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“So I have this idea...”

By Agnes Spence

When someone asked me, “What do you do for a living?”, I answer, “I’m a Patent Paralegal”. “So I have this idea!” is the most common response I receive. Working in the Intellectual Property (IP) World feels like a life-time, but with time comes wisdom.

The United States Patent and Trademark Office (USPTO) website is invaluable for the first-time inventor to the IP Legal Department of a Fortune 500 company. Is this invention been patented previously? Are we reinventing the cup? The USPTO is the first spot to research invention is patentability. Do a search. Listed on their website are two links, “How to Conduct a Preliminary U.S. Patent Search: A Step-by-Step Strategy” and “The Seven-Step Strategy” outlining the procedure for searching.

You’ve done your search. Now what? Contact an attorney to assistance on your filing strategy. “Should we go global (i.e., file internationally)?” or “Should we file in U.S. only?” These are questions that would be directed to your attorney. The attorney will work with you closely in drafting your application and disclose all basis of your invention. Once reviewed and finalized, it’s time to file the application with the USPTO.

“I need my patent NOW!” Patent prosecution is a waiting game. The USPTO has a cue of about 14 months before it reaches an Examiner’s desk to be reviewed. PAIR (Patent Application Information Retrieval) can be useful in following the status of your application. When your application is filed, you will receive an application number. If your application is published in the Official Patent Gazette (usually around 18 months after filing), you can check the status of your application, see when it will be examined, who is the Examiner, etc. Your attorney will closely watch the status of your application and docket any due dates (there will be many) that occur with your application.

“Congratulations, your application has been issued!”. Months of back-and-forth correspondence with the Examiner overcoming prior art in particular language of the claims, your patent is allowed and now will issue in a matter of weeks. Along with issuance, comes fees. Once the fees are paid, you will receive your Letters Patent indicating your invention is protected.

Your invention is now protected! You have the exclusive right to make, use, offer for sale or sell your invention. Marking your invention provides constructive notice to the public of your invention, which translates anyone sees your product, knows it's patented. The patent has exclusive protection for 20 years from the date of filing the application. In addition, to maintain the patent, fees will come due. Maintenance fees are due on the anniversary of the 3 1/2, 7 1/2 and 11 1/2 years.

Any questions? Feel free to contact me!

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