

Title:

Patents For Inventors - Your Questions Answered

Word Count:

849

Summary:

Are you confused about what a patent is and whether you should get one?

This is a primer for beginning inventors that answers your most commonly asked questions.

Questions include what is a patent, what is patent pending, what protection does a patent provide, should you keep your invention secret, and more.

A must-read for inventors at all experience levels.

Keywords:

patents, inventors, inventions, invent, patent pending, types of patents, design patents, utility patents, maintenance fees, effective filing date, international treaty, paris convention, utility patent applications, design patent applications, statutory bars, foreign priority, patent attorney, patent agent, us patent, patent applications, provisional patents, provisional patent applications, patent attorney, independent inventors, intellectual property, IP

Article Body:

Are you confused about what a patent is and whether you should get one? This is a primer for beginning inventors that answers your most commonly asked questions.

1) What is a patent?

A patent is a form of "intellectual property" which rewards persons whom invent a new and non-obvious:

- a) process or method;
- b) machine;
- c) article of manufacture; or
- d) composition of matter.

In return for completely disclosing the invention including how to practice the

invention, a "legal monopoly" on the invention is granted to the inventor(s) for a specific period of time.

That legal monopoly is the right for the inventor(s) to exclude other persons and businesses from:

- a) making;
 - b) using;
 - c) offering for sale or selling; or
 - d) importing;
- the invention in the United States.

2) What is "patent pending"?

Once a patent application is prepared and filed and prior to issuance of a patent, the invention can be marked "patent pending" or "patent applied for".

While these have no legal significance and grant the inventor(s) no legal rights, the designation tends to discourage other persons or businesses from copying the invention since a patent might issue on the invention granting the legal monopoly to the inventor(s).

3) Are there different types of patents?

There are two types of patents that are typically of interest to inventors, "design patents" and "utility patents".

A design patent protects the "aesthetics" or the "appearance" of the invention and is a much more limited legal monopoly than utility patents which protect the "function" of the invention.

Therefore, utility patents are desirable over design patents where possible, though an invention can be protected by both design and utility patents.

4) How long do patents provide legal protection for the inventor?

The period of time for which the legal monopoly is granted for a utility patent is 20 years from the filing date of a utility patent application, however, the legal rights do not begin until the patent issues.

The period of time for which the legal monopoly is granted for a design patent is 14 years from the issue date.

5) What are "maintenance fees"?

Utility patents require the payment of maintenance fees 3.5, 7.5, and 11.5 years following issuance to maintain the patent in force. Design patents require no maintenance fees to maintain the patent in force.

6) Should I keep my invention secret?

The inventor(s) should be careful to maintain their invention secret until the advice of a competent licensed patent attorney or patent agent is sought.

That is because many foreign countries in which the inventor(s) might decide to seek patent protection there is an "absolute novelty" requirement.

This means that if the invention is "publicly disclosed" (i.e. disclosed to people in a non-confidential manner) prior to the "effective filing date" in that country, then the validity of any patent which would potentially issue on the invention in that country could be challenged later.

7) What is the "International Treaty", also called the "Paris Convention"?

Many countries are members of the "International Treaty", also called the "Paris Convention".

These countries allow inventor(s) to claim "foreign priority" based on the filing date of the first filed patent application in a member country, provided a patent application is filed in the member country within 1 year of such first filed patent application (within 6 months for design patent applications).

The United States is a member of the International Convention so as to grant such priority based on a foreign patent application.

8) Are there time limits in which to file a patent application at the U.S. Patent Office?

The inventor(s) MUST file a United States Patent Application within 1 year (if patent protection is desired in the United States) of the earlier of:

- a) making an offer to sell the invention (even if the offer is not accepted and sometimes even when the invention is not yet manufactured or otherwise available);
- b) use of the invention in public (e.g. using the invention at work or in public on the street corner); or
- c) or putting the invention in a printed publication which is circulated (e.g. a

sales brochure, catalog, or a web site).

These are called "statutory bars" and if the year period expires without filing the United States Patent Application, the inventor(s) are not permitted to file a patent application in the United States.

Foreign priority (discussed above) or the priority of a provisional patent application (discussed below) can be used to predate the expiration of the 1 year period if applicable.

9) What is a "provisional patent application"?

A provisional patent application can be filed in the United States which provides a disclosure (description) of the invention, but which does not have the formal requirements of a utility patent application.

Priority can be claimed for a utility patent application (but not a design patent application) and foreign patent applications in countries which are members of the International Convention if filed within 1 year of the filing date of the provisional patent application.

The bottom line, timely consult a competent "patent attorney" or "patent agent" to discuss the details of protecting your invention!