

MUELLER LAW, LLC

U.S. PATENT FILING INFORMATION

If you are interested in obtaining a U.S. patent, there are options available to you. We strongly advise inventors to initially make a prototype to ensure operability of the invention. Once you are sure that your invention will operate as you intend, we strongly advise inventors to have a patentability search conducted. In our experience, hand searches at the U.S. Patent Office by professional patent searchers result in the best searches. Electronic searches are unreliable due to being limited to using key words. You call it a “pencil,” while we call it “an elongate annulus retaining an interior graphite rod.” U.S. patentability searches generally cost around \$1,809; although, this amount will vary depending upon the complexity of the search, the complexity of the invention, the number of patents found, *etc.* Once the patentability search is completed, inventors are faced with a decision.

If you are interested in preserving the opportunity to protect your invention outside of the U.S. (including Canada, Europe, Japan, *etc.*), then you must file a U.S. patent application before you commercialize your invention. See MuellerLaw Foreign Patent Filing Information. Often, inventors file a provisional patent application to satisfy this requirement. If you are only interested in obtaining a U.S. patent, then you have up to one year following your first commercialization efforts in order to file a U.S. patent application. 35 U.S.C. § 102(b). Effective March 16, 2013, the U.S. will award patents to the first person to file a patent application on the invention. Until that time, we are on a first to invent patent system. This is the protection that you, as an inventor, have when you commercialize your invention before you file a U.S. patent application. In order to have evidence of when you made your invention, you (and your co-inventors, if any) need to write down a description of your invention with drawings (if appropriate) and sign and date this document. Then, have 2 or 3 trusted friends (not relatives) read your patent disclosure and make sure that they understand the invention. Then, have them sign under the heading, “Read and Understood By”, making sure that they date their signatures. This “patent disclosure document” should be kept in a safe place, as it is your proof with corroboration of when you made your invention.

Preparation of a patent application is a time-consuming and difficult process. The U.S. has unique requirements for U.S. patent applications including, *inter alia*, a written description of the invention in such a manner as to enable the skilled artisan to make and use the invention, disclosure of the best mode contemplated by the inventor for carrying out the invention, *etc.* Drawings also are encouraged. Of utmost importance are the claims at the end of the application, which define the metes and bounds of the invention.

U.S. patent applications generally are examined on a first come basis around 2-3 years after filing. Prosecution of the patent application can take 6 months or longer. Once the patent is granted, maintenance fees are due 3 times during the term of the patent in order to keep the patent in force.

U.S. patents have a term of 20 years commencing with the filing date of the patent application. Expect to spend between about \$8,500 and \$15,000 for obtaining a U.S. patent with higher fees likely for more complex inventions. The U.S. Patent Office’s fee schedule for patent applications can be found at <http://www.uspto.gov/web/offices/ac/qs/ope/fee092611.htm>.