

WHEN TO FILE

PROVISIONAL VS. NON-PROVISIONAL PATENT APPLICATIONS

A variety of factors can determine whether a provisional or non-provisional patent application may be the best fit for you. Use the guide below to aid in the decision process prior to consulting with a Founders Legal IP Professional.

DECISION FACTOR ONE:

Perform a Patent Search. A patent search will provide you with an overview of existing technology and intellectual property surrounding your invention. It will also help prevent you from wasting time and money for an idea that already exists.

DECISION FACTOR TWO:

Assess How Well the Invention is Developed. Patent search professionals can assist in determining the conceptualization of your claims. If your invention is still in the early stages of development, you may wish to choose a non-provisional application due to its flexibility and relative inexpensiveness.

DECISION FACTOR THREE:

Assess the Funding of Your Project. Early-stage companies do not necessarily need to spend their budget to filing patents, when a provisional application can provide a cost-effective way of protecting patent rights.

DECISION FACTOR FOUR:

Consider Your End Goals. How soon do you need to receive a patent? If licensing or enforcement of the is part of the business strategy, a well-funded project should file a non-provisional patent application and even consider possible expedited examination options.

DECISION FACTOR FIVE:

Should the invention be considered for a trade secret rather than a patent? A trade secret provides a means to keep an invention confidential and prevent public disclosure of the invention. Consider a trade secret over a patent if your competitors will not be able to easily reverse-engineer your invention.