

United States Patent and Trademark Office Frequently Asked Questions

For more information, visit the Inventor's Resources Website:

<http://www.uspto.gov/web/offices/com/iip/>

1. What do the terms “patent pending” and “patent applied for” mean?

A. They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the United States Patent and Trademark Office. The law imposes a fine on those who use these terms falsely to deceive the public.

2. Is there any danger that the USPTO will give others information contained in my application while it is pending?

A. Most patent applications filed on or after November 29, 2000, will be published 18 months after the filing date of the application, or any earlier filing date relied upon under Title 35, United States Code. Otherwise, all patent applications are maintained in the strictest confidence until the patent is issued or the application is published. After the application has been published, however, a member of the public may request a copy of the application file. After the patent is issued, the Office file containing the application and all correspondence leading up to issuance of the patent is made available in the Files Information Unit for inspection by anyone, and copies of these files may be purchased from the Office.

3. May I write to the USPTO directly about my application after it is filed?

A. The Office will answer an applicant's inquiries as to the status of the application, and inform you whether your application has been rejected, allowed, or is awaiting action. However, if you have a patent attorney or agent of record in the application file the Office will not correspond with both you and the attorney/agent concerning the merits of your application. All comments concerning your application should be forwarded through your attorney or agent.

4. Is it necessary to go to the USPTO to transact business concerning patent matters?

A. No. Most business with the Office is conducted by written correspondence. Interviews regarding pending applications can be arranged with examiners if necessary and are often helpful.

5. If two or more persons work together to make an invention, to whom will the patent be granted?

A. If each had a share in the ideas forming the invention as defined in the claims – even if only as to one claim, they are joint inventors and a patent will be issued to them jointly on the basis of a proper patent application. If, on the other hand, one of these persons has provided all of the ideas of the invention, and the other has only followed instructions in making it, the person who

contributed the ideas is the sole inventor and the patent application and patent shall be in his/her name alone.

6. If a first person furnishes all of the ideas to make an invention and a second person employs the first person or furnishes the money for building and testing the invention, should the patent application be filed by the first and second persons jointly?

A. No. The application must be signed by the true inventor, and filed in the USPTO, in the inventor's name. This is the person who furnishes the ideas (e.g. the first person in the above fact pattern), not the employer or the person who furnishes the money.

7. Does the USPTO control the fees charged by patent attorneys and agents for their services?

A. No. This is a matter between you and your patent attorney or agent in which the Office takes no part. To avoid misunderstanding you may wish to ask for estimate charges for: (a) the search (b) preparation of the patent application, and (c) USPTO prosecution.

8. Will the USPTO help me to select a patent attorney or agent to make my patent search or to prepare and prosecute my patent application?

A. No. The Office cannot make this choice for you. However, your own friends or general attorney may help you in making a selection from among those listed as registered practitioners on the Office roster. Also, some bar associations operate lawyer referral services that maintain lists of patent lawyers available to accept new clients.

9. Will the USPTO advise me as to whether a certain patent promotion organization is reliable and trustworthy?

A. No. The Office has no control over such organizations. The Office will publish complaints regarding invention promoters and replies from the invention promoters. The Office will not undertake any investigation of the invention promoters. Questions or complaints should be directed to the Mail Stop 24; Director of the U.S. Patent and Trademark Office; P.O. Box 1450; Alexandria, VA 22313-1450 or call at **866-767-3848**.

It is advisable, however, to check on the reputation of invention promotion firms before making any commitments. It is suggested that you obtain this information from the Better Business Bureau of the city in which the organization is located, or from the bureau of commerce and industry or bureau of consumer affairs of the state in which the organization has its place of business. You may also undertake to make sure that you are dealing with reliable people by asking your own patent attorney or agent or by asking others who may know them.

10. Are there any organizations in my area which can tell me how and where I may be able to obtain assistance in developing and marketing my invention?

A. Yes. In your own or neighboring communities you may inquire of such organizations as chambers of commerce and banks. Many communities have locally financed industrial development organizations, that can help you locate manufacturers and individuals who might be interested in promoting your idea.

11. Are there any state government agencies that can help me in developing and marketing of my invention?

A. Yes. In nearly all states there are state planning and development agencies or departments of commerce and industry which seek new product and new process ideas to assist manufacturers and communities in the state. If you do not know the names or addresses of your state organizations you can obtain this information by writing to the governor of your state.

12. Can the USPTO assist me in the developing and marketing of my patent?

A. No. The Office cannot act or advise concerning the business transactions or arrangements that are involved in the development and marketing of an invention. The Office, however, will publish for a fee, at the request of a patent owner, a notice in the Official Gazette that the patent is available for licensing or sale. In addition, the Office of Independent Inventor Programs (OIIP) was established in March 1999 in order to meet the special needs of independent inventors. The OIIP establishes new mechanisms to better disseminate information about the patent and trademark processes and to foster regular communication between the USPTO and independent inventors.

United States Patent and Trademark Office
Alexandria, VA 22313-1450
An Agency of the United States Department of Commerce