

A User's Guide to Patent Services

How do I know I should contact a patent attorney?

- When you may be able to obtain your own exclusive rights
- When others' exclusive rights to an invention may be involved

Obtaining your own exclusive rights to an invention

1. Eureka!
2. I invented something! Does my invention have value (better, cheaper, faster, more efficient)?
3. Do you think it is new? (see: Can I do my own patent research?)
4. Contact a patent attorney!

Can I do my own patent research?

- Yes – you can find "prior art" (what already exists) yourself
- **patft.uspto.gov** to search text of U.S. patents and published U.S. patent applications
- General research (internet, industry publications, other)
- Your own knowledge of your industry

Should I do my own patent research?

- Usually, but you should have an attorney follow it up
- Locating (or simply thinking about and identifying) what you believe is the closest prior art can help your patent attorney search and analyze more efficiently (and save you money \$\$\$)

What else can I do myself?

- Write up a description of your invention, providing as much detail as you can
- Sketch some drawings – physical representations or even block diagrams
- Talk to your attorney in person or on the phone to explain the invention – make sure he/she understands it
- Read application drafts carefully and provide feedback – your attorney is technically proficient and understands patent law, but no one knows your invention better than you

Patent Application Types: Utility/Design, "Provisional" versus "Non-Provisional"

- Utility – the "four M's:" a new, non-obvious, useful Machine, Manufacture, Method, or composition of Matter
 - Provisional: simpler, cheaper, placeholder – can defer filing of non-provisional for up to 12 months without losing place in line, not examined, grants no rights in itself

- Non-Provisional: more formal requirements, more expensive up front, examined by the Patent Office, a process requiring additional work/costs to respond and amend the application as appropriate, can issue as a patent granting rights to exclude others from practicing your invention
- Design – ornamental aspects of an article of manufacture
 - short application – single claim referring to ornamental appearance of article shown in drawings
 - cheaper than utility, usually granted, narrower scope
 - damages (currently) awarded on the cost basis of the entire article, whereas utility patent damages are often limited to an assessed value that the patented invention contributes to a product

Others' exclusive rights

- You want to develop/release a new product
 - Is development costly/time consuming?
 - Would a product release be costly to modify or roll back?
 - Do you know of others' patent rights that may cover the new product?
 - Contact an attorney to assess risk of infringing others' rights before making big investment
- You released a new product and received a "troll" or "cease-and-desist" letter
 - Contact an attorney!