

THE PATENT PROCESS

The following information is provided to assist new inventors in understanding the process associated with filing patent applications in the United States Patent and Trademark Office (USPTO).

The first step of the process involves the drafting an application that describes the invention. This process will require a series of communications between a patent attorney and the inventor. If drawings are required to illustrate the invention, a draftsman is typically hired to prepare the formal drawings so that they meet the USPTO requirements.

Once the application is complete, it is filed with the USPTO, which charges a fee for each application that is filed. The schedule of fees can be found at the USPTO website. The application can be filed as one of a number of different applications, the most common of which are provisional applications and utility applications. The USPTO charges a minimal fee for filing a provisional application and a higher fee for filing a utility application.

If the application is filed as a provisional application, the USPTO will take no further action on the application. If the provisional application is not converted to a utility application within one year from the filing date of the provisional application, then the provisional application will be deemed abandoned. It is up to the applicant to timely file a utility application. The USPTO will not send out any reminders.

If the application is filed as a utility application, the applicant must wait until an examiner acts on the application, typically this takes anywhere from about 1 year to about 3 years. When an examiner takes up the application for review, he or she will usually issue one of two documents, either an Office action or a Notice of Allowance. If the examiner issues an Office action, which is basically a letter setting forth reasons why the applicant is not entitled to a patent, then the applicant has three months to submit a response. Once the applicant submits a response, the examiner will then either issue a second Office action or a Notice of Allowance. The correspondence with the USPTO continues until the applicant decides to abandon the application, the application is allowed or the application is finally rejected.

If the examiner issues a Notice of Allowance, the examiner has determined that all of the pending claims in the application are allowable and that a patent can issue thereon. All that is left for the applicant to do is complete the requisite form(s) and pay the issue fee. A patent usually issues within four months of receipt by the USPTO of the payment. Once a patent issues, maintenance fees must be paid at approximately every 3.5 years to maintain the patent in force.

An applicant may wish to obtain coverage for the invention in a country other than the United States. If the circumstances surrounding the application allow, the application may be filed directly with the patent office of a foreign country or in the PCT. The PCT

is an umbrella organization from which an application can be filed in individual countries. Entry into the PCT or the individual countries must occur within one year from the original filing date recorded in the USPTO. Although applications are often filed first in the United States, they can be filed first in the PCT.

Allison Johnson, P.A.
Lake Calhoun Executive Center
3033 Excelsior Blvd., Suite 467
Minneapolis, MN 55416
Telephone (612) 929-0700
Facsimile (612) 929-0708
www.ajiplaw.com