

SPECIAL REPORT

**7 STEPS TO PREVENT YOUR NEW INVENTION
FROM BEING STOLEN**

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Introduction

When you have an invention, how do you know if it is new and patentable? If you decide it is patentable, what steps do you take to protect your invention? This report answers these questions and guides you, STEP by STEP, to determine if your new idea is patentable and how to protect it.

STEP 1: Don't share your Great Idea with others

When your Great Idea is first conceived, you may be swept away by its brilliance and potential, and — **big mistake!** — you want to tell your close friends and anyone you meet.

Do not share your idea with others (except maybe your spouse or business partner).

Even your closest friends may not share the vision of your Great Idea. If you tell them about your idea their response can easily be discouraging. Thoughts like, “Maybe it’s not so good after all” or “it can’t work,” will jump into your mind.

Often, breakthrough ideas meet resistance when they are first introduced. **Fact:** When you tell your idea to others — especially when it's new — they may not see it as you do. They might even be hostile to your idea causing you to think, “Well, maybe my idea's not worth pursuing.”

Self doubts are completely natural. So before sharing your idea, it's important to feel its full potential *and* to be committed to realizing it!

Successful inventors know that “talking” – rather than acting – can dissipate the energy that otherwise goes to bringing the idea to manifestation.

Of course it's also true that most of the time when you tell your great ideas to others, they usually forget within a few minutes. However, your idea might ferment in the mind of someone else who thinks it's their idea into something that you won't own or otherwise control. ***Think about that!***

STEP 2: Record your Great Idea in Writing

If you don't have a verifiable record of your idea, someone else who does have a written record can claim that they were the first inventor.

Therefore, when you have an Idea, immediately **write it down**. Some of the greatest ideas arrive in a fertile mind, only to be forgotten. *There are no examples*, because lost ideas are lost forever.

A Great Idea can be like a vivid, intense dream that seems unforgettable — until 20 seconds later when it is gone from the mind. **Write it down — immediately!** Carry a notebook, where you can record your idea, and add to it as you percolate new ideas as you think about it.

When you write your Idea down, or add to it, also **record the date**. This protects your idea at the original time of inception. When it comes to disputes over ideas and inventions, the person who can prove they had the idea first will get the credit *and the rewards*.

When you record your idea, the general rule is to write it in a bound notebook and — at the bottom of each page — insert the phrase 'Read and Understood' and then have someone (other than a family member) sign their name and date it so that not even they can claim ownership of your idea. You can use a Disclosure Form as shown in Appendix 1.

STEP 3: Continuously Review and update your written Great Idea

Writing not only creates a written record of the idea, but it also creates important proof that you have worked steadily on it. You can use a Disclosure Document as shown in Appendix 1. This is important in Patent law because if you can show that you've worked continuously on the idea if there is a dispute, you will have proof in a Patent contest. You can use a Disclosure Document as shown in **Appendix 1**.

Review your written notes on your Great Idea everyday. Reading your notes will tend to inspire you and lead to further insights that will drive your idea forward.

To move your Great Idea from its inception to commercial realization takes effort.

Don't leave your Great Idea alone. To successfully take your idea to commercialization takes strong, persistent, concentrated effort. This is facilitated by reviewing your idea everyday and writing down further insights and embellishments that will take the idea forward.

STEP 4: Do a patent search

A patent search often uncovers ideas that are similar to your invention. They stimulate your thinking and help you fully expand your idea so that someone else won't be able to easily get around your invention.

ANYBODY CAN DO A PATENT SEARCH! — Yes, that is so! With access to a computer, you can find out how original your Great Idea is.

The purpose of a patent search is to discover existing patents (called "prior art") that are similar to your idea for an invention. You can do the search for FREE on the US Patent Office database at www.uspto.gov. **HINT:** When you reach the Patent Office home page, click on "search" under "Patents." Help can be found at www.uspto.gov/patft/help/help.htm. Don't expect your search to find every relevant patent because no patent search is completely comprehensive.

Collect all of the relevant patents. If you're not sure if the patents you uncover will prevent you from proceeding with the development of your idea, you can present the results to a Patent Attorney and ask their opinion.

If you have any questions regarding the results of your Patent Search, contact Howard Cohn at howard@cohnpatents.com or at 1-800-613-0955.

STEP 5: Use a Non-disclosure agreement.

Before you show your unpatented idea to anybody, you should **always** have a signed non-disclosure agreement (NDA; sometimes called a “confidentiality agreement”). Otherwise, anyone you show it to might tell some else about it or use it themselves.

Basically, a non-disclosure agreement is a contract between you and another person (referred to as the “recipient”) not to disclose your idea or invention, except under the terms (if any) of the agreement. The other person also agrees not to develop the idea themselves.

In **Appendix 2**, there is sample NDA. (Please understand that this is only a sample agreement and it needs to be modified to suit the particular circumstances.)

There are nine elements of an NDA that you need to know:

Element 1: NDAs are the cheapest way to protect your unpatented invention. However, the protection only lasts a limited amount of time. Once you publicly disclose your invention, you have one year to file a Patent Application in the U.S and you immediately loose your rights to file a Patent Application in almost every foreign country. Don't let the ease of using an NDA lull you into not applying for a patent.

Element 2: NDAs list the kinds of information the recipient can disclose and the kinds of information that cannot be disclosed. Usually, the information that can't be disclosed is specifically identified in the NDA as "confidential" or "proprietary" information. Naturally, when you disclose any information about your invention or idea to another person, you need the description of the confidential information to be as broad or all-inclusive as possible.

Element 3: You don't have to clearly determine if the confidential information you disclose is really part of your invention. The kinds of information that can be covered by an NDA are virtually unlimited. For example, it can include data, know-how, prototypes, computer software, test results, and specifications of products.

Element 4: While NDAs can provide broader protection than patents, it is important to use both NDAs and patents to protect your invention. As you develop and market your invention, you can use NDAs. However, to ultimately protect your invention, you will have to get a patent.

Element 5: An NDA puts limits on who is allowed to see your confidential information. For example, the NDA can specify that the confidential information is to be used only to evaluate your invention or idea but prohibits its use by the recipient.

Element 6: The NDA should specify a time limit, such two or three years, during which your invention or idea will maintain its confidential status.

Element 7: Failure to use an NDA can lead to disastrous results. For example, you might discuss your invention with a friend, or with a marketer or manufacturer before having them sign an NDA. You should not be afraid or embarrassed to ask even your best friends to sign an NDA. NOTE: Disclosure of your idea or invention without an NDA can prevent you from getting patent protection.

Element 8: You can use an NDA to prevent the loss of the patent rights for your invention. Under U.S. law, the public disclosure of your invention without an NDA can cause you to forfeit the patent rights for your invention. A properly drafted NDA can prevent unintentional forfeiture of your patent rights.

Element 9: Each state has its own laws regulating NDAs. If your NDA is flawed, it might be invalid and not provide you any protection at all. It is always good to have an attorney review your NDA.

STEP 6: Be Wary of Using an Invention Marketing Company

Several times a month, someone calls and tells me that they spent thousands of dollars to have their invention evaluated, protected and marketed. In every case, the only thing they got for their money is an impressive looking bound book filled with useless information that vaguely relates to their invention. I no longer ask who took their money because it was always one of the **Invention Promotion Companies**.

Recently, the Federal Trade Commission (FTC) filed a complaint against an **Invention Promotion Company**. The FTC said that the company used Internet and classified ads to lure inventors to sign up for their worthless services. The FTC further said that this particular Invention Promotion Company had made false claims about their selectivity in choosing inventions to promote, their track record in turning inventions into profitable products, and their relationships with manufacturers. Further, this Invention Promotion Company had falsely claimed that their income came from sharing royalties with inventors rather than from the \$800.00 to \$12,000.00 fees they charged inventors for their services, which were worthless. For more information, [click here](#).

The U.S. District Court judge ordered this Invention Promotion

Company to pay **\$26 million** to the inventors they had misled, and ordered it to stop making the bogus claims used to attract clients.

WARNING!! — Don't sign up with any Invention Promotion Company until you have asked the following 10 questions and **Get The Answers In Writing!**

Question 1: How many inventions did you evaluate for commercial potential in the past five years, and how many of those were positive and accepted by you, and how many were negative and rejected by you? [A legitimate Invention Promotion Company typically has low acceptance rates, i.e. under 5%].

Question 2: How many of your clients have received a net financial profit as a result of your services, and what is your success rate over the past five years? [Success rate is defined as the number of clients who have made more money from their invention than they had paid to your Invention Promotion Company].

Question 3: What are the names and addresses of all previous **Invention Promotion Companies** with which your company and/or its officers have been affiliated in the last 10 years, and what other names has your company used? [Some **Invention Promotion Companies** change their identity.]

Question 4: How many of your clients have received license agreements for their inventions as a result of your company's services? [If the success rate is less than 2–5%, then seriously consider going elsewhere.]

Question 5: How many clients have you contracted with for promotional services in the last 5 years?

Question 6: Is there an up-front fee, and, if so, how much is it and **what am I getting for it?** How much will the complete process cost from submission of my invention to obtaining a patent and a licensing agreement? [Good Invention Promotion Companies have small, or no up-front fees, because they make their real money from successful royalty arrangements.]

Question 7: Has your company ever been investigated by or cited by the Federal Trade Commission, the Better Business Bureau, or any consumer protection agency or Attorney General's Office, and, if so, when and where? [For complaints filed with the United States Patent and Trademark Office, [click here.](#)]

Question 8: Who selects and pays for the Patent attorney who does the patent search, patentability opinion and patent application preparation for your idea? [You should be able to select your own, because the Patent attorney represents you, not the company.]

Question 9: What are the names, addresses and phone numbers of five clients of your company in my geographic area? I must

have copies of all contracts and forms that I'll have to sign for my review. [Contact the clients and carefully review the contracts and forms before signing or paying any money.]

Question 10: Does your company provide a written opinion of the marketability, i.e., potential for success of my invention? [If all you get is a market analysis, for example, the number of potential customers, it's not worth much.]

STEP 7: Protect Your Idea

You want to make money on your Idea. But how can you show it to people and protect it at the same time?

A **U.S. Patent** is the ultimate protection for your new Idea. (By the way, you have to apply for a patent within one year of marketing the idea or otherwise publicly disclosing it.) The description of your new invention must be complete enough to enable others to use your new invention and must be described as thoroughly as you can.

The first step is to prepare a Patent application that fully describes the invention with words and, where appropriate, with drawings. The Patent application includes claims that define the legal boundaries of your invention. The complete process of obtaining a Patent is expensive and takes several years. Though you can do it by yourself, it is a complicated process and is best handled by a Patent Attorney.

If you have any questions regarding the preparation or filing of a Patent Application, contact Howard Cohn at howard@cohnpatents.com or at 1-800-613-0955.

THE BENEFIT OF A LOW COST PROVISIONAL PATENT APPLICATION

In the 1990s, Congress authorized what is called a Provisional Patent Application, which gives you worldwide protection for one

year at a cost of only \$100.00. Provisional Patent applications provide time to further develop your idea, test its marketability, and to talk about it to investors.

The goals and benefits of a Provisional Patent Application are set forth below and are somewhat different from a regular Patent Application.

1. The Provisional Patent Application establishes the date of your invention.
2. It gives you a 12-month period to more fully develop your invention.
3. It doesn't require a specific format.
4. The government filing fee is relatively inexpensive (\$100 for private individuals; \$200 for large corporations).
5. Provisional Patent Applications are not examined by U.S. Patent Office. They are reviewed only for procedural matters.
6. After you file a Provisional Patent Application, you can disclose or sell your invention without fear of losing patent rights.
7. Once a Provisional Patent Application is filed, you can use the phrase "Patent Pending" in the marketing of your invention.

The priority date establishes when the invention was first filed in a Provision Patent Application. To rely on the priority date, you

must convert the Provisional Patent Application into a regular Patent Application within one year of filing the Provisional Patent Application.

After the Provisional Patent Application has been filed, you should continue developing your invention with the goal in mind of filing a regular Patent Application. The Provisional Patent Application is not a substitute for a regular Patent Application, which should be filed as soon as possible.

I recommend that once your idea is developed, a Provisional Patent Application should be drafted with all the details available and then filed as soon as possible. As mentioned before, you can do this yourself but it is best to use a Patent lawyer.

If you have any questions regarding the preparation and filing of a regular Patent Application or a Provisional Patent Application, contact Howard Cohn at howard@cohnpatents.com or at 1-800-613-0955.

CONCLUSION

Ideas are precious and fleeting. They can easily be forgotten. They need to take initial form in writing. They need to be dated and, ideally, witnessed. When given attention, they grow and develop. They need to be protected to ensure they remain *yours*.

7. Contribution of each inventor:

a) _____

b) _____

8. Attachments (yes/no) – if yes, please list: yes

See attached disclosure and Figure

9. Forms submitted by:

Name:

Phone:

Signature_____

Date_____

___ Check here if additional sheets are attached.

Disclaimer: This document is intended to be educational and does not constitute legal advice, nor does it create or constitute any attorney-client relationship.

Appendix 2

SAMPLE NONDISCLOSURE AGREEMENT

xxx Corporation ("Discloser") of xxx
_____, City, State Zip Code , and yyy Corporation
("Recipient") of _____,
hereby agree as follows:

1. To further the business relationship between Discloser and Recipient, it is necessary and desirable that Discloser disclose to Recipient confidential information and know-how (hereinafter referred to as "Confidential Information") concerning Discloser's products, product concepts and other valuable business information relating to _____.

2. Recipient agrees, in consideration of the receipt of Confidential Information, that it will not use such Confidential Information in connection with the development, design, manufacture or sale of any product to or for any third party, except with the written consent of Discloser.

3. Recipient shall not communicate Confidential Information to any third party without Discloser's written authorization and shall use its best efforts to prevent inadvertent disclosure of Confidential Information to any third party. Recipient shall instruct its personnel who are to receive the Confidential Information not to disclose the Confidential Information to any third party.

4. Recipient shall neither use Confidential Information nor circulate it within its own organization except to the extent necessary for:

(a) negotiations, discussions and consultations with personnel or authorized representatives of Discloser;

(b) supplying Discloser with goods or services at Discloser's order or evaluating goods or services provided by Discloser to Recipient;

(c) preparing bids, estimates, and proposals for submission to Discloser or evaluating bids, estimates and proposals received from Discloser; and

(d) any purpose Discloser may hereafter authorize in writing.

5. The obligations of Paragraphs 2 and 3 hereof shall terminate with respect to any particular portion of the Confidential Information when Recipient can document that:

(a) that portion of the Confidential Information was in the public domain at the time of Discloser's communication thereof to Recipient, as documented in written records dated prior to the date of Discloser's disclosure to Recipient;

(b) that portion of the Confidential Information entered the public domain through no fault of Recipient subsequent to the time of Discloser's communication thereof to Recipient; or

(c) that portion of the Confidential Information was rightfully communicated to Recipient free of any obligation of

confidence subsequent to the time of Discloser's communication thereof to Recipient.

6. All materials including, without limitation, documents, drawings, models, prototypes, designs and lists furnished to Recipient by Discloser which contain Confidential Information shall remain the property of Discloser and shall be returned to Discloser promptly at its request with all copies made thereof.

7. This agreement shall govern all communications from Discloser to Recipient commencing on _____ and all subsequent communications between the parties.

8. No right or license, express or implied, is granted by Discloser to Recipient in connection with such Confidential Information except as expressly set forth in this Agreement.

SIGNED AND AGREED to this ____ day of _____ by and between:

xxx Corporation

By: _____

Signature

Name Printed

Title

yyy Corporation

By: _____

Signature

Name Printed

Title

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