HOW DOES POWELL PATENT LAW ASSOCIATES (PPLA) GET THE UNITED STATES PATENT AND TRADEMARK OFFICE(USPTO) TO ISSUE A PATENT FOR MY INVENTION?

WHAT IS A PATENT?

A patent is a property right, given by the federal government to inventors, to"exclude" others from making, using, offering for sale, or selling an invention.

In order to obtain a patent, an invention must be new, useful and not obvious. The applicant for a patent usually must be the true inventor, he or she must be the first person to invent it, and the application must be filed within one year of the first sale, publication, or public use of the invention.

A patent application must disclose enough information for someone to be able to make and use the invention, including the best way that the inventor knows of doing it. Patent rights expire 20 years from the date the application is filed.

1. PATENT SEARCHING

Prior to filing a patent application, it a policy at PPLA, LLC, to perform a search of the already-existing patents to see if the invention is new.

Whether a patentability search should be performed often depends on how the inventor plans to make money. If an inventor plans to make money by selling the patent to an existing company, then performing a patentability search first is usual and advisable. Patentability searches cost considerably less than filing a patent application, and performing a search may save the inventor the expense of filing an application where the likelihood of getting a meaningful patent is marginal.

Our usual charge for a patentability search and opinion for a simple invention is generally from $1200 to $1800 or more, depending on the type of search we perform. We provide all patents and relevant publications, a report with our conclusions and recommendations.
In addition, if you would like to do some searching on your own, you can search recent U.S. patents online at the USPTO or Google web sites.

2. STRATEGY IN WRITING A PATENT

There are many factors that need to be taken into consideration when writing a patent, to improve the chances that the patent will withstand the scrutiny of potential litigation, while attempting to secure the greatest degree of patent "coverage" allowable for the applicant. There is a great deal of strategy that goes into selecting which words and phrases to use in describing and "teaching" the invention. In some circumstances it is advantageous to use very broad language, while other times it is critical to be very specific and narrow in scope.

For example, if the claims are written too narrowly it may be easy to "design around" the patent, affording the inventor little "protection". If the claims are written too broadly however, they may not be allowed, or may be invalidated if challenged in Court.

These are some of the reasons why it is always advisable to seek assistance from those knowledgeable in intellectual property law when applying for a patent.

3. UTILITY PATENT PROCESS AND FEES

The difficulty and cost of filing a utility patent application varies considerably depending on the type and complexity of the invention. Our typical charge to prepare and file a U.S. patent application for simple or mechanical/apparatus inventions is about $12,000 to $15,000. This includes writing the specification and claims, preparing required drawings, and preparing the paperwork for filing. Filing fees to USPTO and fees for drawing preparation are paid by inventor.

Patent applications having chemical, electrical, or software aspects usually are more costly. Inventions that are more complex, because the inventor has multiple versions or embodiments of the invention, or that pertain to aa very complex technological area, also cost more to prepare and file.

Unless there is an unusual urgency or a deadline, preparation of the best possible utility patent application for the lowest fee usually requires about 6 to 12 weeks, providing the client cooperates in

3. UTILITY PATENT PROCESS AND FEES continued

providing promptly any information which is needed. Usually, the client pays Powell Law Associates, LLC, one-half the estimate immediately as a retainer and the balance at the time the application has been approved for filing.

When the application has been filed, the client has a "patent pending" and may so mark goods containing the invention. Also, many clients, having filed their application, choose at this time to more actively seek licensees or capital or marketing, since disclosure is safer but not completely secure.

An inventor who files for a patent in the U.S. may use the U.S. filing date in foreign countries if he files them within one year of the U.S. filing. This may be important to preserve foreign rights, which may be lost immediately upon the first sale or public disclosure of the invention. An inventor can also file a PCT (or international) application within the first year period, which essentially reserves his or her right to file in other countries for up to 30 months.

Within about eight to fifteen months after the filing of the U.S. application, the U.S. Patent Office mails an office action to which a response should be filed by us within an additional three months. Several months after we respond to the first office action, we usually receive a second office action, required to be responded to also.

Even for an application on which a patent is allowed and issued, the prosecution period is likely to be at least two years; and the total additional cost (over the application costs) to the inventor, through issuance, including the United States Patent Office(USPTO) issue fee as well as legal fees, is likely to be about the same amount as the fee estimate for originally filing the application, approximately $2,500 to $3500 per office action..

Should the Patent Office mail a "final" rejection of the patent application, there are several courses of action still open (depending on the particular facts), such as an appeal or the re-filing of the application in the same or an improved form.

Of course, the client, at every point in the prosecution, is provided with cost estimates of the next required step, and the client will make the business decision whether or not to proceed.

3. UTILITY PATENT PROCESS AND FEES continued

Although there are no guarantees about results, we make the client aware of our opinion of probabilities based upon the prior art thus far uncovered, (revealed, of which we and the Patent Office are aware).

After issuance of a utility patent, increasing maintenance fees are due at 3-1/2 years, 7-1/2 years, and 11-1/2 years. The penalty for non-payment is early termination of the patent rights (now lasting 20 years from the date the application is filed).

If you have any other questions about this "usual course" of a patent application, please do not hesitate to contact us.

We are also available to assist in negotiations, sales, or licensing transactions.

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