

Goodlawyer

Provisional Patent Application (US)

Practice area: Business, Startup, Intellectual Property, Patent

What is a Provisional Patent Application (US)?

US Provisional Patent Applications are a popular option for many inventors because they can be used to secure a filing date at a reduced cost; essentially they are a simple application that can be used to file a formal Patent Application within the next 12 months. In this time, you can work out and add granular details of your invention for the formal Patent Application. Preparing the provisional application involves generating a description and drawings of the invention; however it does not require generating claims because only the formal Patent Application is examined by the Patent Office.

Patents provide substantial legal protection in the nation they are registered and are critical to the successful commercialization of new products, since they not only prevent the invention from being stolen, but also further enable the invention to be sold or licensed by the inventor.

Patent applications can take up to 2-3 years before receiving an examination report from the Patent Office, so conducting a [Patent Search](#) followed by a Provisional Patent are important steps that ultimately lead to a higher chance of successfully patenting your invention.

Price: \$4,800 + Tax + Gov't fees

- \$4,000 Legal fee
- \$800 Service fee
- ~ \$215 CAD Government fee. Government fees are in USD and are subject to exchange rates.
- This price is based on a basic Provisional Patent Application (US) and is subject to additional fees if your matter is more complex. Your lawyer will always clarify any additional costs for your approval

Included

- Project kick-off call to gather information, advise you, and answer your questions
- One completed Provisional Patent Application (US) and related filing documents
- Filing of a Provisional Patent Application (US) with the United States Patent and Trademark Office
- One round of minor revisions if necessary

Not Included

- Preparation or filing of any follow-on applications, such as a formal US patent application or applications in other countries/regions

- Additional work or questions following the delivery of the Application
- Any work subsequent to the filing of the follow-on applications, such as revisions or rewriting of the Application if the Application is rejected

What is the process?

- 1. Book a call.** Pick a time to discuss your Provisional Patent Application with a Good Lawyer.
- 2. Design your Application.** Work directly with your lawyer to craft your Provisional Patent Application. Your lawyer will provide advice and help you create an Application that supports your business goals and has a better chance of approval.
- 3. Finalize your Application.** You will receive a final draft of the Application before it is submitted and will be able to make one last round of minor revisions if necessary.
- 4. The Application will be filed.** Your Good Lawyer will file the application on your behalf.

Why book a Provisional Patent Application through Goodlawyer?

Secure your future, quickly. The first inventor to file is provided the rights to that invention, so long as the subsequent patent application is approved. This prevents competitors from filing their own formal patent application before you.

Patent Pending. You can start marketing your product as “patent pending” as soon as you file the Provisional Patent Application. The Provisional Patent Application can also be filed prior to completely finalizing all the aspects of the invention. This means you have one year to complete the invention and file the full patent without worrying about a competitor getting ahead of you.

Leverage your filing. You can use your provisional application to file a formal US Patent Application and Patent Applications in other countries and regions, with each of these subsequent applications getting backdated to the date of the Provisional Application filing.

Expert advice. Get help from someone who has filed hundreds of applications and genuinely wants you and your business to succeed. Patent lawyers love seeing new inventions and helping them go to market!

Frequently Asked Questions

Will I be able to communicate with my lawyer after the kickoff call?

Yes, absolutely. You can use the Goodlawyer platform to send messages and files. If substantially more communication is needed, your lawyer may request another call.

How long does it take to get a Patent (US)?

Generally, it will take 4-6 weeks to prepare and file the Provisional Patent Application. We will then have the next 12 months to file a Formal Patent Application. It's important to note that once the Formal Patent Application is filed, unless you're interested in accelerating the process with the US Patent Office, it will most likely take another 18 months for them to examine your application. During examination, you can expect, on average, one to three rounds of back-and-forth with the Examiner before hopefully receiving an allowance. Having a Patent Search performed beforehand can help limit this examination uncertainty.

Is there anything I can't patent?

Patents only cover new and inventive technical ideas and improvements. This covers a wide swath of physical products and software, but will generally not include mere abstract ideas. Patents don't cover

branding (this is protected by [trademark](#)) or creative expression (this is protected by [copyright](#)). Your lawyer will be able to give you a better idea on your kick off call. Additionally, for more information on intellectual property in general, you can check out our blog.

How long does a Provisional Patent Application (US) last?

Provisional Patent Applications give the inventor 12 months to file a formal Patent Application. If they miss that window, they likely lose their placeholder date and risk not covering anything that became public in that time or competitors may be able to file their own applications first.

Will I eventually have to submit a formal Patent Application?

Yes. A Provisional Patent Application is not examined and automatically expires within a year; so it never matures into a registered patent. Thus, a Provisional Patent Application has to be converted into a formal application for the potential of a registered patent. If the Provisional Patent was thorough and there are no changes to the invention, then the description of the formal Patent Application can be the same as the Provisional Patent Application. There are additional sections of the formal Patent Application that will need to be prepared; particularly a set of claims that define the scope of the invention

What if I need more time to decide which countries I would like to file a Patent Application?

Generally, most countries require that you file a Patent Application within 12 months of filing the Provisional Patent Application. There are some regional patent applications, such as in Europe, that allow you to file one formal Patent Application for the whole region, and then later decide which countries in the region it should apply. You can also choose to file an international (PCT) Patent Application. The PCT Patent Application provides an additional 18 months (30 months in total) to decide in which countries you would like to apply. Talk to your lawyer about the various options and associated costs.

Is my Provisional Patent publicly available?

Not until six months after you file your formal Patent Application, which claims priority to your Provisional Patent. If your Provisional Patent expires with a formal Patent Application filed, it will be considered “abandoned” and will not be made public.

Can I register a Provisional Patent in Canada?

No. Canada only offers formal Patent Applications. Instead of filing the US Provisional Patent Application, you may select filing a formal Canadian Patent Application and then in 12 months file formal Patent Applications in other countries. However, this will have the additional upfront cost of the formal Canadian Patent Application and the inflexibility of being able to change the description. For this reason, filing a US Provisional Patent Application is the preferred route for most inventors. Talk to your lawyer about the various options and associated costs.

What happens if my formal Patent Application is rejected?

Most formal patent applications will go through one to three rounds of back-and-forth with the Patent Office. During such rounds, the Examiner may reject certain aspects or request certain changes. More often than not, if the concept is actually inventive, these rejections can be overcome by making changes to the claims of the patent and/or providing arguments against the rejection.

How long does a full Patent last?

Successful patents last for 20 years from the date the formal application is first filed with the Patent Office.

Do I need a lawyer in my province?

No, you don't need a local lawyer to file a patent.

“[Goodlawyer's] flexible schedules, simple, straightforward, affordable pricing, quick responses, turnaround time, and customer service has left me completely satisfied.

5-star Google review — Jenna Robins, November 2020

[Book your Provisional Patent Application \(US\)](#)