
New Product Marketing

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Obtaining Patent Protection Packing Your Own Chute (Part 3)

Recall from last month my statement that the patent, in and of itself, is only a marketing tool.

It makes ultimately more sense to engage in the innovation process with a low start-up cost, until you can see how the market reacts to your product or innovation.

I realize this is a step away from the mainstream -- and many patent attorneys will advise against this form of action. For the mid- to high-technology innovations, I believe they are right in fostering the belief that it is necessary to file a Formal Patent Application first.

But the bulk of new products we see weekly could use the method we outlined last month (the Provisional Patent Application) to gain invaluable market exposure, before the huge dollars are spent on the full-blown patents -- thus allowing the independent inventors much more opportunity to realize their dream, within a budget all can afford.

And if at any point the market speaks negatively about their new product -- if they remain objective -- they can walk away, with no more costs incurred than what a new set of tires for the family automobile would cost -- approximately \$500!

Even should you decide to formalize first, you will still save money by having your search in hand when you approach the attorney you choose to represent you to the Patent and Trademark Office -- and the opinions you have garnered will help to offset your costs considerably as well.

Formal Patent Application

Now let's consider the other option you have in making this critical decision, the Formal Patent Application.

The first decision you should make in this option is deciding upon whom to represent you. Costs are varied for the professional services, and will run from ridiculous lows to impossible highs.

One extremely effective method of making the determination is to join an inventor's group or club in your local community. Here you will be able to interact with seasoned inventors who will have had a number of patents granted, and can recommend attorneys who have done them a good job at a fair price.

Also, you will meet up with beginners -- those who are looking for their first patent. The discussions are often lively, but the common thread that binds the majority of these groups together is the learning experience.

And remember, every dollar you can save up front becomes a dollar that is put to better use in the final jump -- the market itself! So if one member can put you in good graces with a fair and economical patent attorney, the price of membership just paid for itself many times over!

There are two good attorneys I recommend to inventors for the filing of their Formal Patent Applications, One is S. Pal Asaji, who can be reached at 1-203-924-9538, and again, Steven Tollette, available at 1-918-493-5141. Either of these gentlemen would be glad to quote you prices. Mr. Asija is a frequent contributor to the Ideas and Inventions forum on the subscription internet service Compuserve.

You should also consider the use of a Registered Patent Agent. Agents are allowed to file your applications, but are not allowed to represent you in court. They are normally about one-half to two-thirds the price of a practicing attorney. Most have understudied a patent attorney for several years, and are very thorough at what they do.

I would advise whenever possible to use a local attorney or agent that is recommended to you by another inventor -- although it is only prudent, and within the scope of how to "pack your own chute", that you check around for quality and pricing prior to making the final decision.

You can easily obtain a list of "registered practitioners" from either the website of the Patent and Trademark Office, or by writing them and requesting the same. Most U.S. Department of Commerce offices have this information available as well.

I recommend that whomever you decide to use to file your Formal Application be checked out by yourself to ensure his validity and the fact that he or she is legally licensed to practice before the Commissioner of Patents, or is in fact a registered patent agent.

Whichever method you elect to use to evolve your conceptual "idea" into a "patent pending" position, you should be familiar with the Patent Law that determines what an application must include.

Article 35, U.S.C. 111, is the paragraph that specifies the Application for Patent. This will become prevalent at some point in the patenting process, and reads as:

"Application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title. Such application shall include (1) a specification as prescribed by Section 112 of this title, (2) a drawing as prescribed by Section 113 of this title, and (3) an oath by the applicant as prescribed by Section 115 of this title."

"The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specifications and any required drawings are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner."

"Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable. The filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office."

Should you elect to self-file, and utilize the method and attorneys listed along with the Provisional Patent Application, some of Section 111 will not immediately apply to you. If your application is well-written, and thoroughly understandable, it will not require a drawing.

What you must comply with is the first paragraph of 35 U.S.C. 112, Specifications. This paragraph reads as:

"The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention."

Summary

Let's take a moment to review the steps associated with the "Pack Your Own Chute" methodology. Remember, objectivity must be exercised, in every conceivable way.

1. Develop an idea and decide to conceptualize it!
2. Follow standard record keeping requirements for your invention
3. Have a professional search done. If it still looks promising -- Go for it!

4. If there is too much prior art, or your claims would be too narrow -- Quit now!
5. Write your Provisional Patent Application
6. Have the abstract reviewed for content by an attorney
7. Pay your \$75.00 Filing Fee and submit your PPA Application
8. Once Notice of Filing is received, approach the market and let it speak!
9. If market shows interest, consider a Formal Patent Application, if not -- Quit !

So now you've learned to "pack your own chute" when it comes to the innovation process. This is oversimplifying, for it would take many volumes and hundreds of pages to thoroughly explain the intricate procedure we know as the innovation process. There are many stumbling blocks, but there are an equal number of people willing to help.

Take the advice of those who will share it, apply your knowledge to it, and tailor it to work for you. Remember that you have an opportunity to abandon the effort at any stage it would be deemed prudent or necessary to do so. One more thing to consider is that you should attempt to join a local inventor's club. Interaction is good action!

The material provided in these three Parts was not designed nor meant to be legal advice -- only good advice. I wish every reader good luck with their project. Our country depends on people such as yourselves!

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