying before you are ready can be even worse. Your application has a higher risk of rejection in this case.

Designing Something That Has Already Been Patented

Before getting the materials together to make your invention, it is highly recommended that you spend time searching

through the patent database. The database consists of over a million patents, so it is possible that the invention you would like patented has already been submitted for a patent by someone else. The patent database is provided free of charge, and it will save yourself a lot of time and money to do a search of previous patents.

Not Filing For a Provisional Patent

Depending on your invention, take advantage of being able to file for a provisional patent. A provisional patent allows you to extend the life of your patent, and is a great way to prepare for the filing of a regular or nonprovisional patent. If you need to file a utility patent, especially in a competitive industry, grab the opportunity of being able to first file for a provisional patent.

Not Providing Enough Patent Application Information

Even when your invention has been thoroughly designed, many inventors can fail to provide the necessary information on their patent application. They might feel that by giving too much information, they run the risk of having their invention stolen by a competitor. However, there is no truth to this. The Patent and Trademark Office will not release the details of an application until the invention has been fully patented. Therefore, there is no worry about someone reading your application and stealing your invention. When the application

is released to the public, you will have been issued a patent already.

Choosing the Wrong Patent Lawyer

As your representative, the wrong patent lawyer can heavily influence your application in a negative way. If they are unprofessional, then your application will be at a disadvantage at the beginning and during the patent application process. Therefore, choose a patent lawyer with enough experience, one that is able to counsel you on what is needed to file, willing and able to provide the best advice, and working hard from beginning to end to have your application approved.

Failing To Set Realistic Expectations

This is usually a common mistake that new inventors make. They fail to realistically look at all aspects of the patent process before jumping off the “deep end”. They assume that by putting in an application, they will automatically receive approval. A second misconception is that a patent is a guaranteed step towards becoming a millionaire and selling their invention. Before and even during the patent process, assess whether your expectations of what the outcome of this process might be. If your invention is not practical, you can be rejected outright. Save yourself the trouble – don’t submit an application that you know is a poor candidate.

Section 17 – Using a Patented Component to Invent Your Own Product

If you are an inventor and have stumbled onto the next great invention of your life, it might be easier to use components in your invention which have already been patented. In order to do this, it is important to contact the various patent holders to gain their permission to use this patented components.

Often the use of items previously patented is only possible by paying a royalty to the patent owner. The owner of the patent has the jurisdiction to grant the use of their patent using a license, and licensing fees for patents rake in billions of dollars for inventors every year.

A patent license will give the secondary manufacturer permission use the patented components without being concerned about patent infringement. However, do not be surprised when the company owning the patents requests to see your books, to make sure they are not being cheated out of their money.

When you are filling in an application for your new invention, remember that it is your responsibility when using a patented component to show the Patent and Trademark Office that your invention is unique. Over-reliance on other people's

inventions can mark your invention as not being genuinely original.

Why Use Patented Components?

There are many reasons for an inventor to consider using patented components on their new project. First of all, sometimes the easiest or most effective way to do things might have already been invented. Therefore, choosing to use patented parts on a new invention can make the construction of the invention easier because it would be harder to have to design and build the new component – which can be hard, time consuming, or both. In this case, it is easier to use the patented piece and carry on with your work.

Another reason to consider using an already patented component on your invention would be cost. After you have factored in the costs of paying for each thing needed to create the patented component, it may be much more cost effective to give the patent holder a royalty on any product sold. Think about the number of hours that will go into you designing another component and manufacturing it!

Section 18 – Marketing a Patented Invention

The USPTO's main job is to issue patents and trademarks. They will not help you market and sell your product. But market it you must.

After writing the patent application description, you are familiar about the purpose of the invention and how it works. Now it's time to share this knowledge with these potential customers. Convincing the Patent Office might have been easy or it may have been hard, but now you have to convince the general public. This may be easier if your product is extremely unique and no one has ever seen anything like it before, or if it fills a need that no other product satisfactorily meets.

First of all, realize that as a small inventor, you will be competing with other larger companies. Even if your invention is not similar to the product they are selling, your goal is to separate consumers from the money in their wallet, and this is their goal as well. The best way to market a newly patented invention is to set up a marketing strategy. The marketing strategy for your new invention should outline how the marketing will take place, and what goals you plan to achieve. It is important to write a marketing strategy in the case for a new inventor, because a lot of your success will depend on "trial and error".

After you have decided on a marketing strategy, the next step is to put that strategy into action. There are many ways to market a new invention that has received a recent patent. Many people start with various forms of offline and online media to help get the word out that they have a new product to sell. Local and national newspapers are a great place to start marketing. As an inventor, you can send out a press release to a number of newspapers, letting them know of your newly patented product. Also include your contact details or a website address, so that anyone interested in buying your invention can contact you.

It is a good idea to advertise your new invention in trade magazines involved with the same topic as your new invention. For example, if you have received a new plant patent, advertising in a botany or gardening magazine is a good form of marketing. Just think of the industry sector your invention belongs to, and place a press release or advertisement within the press organs of that industry. Whereas a newspaper press release or advertisement will bring customers to buy your new invention, these are general customers – not a group of people specifically interested in what your product does. In a trade magazine, there are more targeted customers who will better understand what the impact your new invention has on the industry. Start at your local library for a listing of trade magazines to market your invention.

When marketing a new invention it is important to have a website. Almost everyone has access to the internet and uses it on daily basis. Therefore, to increase your sales produce a professionally looking website to showcase your product. It is important that your website look professional as it will make it easy for anyone who has never heard of your product before to find out more information about it. A poorly made website might give the impression of your website being a scam, and no one will want to purchase from you.

If you are not able to make a website yourself, hire a professional web designer to make the website for you. The sooner you have this completed, the better. To leverage your efforts, you can make up business cards with your website address and refer others to it.

After you have set up a website showcasing your newly patented invention, you can use this website to generate a list of people interested in receiving information. This list contains the email addresses of people wanting more information or a list of people who have purchased since making the website. Regardless of how the list is compiled, it should only contain the addresses of people who volunteered to receive more information from you. Using this list, you can distribute more information out any upgrades to your invention, or more information about inventions you create in the future.

Distributing sales letters is another way to market your new

invention. Not only will they help you to receive new customers, they can also be used to effectively retain customers as well.

With a firm marketing strategy in place, your new invention will not be gathering dust on your shelf, but instead exchanged for cash by eager customers.

Section 19 – Popular and Useful Inventions

Popular and Useful Inventions – Springboard For Invention

The USPTO receive numerous patent applications, and approves many thousands of applications every year. The Patent Office has approved more than a million applications since its official creation. Since this time, we have seen a lot of products come and go; some have been extremely popular and lasted, while other products have only lasted for a “season”. Many of the most popular inventions are still in use today. Just think about the items you use on a daily basis – and think about what modifications or expansions you could make to these items, to create a new and patentable product to sell!

The Computer

Some people, even before saying good morning to their wife or their husband, turn on their computer to check email messages. The computer has made it possible to communicate around the world and shop internationally without leaving the office. Nowadays, the use of computers

has spread and there are millions of people who use their computer to earn a living.

The Telephone

Before the computer, the telephone was the major communications innovation. From its invention in 1875, the size of the telephone has decreased, but the features and popularity of this incredible tool have not. Cellular telephones make it possible to 'never leave home without a telephone', and we all know people who we would not recognize without their mobile phone attached to their ear.

The Radio

Like many other things, the formerly bulky radio has decreased in size to the point where you can carry one in your pocket while out jogging. The radio is a remarkable invention because it not only provides entertainment, but it also provides the ability to educate. Unlike the television that, in these days of cable TV requires paying a big monthly bill, radio programs are free to listen to. Even with the popularity of CD players, the radio still is more useful in an emergency, as emergency instructions are still broadcast over the radio.

The Clock

For most of history, men have sought ways of accurately measuring time. The sundial and the water clock each had their heyday, but those technologies became obsolete with the invention of the mechanical clock. The clock is one of the last things we look at before going to bed, and is one the first things we see when we open our eyes in the morning. At work we are constantly watching the clock. The clock has become a pervasive presence in our lives.

The Automobile

With thousands of cars built daily in response to the overwhelming demand, the automobile has been one of the most economically significant inventions in history. Since the first car was invented in 1769, almost every household in the Western world has owned a car, or dreamed and worked towards that goal. A car makes it so easy to go from one place to another, whether going grocery shopping, touring the countryside, or hauling equipment for professional work.

Antibiotics and Vaccines

With the discovery of antibiotics such as penicillin in 1928, we were able to effectively fight against the bacterial world that

for so long had held humans in thrall. With the invention of antibiotics, we can now treat respiratory infections, as well as inoculate children against measles, mumps, and rubella. The use of vaccines was able to eradicate the deadly disease smallpox. Without antibiotics, surgery would be more risky than they are now, and without vaccines, many children would have died in childhood from diseases we now simply vaccinate against.

Electricity and Light

The first use of electrical light was in 1809, a discovery later transformed by Edison in 1879 into a light bulb that could burn practically over an extended period of time. Electricity is another invention that has revolutionized our lives. Society depends on electrical power to provide the energy to light a room as we enter, to keep us warm, to cook our food, and even to operate our cars. What would we do without it? As soon as the Sun disappeared, we would have to light our candles and our lamps. The great thing about electricity is that its invention made it possible for other products to be invented, e.g. toasters and televisions.

The Television

As an invention, the television has taught many people to sit quietly for a long period of time. Even with all of the negative things said about it, there is no debating that the invention of the television saw a new level of entertainment and educational possibilities. Think of the most memorable things that were first broadcast on television, such as Neil Armstrong walking on the moon. Those iconic images will forever cement television in the imagination.

The Airplane

As an invention, no one can argue against the practical use of the airplane. Since its arrival, it has made it easy to travel from one end of the country to the other in just a few hours. Traveling to the Eastern Pacific used to be the trip of a lifetime, but now you can go from San Francisco to Hong Kong in less than a day. The airplane has made the whole world smaller, and there is nothing like it for rapid transportation over long distances.

Section 20 – Conclusion

We have discussed the history of patents, and the various types of patents that exist to protect our intellectual property. We've talked extensively about the application process, and how to choose a patent lawyer to help you with the technical intricacies of complex patent issues. We've introduced the regulatory bodies and international groups that control patents, and shown you how to use their processes to your own advantage.

We've covered how to appeal a rejected patent application, and given you tips on making sure your application gets handled properly. We've talked about the various ways patents can be infringed, and how to protect your property from those who would take it from you. We've talked about marketing your patented invention, and other ways to make money from your patent. And we've talked about the inventions and patents that have shaped the modern world.

Now it's time to stop talking! You have the information you need to effectively file a patent application and get the protection for your work that it deserves. The rest is up to you.

Good luck, and happy patenting!

