

# The Patent Path: Procedures with Cost & Time Estimates

## I. First few months: Application

- A. Preliminary assessment: 0 – 2 billable hrs. The earlier I see a red flag, the less it will cost.
  - 1. Any immediately obvious red lights: This may be 101-related for software, 102-related for products with a history, 103-related for simple gadgets, or 112-related for complex inventions.
  - 2. Discuss options: Utility? Design? Provisional?
- B. (Optional): Provisional application
  - 1. I don't usually find this step necessary, and I often advise against it, but inventors are peculiarly attracted to it and generally ignore my advice. It's your choice, but it should be informed. See my [Provisional Application Primer](#).
  - 2. You write / draw the invention in your own words with my supervision.
  - 3. Often less than a month, \$750 – 1,500 depending on the level of my supervision required. "Patent Pending" at this point.
- C. Full disclosure, patent analysis, and product definition: Avg. 6 – 10 billable hours, 1 month, variable.
  - 1. Clarifying exactly what it is that you've invented and communicating it to me.
  - 2. Identifying less obvious bars to patentability (including prior art), as well as zeroing in on the product's greatest patentable strengths.
  - 3. Interactive process requiring feedback between you and me. Be prepared; this will be hard work for you too.
  - 4. The more of your invention and prior art that you provide in writing or drawings, the more time and money you save!
- D. Writing the application: Avg. 8 – 12 billable hours ; 1 – 3 months, variable.
- E. Illustrations: Usu. About \$500
- F. Filing: 1 – 2 billable hours, \$430 - \$860 USPTO fee. "Patent Pending" at this point if you didn't file a provisional app.
- G. Grand total: Avg. \$4,000 – 6,000, 3 – 6 months. A lot of the wait is usually client-caused.

## II. 6 – 24 months: The "Patent Pending" Phase

- A. Your application is published after a few months, after which you can send warning letters to infringers.
- B. Wait 1 – 1.5 years
- C. (Optional) Foreign patents
  - 1. International application is due one year after first filing date (including provisional). Quick process but high filing fee, roughly \$2,000.
  - 2. National stage applications to each patent office due 30 months after first filing date. A few thousand dollars each.
- D. Office action: USPTO's objections
- E. Arguments: 3 – 6 month process, legal needs and fees highly variable. I've had prosecutions as low as 0 hours and as high as 20 hours. Average is maybe 6 – 10.
- F. Issuance: \$250 - \$500 fee
- G. PATENT!

III. 2 – 20 years: Active Patent

- A. Now you can sue counterfeiters
- B. You can back-sue for infringement to publication of your application.
- C. You must pay \$3,000 - \$6,000 USPTO maintenance fees over 11 years
- D. Patent lasts 20 years

IV. Upshot

- A. Expect a lifetime cost of \$10,000 – 15,000, about half of which will come up front in the first few months.
- B. The process requires months of hard work and years of waiting.