

I've got a great idea! So now what?

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How do I protect my idea from being stolen while I develop a marketable product? When you don't have the answers or are not sure what the next step might be, ask us. We're the Edison Inventors Association, Inc., a nonprofit, educational organization with goals to promote creativity and entrepreneurial success. Being a diversified group of people, we share time, information, experiences and resources in hopes of promoting a better understanding of the invention and entrepreneurial process. We are not alone. There are similar organizations throughout the country. If you are serious about your idea, we encourage you join one.

Overwhelming excitement! You are convinced you hit the BIG ONE! Your idea is worth millions! Slow down! Catch a breath of reality. Ask yourself what your true goals are. Will you be satisfied to just receive a patent or will nothing stand in your way until you succeed at capitalizing on you idea? Yes, it is your right to pursue your dream. Just take however long it takes to think it through carefully! There will be sacrifices in time, money, and emotions. If you determine it is the right thing to do, read on.

BEWARE OF SCAMS!

Before paying any money, check out any invention or marketing company thoroughly and get references from a number of satisfied clients!

The best INTELLECTUAL PROPERTY PROTECTION (IPP) may be one or more of the following: patent, trademark, trade secret, copyright and/or trade dress, depending on what you are protecting. Keep in mind, protection issued by the United States Patent & Trademark Office (www.uspto.gov) or U.S. Copyright Office (www.copyright.gov) does not mean protection overseas! IPP gives you the sole right to benefit from your invention for a specific period of time, normally 20 years. Keep in mind; certain patents have maintenance fees due approximately every three and one-half years from the date of issuance.

The value of holding a patent can be very significant if your product has the potential of drawing a lot of attention or could have long market life. There are successful inventors who have walked on both sides of the track. Those who believe patents are worthwhile pursuing and those who rely less on patents and more on speed to market. Some have managed to succeed on less expensive forms of IIP like trademarks. If you are new at this venture, you need to develop a clear understanding of the different types of IIP.

The cost of filing and maintaining IIP can be challenging. If you are willing to perform some of the preliminary work yourself (and you can!), the expense can be more modest. Yes, you can and should become familiar with doing a patent search and writing a patent! Just as important, you should understand your product's market and the competition you will be facing. First do what you can, decide if it is worthwhile to continue, then share your progress with reliable professionals to take you the rest of way.

What happens if someone else copies your idea and markets it? You do have the right to challenge this person or business in a court of law if you inform them and they refuse to acknowledge your rights. This can mean significant time involvement and expense on your part. Until a patent is successfully adjudicated, all you really have is the right to challenge others who claim the same right(s). Certainly flagrant infringement is most easily defended but it is surprising to learn a single word interpretation can mean success or failure! Believe it or not, unforeseen mistakes do occur in the patent process.

The more you are willing to learn, the better prepared you will be to make important decisions. You may even grow to realize what every successful inventor comes to terms with: **MORE OFTEN THAN NOT, YOU SELL PROFIT NOT PRODUCT.** Great inventions may fail

to reach sales because of poor market planning. Even if you license a product, it is wise to know the industry. Knowledge is power!

Do you need IPP in Foreign Countries? It might interest you to know approximately 4% of the World's population resides in the United States of America. At its peak, approximately 90% of all goods sold worldwide were sold right here in the U.S.A. However, the spheres of influence and affluence are changing.

WHAT'S A PERSON TO DO?

Globalization of the patent process is a hot topic. You would be wise to understand the difference between "First to Invent" and "First to File". There are strong advocates on both sides of this issue. The United States, for now, stands alone honoring "First to Invent".

For the moment, you have one year to file for a U.S. patent once public disclosure has been made. THIS IS NOT THE CASE IN FOREIGN COUNTRIES. The day you make public disclosure in most countries you must have already filed or you can lose the right to!

"I mailed a sealed envelope with my idea, to myself. So now I'm protected. Right?" WRONG! With technology as advanced as it is today, this *Poor Man's Patent* approach is unacceptable!

First and foremost, keep good records. The most reliable form of record keeping to date has been well documented entries in a bound notebook from which pages can not be added. Any research stored in or on other sources should have accurate, clear reference made within this bound notebook. Dated, witnessed entries verifiable by signature are recommended.

Filing for a patent right away may not be in your best interests and could prove costly. You may wish to consider acquiring a one year period of patent pending status during which time you can investigate the market potential of your product. Read on to understand why this will afford you *limited* protection.

Your patent attorney or agent may tell you, "patent pending status gives you the protection you need to discuss your idea freely with other parties." Well, it certainly does help but what if your patent pending status runs out or your patent application eventually is denied? There is nothing to prevent a second party from using your idea freely. Therefore, become familiar with confidentiality agreements or non compete agreements. Use them wherever and whenever possible to secure more time for yourself.

Patent and trademark searches are valuable procedures to familiarize yourself with. If you are just starting out, are not good at researching records, or can earn more doing what you do best, consider hiring a professional to do the search for you. Patent attorneys and patent researchers will assist you for a fee. It is money well spent in making the final decision to sink funds into a patent or trademark application!

The internet has opened the door to performing 'preliminary' patent searches online. Go to <www.uspto.gov> and click on <patents>. You can read up on information about the subject or just click <patent search>. There are many helpful tips to patent searching. Just remember it is very worthwhile to learn how to perform this. Be careful though! Until you become more seasoned, do not think your idea is unique just because YOU did not find any matches! Too many novice inventors fall victim to false hopes.

WHAT IS A DISCLOSURE DOCUMENT? The U.S. PTO has discontinued this alternative which allowed you to file a written description of your invention to serve as evidence of the dates of conception.

THE PROVISIONAL APPLICATION! The objective of creating this tool is to encourage the inventor to move forward with his or her idea(s) and not to just file a document and sit on it. The U.S. Patent & Trademark Office places the emphasis on utilization of invention or technology for the greater good, not coveting it until you feel the urge to pursue it.

The Provisional Application is filed like a patent without including *claims*. If you are not knowledgeable about this, enlist the services of a professional. Benefits include one year of protection, patent pending status, and lower initial expense. Disadvantages include: the clock starts ticking away on the twenty year life of the potential patent; you lose protection if you do not file for a patent within one year; and since no claims are submitted, there is no examination of your application! You could be blind to the truth if you do not really understand how important *claims* are to the granting of a patent.

The filing cost is under \$100 for a *small entity*. A form must be submitted with your application to determine if you are eligible for *small entity* status. There is a cover-sheet provided by the U.S. PTO with directions on how and where to file. If you jump at this because it appears cheaper than filing a patent application (which costs less than \$500), the cost of drafting your provisional application (or patent) is not included in the filing fee.

PATENTS A patent is a contract between the inventor and the government to allow complete public disclosure in return for exclusive rights to make, use or sell the invention. There are different types of patents an inventor can apply for: UTILITY, DESIGN, and PLANT. This article will address the first two types.

The “strength” of a patent or the protective value is considered greatest with a UTILITY patent. This protects the functional value of an invention. Filing an application requires a very detailed description of the invention and is not an easy task for the beginner. A patent attorney should be consulted for all but the experienced inventor.

Patent attorneys are professionals so expect to pay a fee commensurate with their expertise. Once you delve into patent searches and writing patents you will appreciate their efforts on your behalf. It is worth noting, individual patent attorneys may have an interest in a particular area or specialty. It is in your interest to select an attorney who is knowledgeable in your invention’s area. The different areas include: Mechanical, Chemical, Electrical, and Biotechnical. The cost? Several thousands of dollars!

Design patents cover the physical or ornamental design of an object. Filing for this type of patent is normally less involved than for a utility patent. (For specific details write to: U.S.P.T.O., Washington, D.C. 20231 or go to <www.uspto.gov>)

WHAT NEXT? Only so much can be offered to you through inventor organizations. Inventing is a hobby for some and a life’s pursuit for others. It is very important for you to recognize from the start, YOU must be willing to learn the process, to make necessary sacrifices in time, money and commitment. Ask yourself what qualities of an investment are essential before you would consider investing any of your personal time or money. Do not expect any less from other people. Be realistic. If you believe in your idea, if you are willing to commit to making it a success, LEARN THE PROCESS.

It may not be the first invention you try to develop that provides your “pot of gold”. If you learn the process, develop a network of people in the industry, and conduct yourself in a trustworthy manner, inventing can be very rewarding. Increase your good luck through persistence in your effort to succeed and in taking advantage of the many opportunities the **Edison Inventors Association, Inc.** can offer! All members should recognize the importance of a code of ethics. Treat each other’s ideas honorably. As you become more familiar with the invention process, help other inventors learn what you have been privileged to learn.