
PATENT & TRADEMARK SVC

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Thank you for requesting information on obtaining a patent search. Patent & Trademark Service is a full service patent and trademark research company providing experienced, cost-effective, timely and thorough research services. All information is treated with the utmost confidentiality.

The first step in protecting your idea is to create a ***Disclosure Document***. Enclosed in this packet is a suitable form and instructions for preparing this document. Also enclosed is a ***Work Order Form***, along with useful information to help you fully understand patents. This should help to answer some of your questions and concerns.

The next step is to conduct a ***preliminary search***. This will show similar patented inventions, if any. The search is an important tool in ***patent protection***. It will help you decide if you should proceed to the next step, the filing of your patent. The fee for conducting a preliminary patent search is in the range of \$320 for non-complex searches, and higher for complex mechanical, computer, biological and electronic searches, with discounts for multiple searches.

If you have any further questions or if we can be of service please contact us. We look forward to hearing from you.

The first step in obtaining your patent is the creation of a Disclosure Document. Simply fill out the form yourself in black ink, bring it to be notarized, make copies, and keep in your records. This gives you protection while working towards your patent. The Disclosure document is not a patent application and will not become the effective filing date of any patent. A patentability search is needed to determine if similar patented inventions exist. Conducting this search is an important tool in patent protection. This will determine your ability to continue on to step 3 of your patent journey. Without this search you may be unable to receive your patent due to identical patented inventions and patent infringements.

Option A: Filing a Provisional Patent

This type of Patent application is the most cost effective option. You are able to write and file this on your own. A Provisional Patent application gives you Patent Pending status, so that you can contact companies and try to sell or license your patent within a one-year time period. The advantage of a Provisional Patent is that the fee for processing with the U.S. Patent & Trademark Office is only \$110. The disadvantage is that it only lasts for a one-year time period.

Option B: Filing a Non-Provisional Patent

With this option, you can receive a patent term of 20 years. In order to file this type of patent you will need the services of a Patent Agent or Attorney. Patent Agent and Attorney fees are approximately two thousand to six thousand dollars for an average patent application. The filing fee for the government is approximately \$500. Although the cost is greater, the term is longer.

A Patent, Trademark and Copyright Primer

On March 6, 1646, Joseph Jenkes received the first mechanical patent in North America. Issued by the General Court of Massachusetts, it protected his mill for manufacturing scythes. This was the prelude to the U.S. patent system, which has helped give birth to major industries that have transformed the way we live.

On April 10, 1790, President George Washington signed the bill, which laid the foundation of the modern American patent system. Since that time the U.S. Patent and Trademark Office has recorded and protected the electric lamp of Thomas Edison, the telephone of Alexander Graham Bell, the flying machine of the Wright Brothers, and the inventions of hundreds of thousands of other inventors.

The patent system has protected inventors by giving them an opportunity to profit from their labors, and it has benefited society by systematically recording new inventions, releasing them to the public after the inventors' limited rights have expired.

The U.S. Patent and Trademark Office is one of the most unusual branches of the U.S. Government. Its examining staff of over 2,000 is trained in all branches of science and thoroughly examines every application to determine whether a patent may be granted – a task, in these days, involving the most exhaustive research. Not only must the examiners search United States and foreign patents to learn if a similar patent has been issued, but they must study scientific books and publications to discover whether the idea has ever been described. Previous publication, invention or use prevents a patent from being issued.

In addition to issuing patents the Patent and Trademark Office has, since 1870, been in charge of registering trademarks, the business community's most valuable asset. More than 1,400,000 trademarks have been issued.

In its earlier days, the Patent and Trademark Office had, on various occasions, the responsibility for administering copyright matters; a task that since 1870 has been administered by the Library of Congress. This includes collecting and publishing agricultural information and even collecting meteorological data. For some years, it was the custodian not only of the famous old Patent Office models – the delight of every visitor to Washington for many years – but of the Declaration of Independence, and other historical documents and relics.

By publishing and distributing copies of every U.S. patent, the Patent and Trademark Office has made available to the public the world's greatest scientific and mechanical library.

PATENTS IN BRIEF

A patent is a grant issued by the U.S. Government giving inventors the right to exclude all others from making, using, or selling their inventions within the United States, its territories, and possessions.

There are three kinds of patents: 1) **Utility patents**, granted to the inventor or discoverer of any new and useful process, machine, manufacture, composition of matter, or any new and useful

improvement thereof; (2) **Plant patents**, granted on any distinct and new variety of asexually reproduced plant; and (3) **Design patents**, granted on any new, original, and ornamental design for an article of manufacture. Utility and plant patents are effective for 20 years from the date filing, subject to the payment of maintenance fees; design patents are effective for 14 years. Patents may be extended only by special act of Congress, except for some pharmaceutical patents, whose terms may be extended to make up for time lost due to government-required testing.

If you plan to file an application, your representative should make a search of patents previously granted to make sure that your idea has not already been patented.

The basic fee for filing an application for patent ranges from \$110 to \$560, dependent upon the type of patent application being filed and whether or not the applicant is entitled to status as a small entity (independent inventor, small business concern, or non-profit organization). Issue fees range from \$360 to \$2,100. Maintenance fees are due at 3½, 7½ and 11½ years from the date the patent is granted.

Applications are assigned to examiners who are experts in various fields of technology. The invention must be new, useful, and unobvious to those in that particular field of study. This procedure normally takes about 18 months.

TRADEMARKS IN BRIEF

A trademark (or brand name or logo) is a word, name, symbol, design, combination of word and design or slogan used by a manufacturer or merchant to identify its goods or services and distinguish them from those sold by others. When it is used for services, it can be called a *service mark*.

Trademark rights come from using the mark, and marks are protected under common law from the time they are first used. While there is no requirement to do so, owners of marks who have used them or have a bona fide intention to use them for federally regulated commerce may register them with the Patent and Trademark Office. This provides the owners with certain procedural and legal advantages. For "intent-to-use" applications, actual use of the mark in commerce is a prerequisite to the ultimate issuance of a registration.

Many trademarks use TM (trademark) or SM (service mark) symbols with their mark to indicate that they are claiming rights in it. The ® symbol may only be used if the Patent and Trademark Office issues a Federal registration. To register a mark, the owner must file an application consisting of a written statement in which the owner indicates, among other things, the goods or services in connection with which the mark is used and the date of first use of the mark in commerce; a drawing of the mark; five specimens showing the mark as it is actually used (labels, tags, packaging, etc.); and the required filing fee of \$375 per class.

Each application is reviewed by an examining attorney to determine if the mark is eligible for registration. The mark is compared to other marks to determine if it is likely to cause confusion with those already registered. If a proposed mark passes the examination, it is then published in the Official Gazette of the Patent and Trademark Office. Those who believe they will be damaged by registration of the mark then have an opportunity to oppose registration. If no opposition is filed, a *registration certificate* or *notice of allowance* is issued to the applicant in an "intent-to-use" application. Within six months after the issuance of the notice of allowance, the applicant must file

specimens evidencing use of the mark in commerce, a fee of \$100, and a verified statement that the mark is in use in commerce before a registration certificate is issued. The registration may be renewed every 10 years as long as the registrant is still using the mark.

Note: Filing fees mentioned above represent only the minimum required for a patent or trademark application. Additional fees may be due during the processing of an application. Fees are current as of January 2010. Fee increases, when necessary, take effect on October 1 of any given year. For a complete list of fees or further information, write to the U.S. Patent and Trademark Office, Public Service Center, Washington, D.C. 20231, or call (703) 308-HELP.

COPYRIGHTS IN BRIEF

On May 31, 1790, Congress used the power given it in Articles 1 § 8 of the Constitution to "promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," and enacted the first Copyright Act. The seeds of copyright protection were sown in Gutenberg's development of the printing press that ultimately led to the first printed copyright statute, The English Statute of Anne. Both the printing press and the concept of copyright protection followed the colonists to the new world. The state legislatures of twelve of the first states passed copyright laws before Congress enacted the first federal law. Noah Webster, the compiler of both the first American speller and an early dictionary, played a major role in getting both the state laws and the first federal statute enacted. He traveled to each legislature and described the authors' plight and their need for copyright protection. Authors have continued to guard the rights granted by the Constitution and to ensure that new technologies permitting copying do not erode these rights.

What is copyright and when does copyright protection arise?

Federal copyright legislation gives an author certain exclusive rights for a limited time: the right to reproduce the copyrighted work, to prepare derivative works, to distribute copies or phonorecords, to perform the work publicly, and to display the work publicly. Congress attempts to create a balance between the rights of the authors and the legitimate needs of society. There are some limitations or exceptions that permit society to make specific uses of copyrighted works. Copyright exists in an original work of authorship from the time the work is first created or fixed in any tangible medium of expression, now known or later developed, from which that work can be perceived, reproduced, or otherwise communicated. A work is put in a tangible form, for example, when a literary work is typed or written or a piece of music captured on tape. Copyright covers the expression of ideas and not the idea itself. Thus, copyright does not cover "any idea, procedure, process, system, method of operation, concept, principle, or discovery...". It does, for example, protect blank checks, standardized material, titles, or government works.

What does copyright mean for an author? Copyright means that no one may appropriate the copyright owner's exclusive right to reproduce, distribute, perform, or display a work without permission from the author, unless the right has been transferred to the user or the person who authorizes or licenses this particular use, or an exemption covers the use in question.

What works does copyright protect? The first law protected maps, charts, and books for a basic term of 14 years. Since 1790 the copyright law has evolved to include musical works, dramatic works, photographs, paintings and other major works of art, motion pictures, and sound recordings.

Literary works: Copyright protects literary works of all types from novels such as *Gone with the Wind* or *The Catcher in the Rye*, to textbooks and other fact-based accounts, including newspapers.

Although copyright covers the expression in nonfiction work, it does not cover the facts themselves. They are uncopyrightable and can be freely used by anyone. Copyright in literary works also covers printed speeches such as Martin Luther King, Jr.'s famous "I Have a Dream" speech. Today, even computer programs are protected as literary works.

Musical works: Copyright covers all kinds of music from the songs performed on the radio to the music in television commercials and MTV.

Dramatic works: Copyright covers all kinds of permanently fixed dramatic works from senior plays such as *Our Town* performed by high schools, to such current Broadway blockbusters as *Phantom of the Opera* or the latest Neil Simon offering. It covers those plays written especially for the theater, like Arthur Miller's classic *Death of a Salesman*, and also those based on other popular works, like the adaptation of Kafka's short story *Metamorphosis*.

Pantomimes and choreographic works: Copyright protects dance sequences in stage shows like *A Chorus Line* and *Cats* if they are in tangible form.

Pictorial, graphic, and sculptural works: Works created by sculptors, photographers, painters and other graphic artists are protected by copyright. The works covered not only include paintings and sculptures, but also advertisements, the artwork on game boards, and the artwork on fabrics or textiles.

Motion pictures and other audiovisual works: Classics like *Gone with the Wind* or the latest Steven Spielberg or Woody Allen film are protected, as are television programs and video games, including the once popular PAC Man and the currently popular Nintendo games.

Sound recordings: The copyright law was amended in 1971 to include sound recordings.

Copyright now protects the latest recording of your favorite artist in any format – disc (be it 45 or 33, or compact disc), tape, or cassette. The copyright authorship protected in a sound recording is twofold: it covers the contribution of both the performer and the record producer responsible for the recording.

How long is a work protected? As noted earlier, the 1790 act provided a 14-year term. Mark Twain was one of the authors who persuaded Congress that the term should be longer. In 1909 the term was extended to protect authors for a 28-year term plus a possibility of 28 more years if the author renewed his or her claim in a timely fashion. In 1976 the term was extended again to its current length: the life of the author plus 50 years. Special rules apply to works by employees as part of their jobs, such as motion pictures, and anonymous or pseudonymous works. When the term of protection expires on a particular work, it may be used freely by anyone.

Where is the work protected? A work copyrighted in the United States is protected here as well as in all of the other countries with whom we have copyright relations by our membership in the two multilateral copyright treaties - the Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works by presidential proclamation, or bilateral relations. The United States has copyright relations with over 100 countries. The filing fee for each application is \$30. (Note: The Copyright Office has the authority to adjust fees at 5-year intervals). Additional information concerning copyright may be obtained from the Library of Congress, Informational Section, LM-455 Copyright Office, Washington, DC 20559. Telephone (202) 707-2100.

Invention Disclosure Document

All information provided will be kept strictly confidential.

Inventor _____

Address _____

City _____ State _____ ZIP _____

E-mail _____

Phone Numbers:

Home _____ Cell _____ Fax _____

Co-Inventor: (if applicable) _____

Address: _____

City _____ State _____ ZIP _____

Title of Invention _____

Date of invention _____

Please continue on to page 2 of the Disclosure Document...

Invention Disclosure Document

Date _____

Signature _____

Notarize:

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Patent Search Work Order

All information provided will be kept strictly confidential.

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Address _____

City _____ State _____ ZIP _____

E-mail _____

Phone Numbers:

Home _____ Cell _____ Fax _____

Co-Inventor: (if applicable) _____

Address: _____

City _____ State _____ ZIP _____

Title of Invention _____

Date of invention _____

Do you have a prototype? _____

Signature(s) of Inventor(s)

TYPE OF SEARCH

- USA Patentability Search @ \$320
- USA Patentability Search W/ Foreign Refs @ \$520

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