

Patent Basics

Types of U.S. Patents:

1. Utility Patent – covers ideas, including machines, compositions of matter, methods of manufacture, methods of doing business and articles of manufacture.
2. Design Patent – cover the ornamental appearance of an article of manufacture. Only cover non-functional features of an article.
3. Provisional patent application – never becomes a patent but can be used to establish a filing date.

Term:

- A U.S. Utility Patent has a term of 20 years from the earliest filing date of the patent application. The U.S. Patent is enforceable only after the patent is issued.

- A U.S. Design Patent has a term of 14 years from issuance of the patent.

Rights Granted to Owner:

- A U.S. Patent owner is granted the right to exclude others from making, using, selling or offering for sale a product or method covered by a U.S. Patent. This right extends only to the United States.

- A U.S. Patent does not grant the patent owner the right to manufacture the product covered by the patent.

- The patent owner must enforce their own patents, which can be costly and time consuming.

Requirements for Patentability

- An idea must be new, useful and non-obvious to be patentable. The idea is compared to the prior art, which is everything available prior to the conception of the idea.

- A patent must be filed in the U.S. within 12 months of the first sale, offer for sale, public use or description of the invention in a printed publication. Foreign countries do not grant this 12 month grace period.

Patent Process:

- Listed below are typical steps included in the patent process. However, the process may vary depending on numerous factors.

1. Conception and reduction to practice of the idea. Although reduction to practice is not required, it is suggested in most cases to prove the invention will work as proposed.
2. Completion of a patent search for the idea. A patent search is not required, but is recommended prior to the preparation and filing of the application
3. Drafting of the patent application and filing in the U.S. Patent Office. This is done most of the time by a patent attorney/agent.
4. Prosecution of the application through the USPTO. The first response from the USPTO is received in about 14-24 months after filing. The patent attorney and USPTO communicate back and forth to define the allowable subject matter.
5. Issuance of the patent. Typically, a patent will issue 2-3 years after filing.
6. Maintenance fees are due 3.5, 7.5 and 11.5 years after issuance.