

10 Things To Know About Protecting Your Patent Rights

1. File early, file first.
 - a. Most of the world has a first-to-file system, while the U.S. has a first-*inventor*-to-file system.
2. File **before** publicly disclosing your invention or offering your product for sale.
 - a. File once the concept is complete, before the final product is ready to sell or is disclosed.
 - b. Most countries require a patent application to be filed **before** the invention is publicly disclosed.
 - c. File within **one year** of your first public disclosure or offer for sale, otherwise lose the ability to patent in the U.S.
 - d. Use confidential disclosure agreements to preserve your rights to obtain a patent and protect your trade secrets in the invention.
3. File a provisional patent application as soon as your concept is complete.
 - a. A provisional application is a place holder to give you the earliest filing date; you have one year to file a non-provisional application after filing a provisional.
 - b. Improvements you make after filing will not be covered; an updated application is required.
4. Accurately identify your inventors.
 - a. Incorrectly listing the inventors is grounds for invalidating a patent.
 - b. Inventorship is determined by who contributed to the invention specified in the claims (numbered paragraphs at the end of a patent or patent application).
5. Keep good records about disclosure and alternative features of your invention.
 - a. Include alternative features of your invention in the patent application; this could prevent competitors from designing around your patent.
 - b. Keep records of any experimental use, public disclosure or offers for sale, such as trade shows.
6. Keep good records about publications by others that are relevant to your invention.
 - a. You must disclose to the U.S. Patent Office any information of which you are aware that is relevant (good or bad) to the patentability of your invention; failure to disclose relevant information can render your patent unenforceable.
7. Just because you have a patent does not mean you have the right to practice.
 - a. Having a patent gives you the right to stop others from making, using, or selling your invention, but others may have an earlier patent that affects your ability to use your invention.
 - b. A good prior art search is recommended, one that also considers risk of infringement as well as patentability.
8. Pay attention to ownership.
 - a. In the U.S., co-inventors each own 100% of the invention until they assign their rights; make sure employees or contractors have a written obligation to assign their rights.
9. Be aware of low-cost alternatives.
 - a. You get what you pay for; online forms and services can create many problems, some that cannot be fixed.
10. Protect your intellectual property.
 - a. Patent – see above.
 - b. Trademark – clear your brand before putting money into it.
 - c. Copyright – protect creative works: artwork, code, website text and look.
 - d. Trade Secret – take necessary steps to KEEP THE SECRET or lose it.