

# How to Patent Your Invention

By Neil Armand

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A patent is a government granted right that allows the inventor to exclude anyone else from making, using or selling the invention in the country that issued the patent. The government grants this right to help encourage inventors to spend the time, money and effort to invent new products, technologies and the like.

In the United States, the term of a new patent is 20 years from the date on which the application for the patent was filed or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees.

When a patent expires, the invention enters the "public domain" allowing anyone to make, use or sell the invention without needing the permission or paying any royalty to the inventor. The government requires patents to expire because otherwise one person can control an entire industry if that person was the first to conceive of a type of product.

The patent law specifies the general field of subject matter that can be patented and the conditions under which a patent for an invention may be obtained. Any person who "invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent," subject to the conditions and requirements of the law.

In order for an invention to be patentable it must be new as defined in the patent law, which provides that an invention cannot be patented if: "(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent," or "(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to the application for patent.

If the invention had been described in a printed publication anywhere in the world, or if it has been in public use or on sale in this country before the date that the applicant made his/her invention, a patent cannot be obtained. If the invention had been described in a printed publication anywhere, or has been in public use or on sale in this country more than one year before the date on which an application for patent is filed in this country, a patent cannot be obtained.

In this connection it is immaterial when the invention had been made, or whether the printed publication or public use was by the inventor himself/herself or by someone else. If the inventor describes the invention in a printed publication or uses the invention publicly, or places it on sale, he/she must apply for a patent before one year has gone by, otherwise any right to a patent for an invention will be lost. The inventor must file on the date of public use or disclosure, however, in order to preserve patent rights in many foreign countries.

According to the law, only the inventor may apply for a patent for his or her invention, with certain

exceptions. If the inventor is dead, the application may be made by legal representatives, that is, the administrator or executor of the estate. If the inventor is insane, the application for patent for an invention may be made by a guardian. If an inventor refuses to apply for a patent for his or her inventions, or cannot be found, a joint inventor or, if there is no joint inventor available, a person having a proprietary interest in the invention may apply on behalf of the non-signing inventor.

If two or more persons make an invention jointly, they apply for a patent as joint inventors. A person who makes only a financial contribution for the invention is not a joint inventor and cannot be joined in the application as an inventor.

Additional information on how to patent an invention is available at <http://www.newideatrade.com/patents.htm> .

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