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“Tip of the Month”

Invention, Confidentiality and Patents: What you do could hurt you!

You have invented a new device or an improvement on an old device. It has potential world-wide applications. You're eager to bring it to market. After requesting proposals from various sources, you've found a manufacturer willing to make it at a reasonable cost. You've identified which trade channels are best to introduce your new product or improvement. Economically, the retail price is in a range acceptable to the consumer. So now you file a patent application to protect your rights. *You've covered all the bases, right? Maybe not!*

When you requested proposals from various manufacturers to build your new device, did you have each of them sign a **Confidentiality Agreement**? If not, you may have inadvertently lost potentially valuable property rights in foreign countries. Under US Patent Law, you are entitled to a patent for your invention if it was not known or used by others either before the date of its conception or one year prior to filing of the US application. However, the patent laws of most foreign countries do not allow a one-year grace period like that in the US. Most foreign countries have an absolute novelty requirement for obtaining a patent. Any public disclosure of your invention prior to filing a patent application will prevent you from obtaining foreign patent protection. In the above example, the disclosure of your invention to a manufacturer when you requested a proposal is a public disclosure unless you had the manufacturer sign a Confidentiality Agreement.

Confidentiality Agreements should be used to protect ideas while they are in the development stage before you file a patent application. They are also useful and should be used after filing a patent application in order to protect your rights to the fullest extent possible. A Confidentiality Agreement keeps your disclosure private. Thus, disclosures under Confidentiality Agreements do not trigger the one-year grace period under US Patent Law, nor do they violate the absolute novelty requirements of most foreign countries.

If you have an invention or an idea, we can provide you with the necessary review and recommendations to protect your invention. To set up a review, call us at 668-1971 or contact us using e-mail through the Internet at *Meslaw @ aol.com*.

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