



*Success
Begins*

**WITH
PATENTS**

*Speed matters, when the patent
goes to the first person to file.*

IMPORTANT PATENT UPDATE:

As of 2013, the United States switched from a “First to Invent” to a “First to File” patent system, which means that rather than the Patent Office granting a patent to the first person to invent something, it now goes to the person who files the patent application first. As a result, you should consider filing for patent protection as soon as possible to secure future rights to the idea.

“Innovation is the specific instrument of entrepreneurship... the act that endows resources with a new capacity to create wealth.”

Peter Drucker

“If You Can Dream It, You Can Do It”

Walt Disney

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Introduction

As an inventor, one of the first steps you must take to succeed with your invention is securing patent protection on the idea. It is unlikely that you will be able to sell or license your invention unless you own the rights to the idea in the first place.

With this in mind, success begins with patents.

This ebook was written to assist those inventors interested in completing and filing their own provisional patent application (PPA). It provides a good general overview of patents as well as the specifics of provisional patent applications and completing the application process. However, if for any reason you are not comfortable with completing the provisional application on your own, we would recommend contacting a professional organization, such as [InventionHome](#), to assist you. InventionHome can be reach by calling 1-866-844-6512.

As you begin to review this guide keep in mind that the application process is relatively straightforward and is designed for simplicity and ease of completion. The United States Patent and Trademark Office (USPTO) will not scrutinize or reject provisional applications. Therefore, all you need to do is follow the steps in this guide and do your best to provide detailed and accurate information. Once you complete and file your application you will have one year from the filing date to work out the details of your invention. Prior to the end of the first year you will need to make a decision about moving forward with your invention and filing a non-provisional patent (discussed throughout this guide).

A non-provisional (or utility or design) patent is what many inventors normally think of when they hear the word “patent”. Although you will need to file a non-provisional patent application if you want to keep an invention protected long term, many inventors start the process with a provisional patent application, which is far less expensive.

What is a patent?

A patent is a property right that excludes anyone besides the patent owner from making, using, offering for sale, or selling the invention which is outlined and described by the claims in the patent deed. This right is granted by the government of the United States of America to a person or legal entity for 20 years (Utility & Plant) from the date of filing (17 years for patents issued before June 8, 1995). Design patents last 14 years from the date the patent is granted. The protection granted by patents issued by the United States government is limited to the United States and its territories. When the patent expires, the underlying invention covered by the patent enters the public domain and can be used by anyone.

What are the types of patents?

Intellectual property covers the legal rights associated with patents, trade secrets, trademarks and copyrights and each carries its own set of rights. For the purposes of this guide, we will only be discussing patents. The three main types of patents are as follows:

1. Utility

The utility patent is the most common patent of the three, and offers the strongest protection when it applies to licensing (assuming your invention has commercial potential). A utility patent is intended to give rights to the inventor based on the functional aspects of the invention. The functional aspects are the internal and external operating aspects of the invention (i.e.: how it works and what it does).

In order to qualify for a utility patent, your patent application must meet the following four requirements:

- A. Statutory Class – the invention must be a process, machine, article of manufacture, composition of matter, or a new invention
- B. Useful – the invention must have a new use and purpose and it has to function
- C. Novel – the invention must differ from all previously documented inventions (referred to as prior art). This requirement may be satisfied by having physical differences from other inventions, new combinations of inventions, or through new uses of previous inventions
- D. Non-obvious – a person working in the field of inventions (“skilled in the prior art”) would need to consider the invention unique or unexpected.

2. Design

A design patent only covers the appearance of an invention and has nothing to do with the functionality. A downside of this type of patent is that it is easy to work around and it only takes a slightly modified component to qualify for filing a similar application. In order to receive a design patent your invention must meet the requirements of being new, original and ornamental.

3. Plant

Plant patents are used to cover new types of plants and are too specific and uncommon to be detailed in the scope of this guide.

Finally, inventions that are not useful or are offensive to public morality cannot be patented. Other examples of items that cannot be patented are laws of nature, physical phenomena, inventions related to perpetual motion, abstract ideas and things such as literary, dramatic, musical and artistic works.

What is a provisional patent application?

The last type of patent protection is a provisional patent application. It can be extremely valuable to the inventor in the early stages of the process because it is the easiest and least expensive means for providing temporary protection for an invention and it does not necessarily require professional preparation. This type of application was specifically designed by the United States Patent and Trademark Office to provide protection for inventors while they develop their ideas in the early stages.

To understand the provisional patent application, you must understand the difference between provisional and non-provisional patent applications. The non-provisional application establishes the filing date and begins the examination that is the mechanism of the formal patent process. On the other hand, the provisional application establishes the filing date and is not examined by the patent office. The provisional patent application does not require the patent claims that are a key element of the non-provisional application. Once filed, the provisional patent application it is good for one year from the filing date. A provisional patent application is significantly cheaper than a non-provisional patent application and allows the term “Patent Pending” to be applied to the invention for that one year period.

Once an inventor has filed a provisional patent application, if they wish to continue protecting their idea they must submit a non-provisional application within one year of the provisional filing date.

Another important consideration of the provisional patent is the rule of confidentiality established by the USPTO. Basically, the rule establishes that no one can find out what type of application you filed, when you filed it, or the subject matter. Thus, once the Provisional Patent Application is filed, the inventor can mark the product "Patent Pending" with nearly the same protection afforded by a non-provisional utility or design patent application.

Should I file a provisional patent?

Filing a provisional patent prior to moving forward with the non-provisional application can offer many advantages to inventors. As stated previously, a

provisional application can be filed with minimal effort and cost, while providing the inventor up to one year to work through the details of their idea. Another benefit of a provisional patent application is that it provides extra time to do the proper research on an idea to prior to spending unnecessary dollars. Doing adequate research and preliminary marketing can help and inventor gain valuable insight into the market potential of their invention.

In addition, for those inventors looking to develop their inventions, the provisional patent will provide time to develop a prototype or product sample and to work with or sell to potential manufacturers, licensees or end users. The first year is critical to gather the needed information to make a good solid business decision on the direction to take with your invention.

Another reason that inventors choose a provisional patent is to satisfy or provide a higher level of comfort and security with protecting their idea. The provisional patent gives the inventor this protection while also giving them the time to figure out the details.

Can I really file my own patent application?

It is very feasible to file your own provisional patent application since the process is not overly complicated. The average inventor can file a reasonably good application if they take the time necessary to learn the process and prepare the information. When preparing the application, you need to clearly describe your invention in enough detail that someone of ordinary skill in the art of whatever

your patent is related to could understand, build or use it. That said it is important to be thorough because and include all the features of your invention.

When it comes to a non-provisional patent application (i.e.: utility or design), it is not wise to try to file one on your own. Although there are many good books on the topic of filing your own patent application, the process is not easy. Even with patent filing books as your guide, the process is tedious, highly detail oriented, and requires a level of expertise that only comes with practice. Although you may be able to work through the components of the application, capturing the optimal language in the claims section is not a trivial matter. This is one-time that you should rely on a professional patent attorney to work with you through the application process. InventionHome can refer you to a professional and registered patent firm for help.

How do I prepare a Provisional Patent Application

To be considered complete by the USPTO, a provisional application **must** include:

1. A written detailed description of the invention

It must be written in full, clear and concise terms so that any person skilled in the invention's art or field could understand, make and use your invention. Keep in mind, making the switch from "First-to-Invent" to "First-Inventor-to-File," time is important, so filing your Provisional Application as soon as possible is the best way to safeguard your invention.

A Provisional Application's written description typically includes the following:

- Title of the invention

- Purposes of the invention
- Description of drawings
- Components or steps of the invention
- How these components interact or how the steps are carried out
- How one uses the invention to make it work

2. Drawings for clarification in making and using the invention

Drawings will help others understand your invention and are especially important if you plan to later apply for a utility patent. The USPTO suggests these formats for illustrations accompanying a Provisional Application:

- any view (top, side, exploded, perspective)
- labeling numbers
- schematics or flowcharts
- black and white or color photographs
- computer-generated drawings

3. A filing fee and cover sheet identifying:

- the application as a provisional application for patent
- the name(s) of all inventors
- inventor residence(s)
- title of the invention

The invention and patent process can be fun, exciting and rewarding. We wish you the best of luck in your endeavor. If you need assistance please contact InventionHome at 1-866-844-6512.