

PATENTS

WHY FILE A PROVISIONAL PATENT APPLICATION?

FIRST THING'S FIRST

It is important to understand that what is commonly referred to as a "provisional patent" is actually just a "provisional patent *application*."

A provisional patent application will provide the "patent-pending" status as well as a priority date. However, because the provisional is never examined, it will not lead directly to "patent granted" status without converting to a non-provisional patent application.

Additionally, it's important to know that provisional applications are for utility patents only. They do not apply to design patents.

KEY DIFFERENCES BETWEEN PROVISIONAL & NON-PROVISIONAL

A Provisional Patent Application is Essentially a Placeholder that:

- Provides priority date for future non-provisional filing.
- Provides a 12-month window to file a non-provisional application.
- Enables patent-pending status from the USPTO.

While a Non-Provisional Patent Application:

- Grants a monopoly on the invention for 20 years.
- Undergoes examination that usually takes several years.
- As a utility patent application can be used as the basis for additional divisional and continuation patent application filings.

WHY FILE FOR A PROVISIONAL PATENT APPLICATION?

In the United States, patent rights are determined by the first inventor to disclose or file on an invention, not the first inventor to conceive of the invention. However, sometimes an inventor needs time to research, develop, and perfect their idea. A provisional patent application provides a means of inexpensive patent protection and secures a priority date for the application for 12 months. Provisional patent applications should be written thoroughly to demonstrate enablement of the invention at the time of filing

ADVANTAGES OF A PROVISIONAL APPLICATION

- Provisional applications are kept confidential, enabling a patent-pending status without having to publicly disclose the invention.
- Because there is no obligation to claim everything disclosed in a provisional application, They enable a level of creative freedom in the claimed subject matter.
- Provisional Applications can be used as the basis for multiple filings.
 - Multiple ideas can be within a single provisional application. Many separate non-provisional applications can be filed on each claiming priority to a single provisional application.
 - Once one non-provisional application has converted from a provisional application the provisional application can then be examined. This results in the publishing of all claimed ideas within the provisional application.
 - Separate provisional filings can be used to ensure not all aspects of an invention are disclosed upon conversion.
- You can re-file provisional applications to renew the pending status.

CONVERSION TO NON-PROVISIONAL PATENT APPLICATIONS

Conversion deadlines are very important. Once your provisional patent application has been filed, you will have twelve months to file a non-provisional application. If there is no conversion within the 12-months, the patent-pending status expires and the priority date of the provisional application is lost. An examiner will inspect the provisional application upon conversion to see if there was an enabling disclosure of the invention in the priority filing.