GENERAL PATENT INFORMATION

UTILITY PATENTS

This type of patent if correctly prepared is the ***strongest, most easily defended and licensed***.

A utility patent is about how it works or how it's constructed and can include 'Process" claims which is how it is used.

A utility patent must have some practical advantage [hence utility].

A utility patent must have inventiveness over existing products or patents [called prior art]. Inventiveness is put to the test if "one skilled in the art" [IE an experienced oral care engineer working on an oral care product] would find it to be obvious.

A utility patent is ***issued for up 20 years*** if maintenance fees are paid every few years.

When filing a utility patent, one has the earlier of, ***18 months*** or the issuance of the patent to decide if and where they want ***to file internationally*** via the PCT process.

The PCT [Patent Cooperation Treaty] process allows the original filing date to be used in all the foreign countries.

The ***US Patent and Trademark Office*** [USPTO] will generally ***respond*** to a patent application filing in about ***8 to 10 months*** depending on workload. The ***Canadian Patent office*** can take ***three or four years*** for the first office action. Hence it is very advantageous to file in the US as the inventor will be able to make a much more confident PCT filing as the USPTO will generally use all of their arguments on the first office action so the inventor can adjust his claims appropriately when going to the significant expense of filing in foreign countries.

WARNING
ANY CANADIAN PATENT AGENT OR PATENT ATTORNEY THAT SUGGESTS YOU FILE A CANADIAN PATENT FIRST IS DOING YOU A GREAT DIS SERVICE!!!!

Prior art is both what exists on paper [IE other patents] and in practice [products] anywhere in the world and is referenced by the Patent Office to argue against issuing your patent.

A utility patent can be issued on a product or product improvement but the patent owner may still infringe on an existing patent or product thus restricting the ability of the patent owner to in fact use their improvement. A fictitious example of this could be the invention of the coffee cup. Prior to that invention, there were only glasses without handles but inventor 'A' thought that with hot fluids, one needed to keep the fingers away from the hot sides so they patented a handle, so now no one else can put a handle on a glass. Inventor 'B' thinks his small child would have an easier time with the one handled cup if he added a second handle and he also received a patent. The end result is that inventor 'A' can not add a second handle to his one handled cup but inventor 'B' can not even use his two handled cup invention as to do so he would have to start with a one handled Cup and thus would infringe on inventor 'A'. So there is effectively a stalemate.

DESIGN PATENTS

Design patents have ***little value unless*** the client already owns a ***major branded product***. A classic design patent would be the shape of the Coca Cola bottle. Design patents can have a very long life as fees are continually paid. Spark routinely can work around most design patents in a few minutes.

TRADEMARKS

The easy way to get some protection on your logo or product name is to simply put 'TM" after the words. To get a registered trademark is not so easy if the words are from the English dictionary. If you misspell or join words, it matters little if it still sounds like standard words. Xerox and Swiffer are great TMs as they were created words.

However by continuing to us the 'TM" and having earlier applied for the Trademark [even if rejected several times] one will eventually get it to be a Registered Trademark and can use the "R' in a circle, after proof of years of success and sales to make your product name effectively a household word.

SPARK PATENT STRATEGIES

With over ***200 issued patents*** on behalf of our clients, a ***new US filing every two or three weeks***, many successful and lucrative licensing Agreement negotiated and signed with companies such as Proctor & Gamble, General Electric, Leviton, Butler, Mitsui, and others, ***Spark is the Canadian expert in inventing and securing meaningful Intellectual Property [IP]*** for our clients. Our focus is both avoiding existing prior art and securing strong utility patent protection. As engineering and design experts, after the client's design is perfected, Spark continues to generate alternative designs that are also added to the client's patent application to broaden protection. The key to this process is to have both areas of knowledge [understanding patents and understanding product design] in one brain. Then the safe and proprietary design choices are much more obvious. A patent firm full of lawyers, who mostly have out of practice technical skills, can never provide this level of capability.

When it comes to approaching the fortune 500 companies for licensing interest, Spark's professional reputation allows easy access to most companies, big and small.

Why patent? There are two ways to make money from a new product. Proctor & Gamble uses $1,000,000.00 an hour in advertising to saturate everyone into buying something you thought you would never own, like a Swiffer®. For the rest of the world, it is more likely that the product would start selling perhaps locally and gradually build volume and expand the business based on profits being constantly generated. In P&Gs case, its all about the brand name protection and little about the product protection as the product can change quickly. For the rest of us, the early stages of starting and building a business is not profitable and the pay off is usually down the road when higher volumes are reached. Unfortunately as you grow you get more visible to everyone especially competitors looking for new product ideas or extensions. It is usually about that time when the business gets snapped out from under your feet by a large existing player who has resources and distribution.

A patent allows one to start slow and safe and build the business at whatever speed is comfortable. You can also charge significantly more for your product because there is no effective competition so these higher profits help even out the playing field from the P&Gs of the world who will always have lower costs. The profits also help speed the company's growth.

If you wish to get investment in your new venture, an investor will always prefer a strong IP portfolio vs. your commitment of "hard work and determination". He already expects your effort and knows that even if you die of a heart attack, his investment is still reasonably safe.

You cannot license to any intelligent company without meaningful IP. If you expect that company to pay you a royalty, then their costs of each licensed product will be slightly higher. That company will make sure your patent is indeed strong and with no practical workarounds before they sign the contract. They know without meaningful IP, their competitors will out sell them because their competitors' costs are lower since they do not pay royalties.

Today there are very few high volume consumer products that are not totally covered by patents and trademarks.

COSTS

Assuming that the product design exists [even on paper] the average costs for Spark to prepare and file a ***US utility patent*** through an Ohio based patent firm, including Govt filing fees is $7***,000 to $8,000 CDN***.

Most Canadian firms will quote $10,000.00 to $12,000.00 to file a Canadian utility patent, including Govt. filing fees. Spark routinely can do this for much lower costs because we prepare the patent and drawing images, verify prior art and send this package off to a medium sized Ohio based US Patent Firm that Spark has been using for many years.

Each USPTO office action can cost an average of $500 to $2,000 depending on the Patent Agents work required. Two office actions are about average.

Once granted, there is approximately a $500 Government fee to print and issue your patent.

PCT filings can be costly in countries requiring translation. To file PCT is Canada for instance can cost as little as $2000, versus $12,000.00 if filed directly.

PROCESS AND TIMING

Assuming that the product is already designed, even if only on paper, the time to research and prepare prior art, create patent line drawings and write the overview, background, and claim suggestions and send the package to the Ohio based US patent firm to file for a US patent application will take about 3 to 4 weeks

The time for the US patent firm to prepare the 1st draft is 2 to 3 weeks

Once the 1st draft is received, the time for Spark to clean up all the drawing Figs, add and check Fig. numbering, review the entire draft and edit as needed, is approximately one week. The cleaned up application is sent back electronically to the Patent Firm and often filed that day in the USPTO.

The first office action for the USPTO is generally between 8 to 10 months from filing. Once this process is started, it's like a chess game with each side having a maximum of 3 months to respond. Generally two office actions are needed.

Usually catching everyone by surprise, an office action will arrive, allowing the patent and providing the exact date that the patent will issue and be published which is almost always three months away. During this in between time, the inventor can make PCT [international] filings with the confidence that they know what they will receive in those other countries as the USPTO has already issued the patent.

The clock has now started and will tick for 20 years if maintenance fees are paid every 3 to 4 years, depending on the country.