

THINGS TO KNOW:

WHEN INTELLECTUAL PROPERTY ISN'T YOUR LIFE

RELATED TO PATENT LAW:

Abandoned Application: A patent application that is not allowed and its prosecution is terminated. Abandoned applications are normally undisclosed.

Best Mode: A condition for the issue of a patent. An inventor must describe the best method he or she knows for carrying out the invention. If the inventor discovers a better method of implementation of the invention at the time of filing the application, the results could be a ruling of an invalid patent.

Conception: The initial formation in the inventor's mind of the essential elements of an invention. This must result in an "actual reduction to practice."

Divisional Application: Only one invention may be claimed in a patent application. The examiner may impose a restriction requirement in which the applicant must choose which one invention will continue as the current application, following which the applicant may file a second patent application, called a divisional application.

Embodiment: Within the description of the invention, various alternatives to achieving a substantially similar function will be disclosed. The preferred method, or Embodiment, will be relied upon as the basis for the present invention. Other embodiments may be able to be split off into separate inventions, also known as divisional patent applications.

First to File: The filing date of a patent application, and not the date of invention, determines when an inventor's rights begin. Most countries other than the U.S. and the Philippines have "first-to-file" patent systems.

First to Invent: Synonymous with "first to conceive, last to reduce." The U.S. and Philippine patent systems recognizes an inventor's right to a patent based upon the date of actual invention, as opposed to the "first to file" system used by most other countries.

Infringement: An invasion of an exclusive right of intellectual property. An unauthorized use of the invention described in a claim of a valid patent without proper license or consent of the owner of the patent rights. Infringement of a trademark consists of the unauthorized use or imitation of a mark that is the property of another in order to deceive, confuse, or mislead others. Infringement of a copyright involves reproducing, adapting, distributing, performing in public, or displaying in public the copyrighted work of someone.

Intellectual Property: Creative ideas and expressions of the human mind that have commercial value and receive the legal protection of a property right. Types of intellectual property include patents, trademarks, designs, confidential information/trade secrets, copyright, circuit layout rights, plant breeders rights etc.

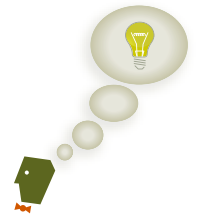
Invention: The creation of a new technical idea and of the physical means to accomplish or embody it. The act of inventing through original conception and reducing the concept to practice. An invention described in a patent application must contain, at a minimum, every element found in the patent claim.



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INVENTOR'S EXTRAS

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Inventor: Anyone whose involvement and contribution was essential to the development of the invention. The one who is first to conceive of a particular invention and who diligently works to convert this conception into a tangible physical property.

Joint Inventor: Two or more inventors of a single invention who work together in the inventive process. Mere assistance in developing an invention does not make one a joint inventor.

Life of Patent: Patents that are issued after June 1995 will expire 20 years from the date of filing. Prior to June, 1995, life of a patent was 17 years after issuance.

Maintenance Fee: The USPTO charges maintenance fees for patents that are issued and active on a schedule to be paid at 3 ½ years, 7 ½ years and 11 ½ years. Fees vary with each installment and whether or not the owner is classified as a small entity inventor. Other countries adhere to different schedules and fees.

Non-Obvious: A requirement for obtaining a patent. A patent is not permitted if the subject matter for which the patent is being sought would have been obvious to an ordinary person skilled in the art, as a whole, at the time the invention was made. This would include someone attempting to patent an application in one field that had previously been obvious in an unrelated field.

Ordinary Skill in the Art: An engineer, scientist, or designer in a technology that is relevant to an invention that possesses an ordinary skill or level of technical knowledge, experience, and expertise is said to possess an ordinary skill in the art. This is used as a benchmark in evaluating skill level as it relates to intellectual property development.

Patent: A legal monopoly, granted by a country's Patent and Trademark Office (PTO), for the use, manufacture and sale of an invention for a specific period of time. At the end of the term (in the U.S. it is 20 years from filing date) the technology becomes public property. Patents do not protect ideas, only structures and methods that apply technological concepts. There are three kinds of patents in the United States: a utility patent on the functional aspects of products and processes; a design patent on the ornamental design of useful objects; and a plant patent on a new variety of a living plant.

Patent Pending: A mark applied to any product to let the purchaser know that a patent application has been applied for some portion of that article or some process related to that article. Some countries do not permit the use of this form of mark. No actual patent protection is in force during pending status.

Prior Art: The total body of knowledge, which teaches or otherwise relates directly to an invention. This is the primary criteria in determining the patentability of a new invention. Establishes novelty and unobviousness of the art that relates to the invention in question. Prior art references include documentary sources such as patents and publications from anywhere in the world, and nondocumentary sources such as things known or used publicly.

Proprietary Information: Undisclosed information such as a trade secret which an owner desires to keep secret due to the fact that its secrecy is usually the only form of protection from someone else using the exact same process or method. An example of this would be the formula that the Coca-Cola Company uses to make their products. Also business information such as privately held company's books are considered proprietary information.

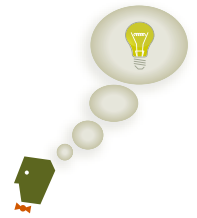
Public Domain: When an invention, creative work, commercial symbol, or any other creation is not protected by some form of intellectual property law(s). These items become public domain and are available for copying and use by anyone.



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Public Knowledge: Used in determining novelty. A patent is barred if an invention was previously known by anyone that is skilled in the art that pertains to the specific invention. This may be through prior art or publication.

Reduction to Practice: The actual implementation of the technology or process that is specified in a patent application. This is the physical part of the inventive process that completes and ends the process of invention.

Unpatentable: Usually due to novelty or first-use issues the Patent Office deems an application unpatentable. At this point the applicant may file an appeal, otherwise prosecution of an application ceases.

USPTO: Acronym for United States Patent and Trademark Office.

RELATED TO THE PATENT PROCESS

Angel Investor: Usually friends or business associates willing to finance the development of an invention or business venture. Due to the close relationship with the inventor the investor usually does not require the same guarantees. Inventing a new product or process is usually very speculative and this may be the only way that financing can be obtained.

Crazy Criteria: All of the criteria for a design problem, that if fulfilled, would make the solution to that problem an amazing and worthwhile invention. Crazy Criteria may or may not be Design Imperatives.

Design Imperatives: Design elements that must be included in an invention, they are non-negotiable. The removal of any one Design Imperative would immediately void the purpose and spirit of the invention set forth to accomplish.

Work Made For Hire: A work created by an employee within the scope of employment, or a work created by an independent author on commission under a written contract. Under copyright law, the one who commissions the work and pays the creator his fee for a work made for hire is considered the author of the work, and so owns the copyright. This also relates to design and engineering in invention development that are accomplished by someone under a work for hire agreement. Synonymous with work-for-hire.

Patent Search: More accurately defined as a prior art search of previously issued patents. The search and discovery of prior art patents helps to determine the novelty or unobviousness of the present invention.

Prototype: A Reduction to Practice of an invention to test the art and design. The end result is an original pattern for imitations, improved forms, etc.

Commercialization: Commercialization of intellectual property is simply a process of taking an invention and taking it to the marketplace. This will consist of protection, design, development and marketing; then establishing the product in a viable distribution system to distribute the finished product.

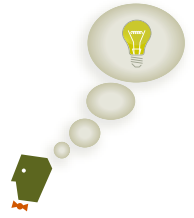
License: A contractual agreement giving written permission to another party the right to use an invention, creative work or trademark. By licensing an invention or work to a company, you get money (often in the form of royalties) in return for allowing the company to use, produce and sell copies of your invention or work in the marketplace.



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Licensee: The entity that is granted rights to intellectual property by the owner of that property. The party that receives a license to commercialize a patent, trademark or copyright that is owned or managed by the licensor. The license to intellectual property is usually in the form of a legal agreement.

TYPES OF PATENT PROTECTION

Utility Patent: The largest group of patent type. According to 35 USC 101; utility patents are subdivided into mechanical, electrical and chemical categories.

Provisional Patent Application: An interim patent application that provides a one year period for product development. It provides the legal effect of an early filing date for an invention. The PPA is much less expensive, and much easier to prepare, than a regular patent application. It does not take the place of a regular patent application, but it does confer patent pending status on the underlying invention.

Design Patent: A type of patent that covers the ornamental aspects of a design. Its functional aspects are covered by a utility patent. Both design and utility patents may be obtained on an article if it is inventive both in its utility and its appearance.

Plant Patent: A patent issued for new strains of asexually reproducing plants. Plant patents last for 17 years from the date the patent issues. Tuber propagated plants or uncultivated (wild) plants may not be patented. Some countries may not allow plant patents

TYPES OF PROTECTION OTHER THAN PATENTS

Copyright: A legal device that provides the owner the right to control how a creative work is used. Any one of these rights can be sold separately through transfers of copyright ownership. Protects the original expression of ideas, not the ideas themselves. It is comprised of a number of exclusive rights, including the right to make copies, authorize others to make copies, make derivative works, sell and market the work and perform the work.

Trade Dress: As it relates to product packaging and presentation. The protection of goods as they are presented to the consumer. If a competing product is packaged or presented to the consumer in such a way that it would deceive or confuse the consumer into believing that the product was actually another brand then a trade dress violation may be considered.

Trade Secret: Any formula, pattern, machine or process of manufacturing, or any device or compilation of information used in one's business, which is maintained in secrecy and which may give the owner an advantage over competitors who do not know or use. Such confidential information is protected against those who gain access to it through improper methods or by a breach of confidence. A legitimate way of bypassing a trade secret is through reverse engineering.

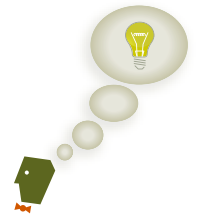
Trademark: Governed by the PTO. Any identifying symbol, including a word, design, or shape of a product or container, that qualifies for legal status as a trademark, service mark, collective mark, certification mark, trade name, or trade dress. Trademarks identify one seller's goods and distinguish them from goods sold by others.



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THE PARADIGM PACKAGE

Paradigm: Any set of rules and regulations that: 1. Define boundaries or establish limits (model) or 2. Tells you how to behave inside the boundaries to achieve success (pattern).

Paradigm Paralysis: Occurring when someone lets their paradigm become "the paradigm." A terminal disease of certainty.

Paradigm Pioneer: One who does not make the paradigm shift, but sees the power of the emerging paradigm and adopts it before there is any concrete data supporting their decision to do so.

Paradigm Shift: When a new model or pattern replaces the old model or pattern. A significant change from one fundamental view to another.

Sources: PatentCafe.com online glossary. Definitions for the Paradigm Package were summaries from the brain of Jared Joyce. The phrases and definitions for 'Crazy Criteria' and 'Design Imperatives' were created, as well as coined by, Jared Joyce.