



Mesmer & Deleault, PLLC
41 Brook Street, Manchester, NH 03104
Seacoast Office: One New Hampshire Ave., Suite 125
Portsmouth, NH 03801

Happy Valentine's Day



"Tip of the Month"

Is a Provisional Patent Application the Right Filing Strategy?

Inventors seeking to patent an idea sometimes must decide whether to file a provisional application or a non-provisional application for patent. The non-provisional application is the formal application or "regular" application that is examined and can mature into an issued patent. If not claiming the benefit of another application already on file, an applicant can strategically use the lower cost and faster filing of a provisional patent application to its advantage.

A provisional application must have (1) an application cover sheet with bibliographic information; (2) a specification with a detailed description of the invention; (3) figures; and (4) the application filing fee. Compared to a non-provisional application, a power of attorney, declaration, application data sheet, claims, and other documents are not required. Also, the specification and figures are not subject to the formal requirements of a non-provisional application. For example, photographs may be used instead of formal drawings and the provisional application does not require a completed claim set since it will not be examined.

The reduced amount of work required to complete a provisional application means the applicant can file the application more quickly and at a lower cost. In situations where the invention is about to be disclosed or offered for sale, or where a competitor is also developing a similar idea, filing quickly (and first!) can be critical to prevent loss of rights to the idea.

The reduced formalities translate to a lower cost of preparing the application. Also, a provisional patent application has a lower filing fee of \$130 for a small entity (vs. \$800 for a non-provisional application). Applicants may take advantage of the low filing fees to file multiple versions of the application as the idea develops over time.

By filing a provisional application, followed by a non-provisional application one year later (or less), the applicant can spread out the costs of a patent application. The efforts to complete a provisional patent application are not wasted when it comes time to file the non-provisional patent application. The provisional application can be used and revised as needed for filing as a non-provisional application.

The lower costs also enable the applicant to file a lower-cost application and then determine if a patent application is worth pursuing. During the one year term of a provisional application, the applicant can seek investors, test the market, further refine the invention, and otherwise further evaluate if the applicant wishes to proceed with a non-provisional patent application.

For help determining which path, provisional or nonprovisional patent application, is best for your situation, the attorneys at Mesmer & Deleault are ready to help. Please call (603) 668-1971 or send an email to mailbox@biz-patlaw.com today.

Frank B. Mesmer, Jr.
Robert R. Deleault
Ross K. Krutsinger
Joshua N. Mesmer



(603) 668-1971

Fax (603) 622-1445

E-mail: mailbox@biz-patlaw.com

Website: www.biz-patlaw.com