



For More Information

Good websites:

www.uspto.gov
www.uiausa.org
www.inventorsdigest.com

Good book:

You Can Patent It Yourself By Nolo Press

(good for reference information, but we never suggest trying to patent something without the assistance of a patent attorney)

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I. BARS

Bars prevent you from asserting a claim to an invention.

Some bars are caused by others, other bars are caused by what you may do.

Examples: By Others: Their Public Use, Offer to Sale, Publications or Prior Invention Date.

By You: Same events, but you have one year from the first event to file for the patent.

In some countries ANY public use or publication prior to filing a patent application may bar filing for a patent application in that country.

II. REQUIREMENTS FOR A PATENT

Subject Matter: Apparatus or Process (including software and business processes)

Novelty: Your idea must be novel ("new") in all the world.

Non-Obviousness: Your idea can't be "obvious" in light of everything that's known

Written Disclosure and claim of rights: A properly prepared and filed patent application

Timely filing (see Bars, above)

III. SEARCHES

Start with a patent search. Although it is not statutorily required, it helps your patent attorney write better patent. A search may save you time and money in the long run. If your idea is found, you can move to your next great idea rather than spending time working on an idea that may either not be patentable, or which (worse yet) may already be patented.

IV. PROVISIONAL NOTICE OPTION

By filing a Provisional Patent Application (PPA), an inventor or the assignee has one year to file a regular patent application. WARNING: no substantive rights are granted by filing a PPA – a utility application must be filed and issue as a patent before you have the right to stop infringement.

V. PROCESS

A "patent pending" status means a patent is filed, not granted.

After filing, it takes between 18-48 months to hear from the Patent Office.

A patent application is nearly always rejected by the Patent Office at least once.

Next, file response to rejections; future responses are typically called "Final."

Options if rejections maintained: (1) file new claims, (2) appeal, (3) request continued examination (RCE), or (4) quit.

Patent issues (hopefully!) in about three to six years. Maintenance fees due at years 3.5, 7.5, 11.5.

Patent Expires 20 years after the filing date + any term extensions.

VI. CAVEATS

1. Use Confidentiality Agreements when talking with potential users, developers, and manufactures.
2. Amending a patent loses "doctrine of equivalents."
3. Invention "stops" the day you file the idea; no changing patent submission while patent pending
4. Inventions are not synonymous with products. A single product may be the subject of many patents, and a single patent can be the basis for numerous products.
5. Idea value increases after the patent actually issues.
6. Use simple and clear language. Some Examiners do not speak very good English and will have trouble understanding your idea.
7. Given the Patent Office's delay and uncertainty, it is frequently advisable to move forward with product promotion as soon as you have a patent pending, rather than waiting on the patent to issue.

Be patient, and as always, seek the advice of your own patent attorney before making any decision.