

# How to Get a Patent

Published May. 10, 2011

Have you invented the next big thing? If so, you've **got to** get a patent. It protects your invention and gives you exclusivity. Read this article by Steve Strauss to understand why patents are critical to your success and how you can get one for your business.



**Q: I have invented what I think is “a better mousetrap.” How do I stop someone from stealing it? Do I need a patent or maybe a trademark? - LT**

**A:** Do you remember the first video arcade game, Pong? Invented by Atari, the game was a cultural phenomenon. Atari had the all-important first mover’s advantage and should today be in the same league as X Box, Wii, and Playstation, but is not.

Why? Because they waited too long to get a patent, and by the time they did, there were already knockoff Pong games on the market.

You have got to get a patent. A patent protects your invention. A patent gives you exclusivity.

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Here's the deal: If you invent or discover a new and useful "process, machine, manufacture, or composition thereof" you can apply for a federal patent to protect your invention from being used by others without your permission.

There are three basic types of patents:

- Utility patents protect machines and industrial processes and last for 20 years.
- Design patents protect designs of manufactured items and last for 14 years.
- Plant design patents (rare) protect new plant varieties and last for 20 years.

How do you get a patent? This is the basic process:

### 1. Research

. The first thing to do is to go to the website for the United States patent and Trademark Office (USPTO) – [www.uspto.gov](http://www.uspto.gov). There, you can do a quick search to see if there are any other exact inventions, in which case, do not pass Go and do not collect \$200. However, if there are similar patents out there, it may be that yours is different enough to still be patentable. Only a patent lawyer could tell you for sure. Expect to easily spend a few thousand dollars to have a patent lawyer research your invention and its protectability.

### 2. Submit a patent application:

Once you have decided that your invention is unique enough to warrant a patent, you need to hire an attorney to draft and file a patent application. Although some facets of what is known as Intellectual Property law can be done without the aid of attorney (trademark applications for example and copyrights), patents are complicated enough that expert legal help is required.

Getting the application in order and filed may take the lawyer as long as six months and cost you \$50,000, or it may be six weeks and \$2,500 – it all depends upon the complexity of the job. A patent application usually consists of:

- Drawings
- An invention background (why your invention, even if similar to others, is still unique)
- A summary of the invention (how the invention fills a need)
- A detailed description of the “embodiments” of the invention (examples of the invention)
- A set of claims (the scope of the requested patent), and
- An abstract (a brief description of the invention)
- Fees of \$540, currently, for search, examination, analysis, etc.

After you file your application, it will take between six months to two years before you hear from the USPTO. Don't be discouraged if your application is rejected, as that often happens. Your lawyer will go back and explain to the patent office why their decision is wrong and should be reversed. Claims are usually rejected because:

- The language in the application was too vague
- The description of the invention was insufficient
- The invention is not unique enough

### 3. File amendments if necessary:

An amendment to your application may be necessary, or even a few amendments. After you file your amendments, you will either receive an approval, or a “final rejection” (only in the government is a “final rejection” not final and actually appealable.) If you receive an acceptance, or what is known as a “patent allowance”, you will need to pay an issuance fee, which is currently \$755. Other additional fees are required every few years.

Although this is a cumbersome and fairly expensive process, if you have in fact invented something unique, you need to protect it by obtaining a patent.

**Today's Tip:** If you have ever spent time on any government website, you know that, unlike men, not all sites are created equal. So I am happy to report that the Small Business Administration is leading the way in what a government website should look like.

The recently re-designed [SBA.gov](http://SBA.gov) is chock-full of great and useful information. Maybe the best part is a new tool called SBA Direct. As the SBA says, "SBA Direct allows visitors to personalize their browsing experience according to their business type, geography and needs. SBA Direct then delivers relevant and targeted information on all aspects of running a business such as getting started [and] business growth. SBA Direct also provides information on . . . financial assistance, exporting, government contracting opportunities, and counseling and training."

## About the Author

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Steven D. Strauss is a lawyer and writer and is one of the country's leading experts on small business as well as an international business [speaker](#). The best-selling author of 17 books, his latest is the all-new 3rd ed. of [The Small Business Bible](#). You can listen to his weekly [podcast](#), Small Business Success Powered by Greatland, visit his new website for the self-employed, [TheSelfEmployed](#), follow him on [Twitter](#), and "like" TheSelfEmployed on [Facebook](#). You can e-mail Steve at: [sstrauss@mrallbiz.com](mailto:sstrauss@mrallbiz.com). © Steven D. Strauss