

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Leveraging Intellectual Property for Success

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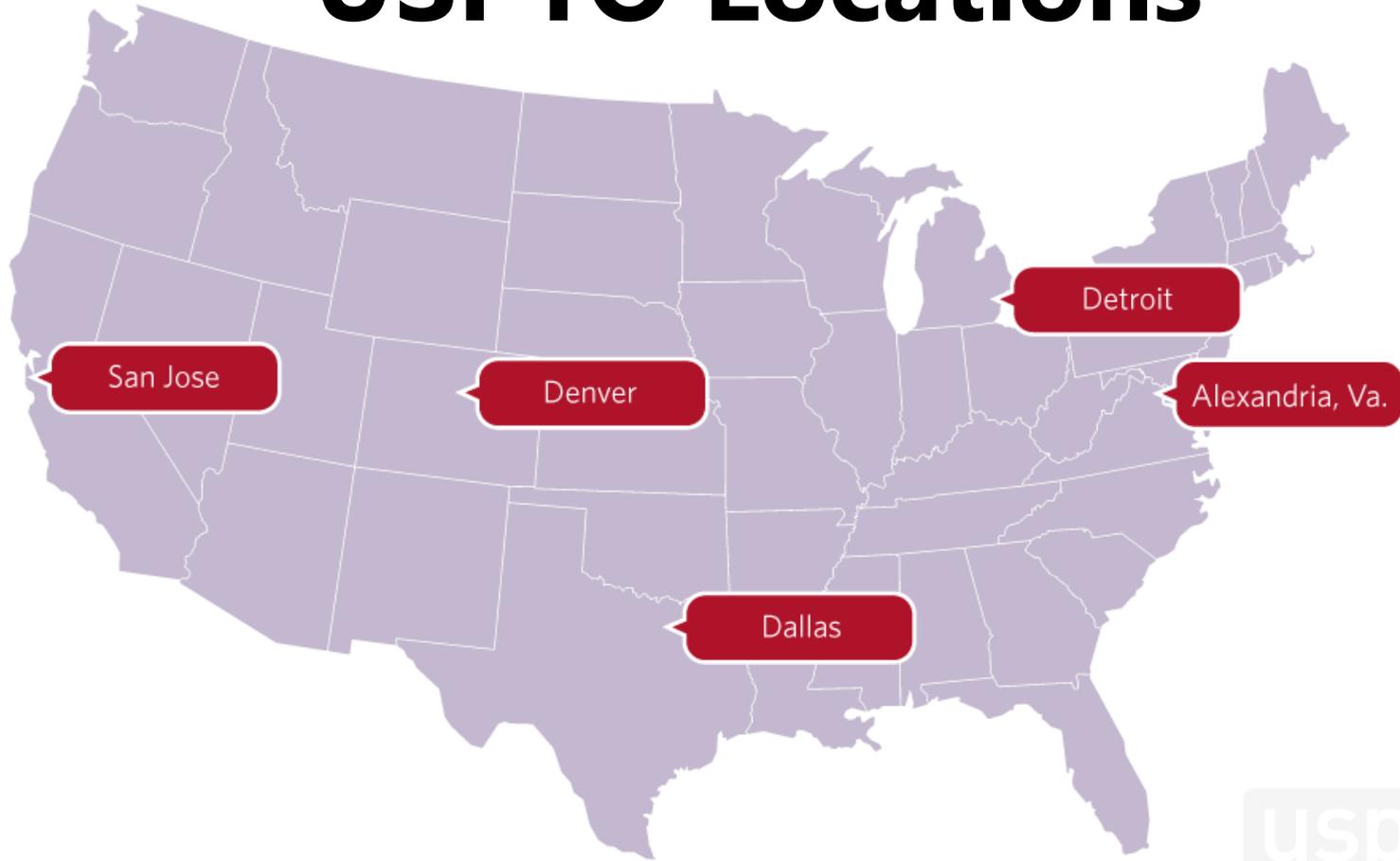
Rocky Mountain Regional Office

April 16th, 2018

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USPTO Locations



The USPTO in FY17



USPTO
Headquarters in
Alexandria, VA

12,588
Employees

8,147 Patent
Examiners

549 Trademark
Examining Attorneys

388 Patent Trial and
Appeal Board Judges

71 Trademark Trial
and Appeal Board
Judges

Patents

647,338 Patent
Applications Filed

347,243 Patents
Issued

Trademarks

594,107 Trademark
Applications

242,709 Certificates of
Registration

IP and the Economy

27.9M

IP Intensive Jobs (2014)

38.2%

IP Intensive Industries
share of Total US GDP
(2014)

\$6.6 trillion

Value Add of IP-intensive
Industries (2014)

\$1,312/week

(46% higher)

Avg. weekly wages for
workers in IP-intensive
industries

\$115.2 billion

Revenue specific to the
licensing of IP rights
totaled (2012)

28 Industries

Deriving revenues from
licensing

Five years from 1st patent

- 36% employment increase
- 51% increase in sales growth

First patent grant advantages

- Increases likelihood of additional patents
- Increases quality of patents
 - Number of citations to patents increases 26%
- Facilitates access to capital
- Rewards investors

Facilitate Access to Funding

- 53% increase in probability of VC funding
- Small increase in likelihood of seed round
- 47% increase in probability of 2nd round of funding

Reward Investors

- 153% increase in probability of IPO
- 84% increase in probability of IPO or acquisition

IP Strategy is a Business Strategy

- Attractive to investors and buyers
- Deters infringement lawsuits
- Can increase leveraging power
 - Mergers and acquisitions
 - Canary in the coal mine
- Property right that can add value to a company

Developing an IP Strategy

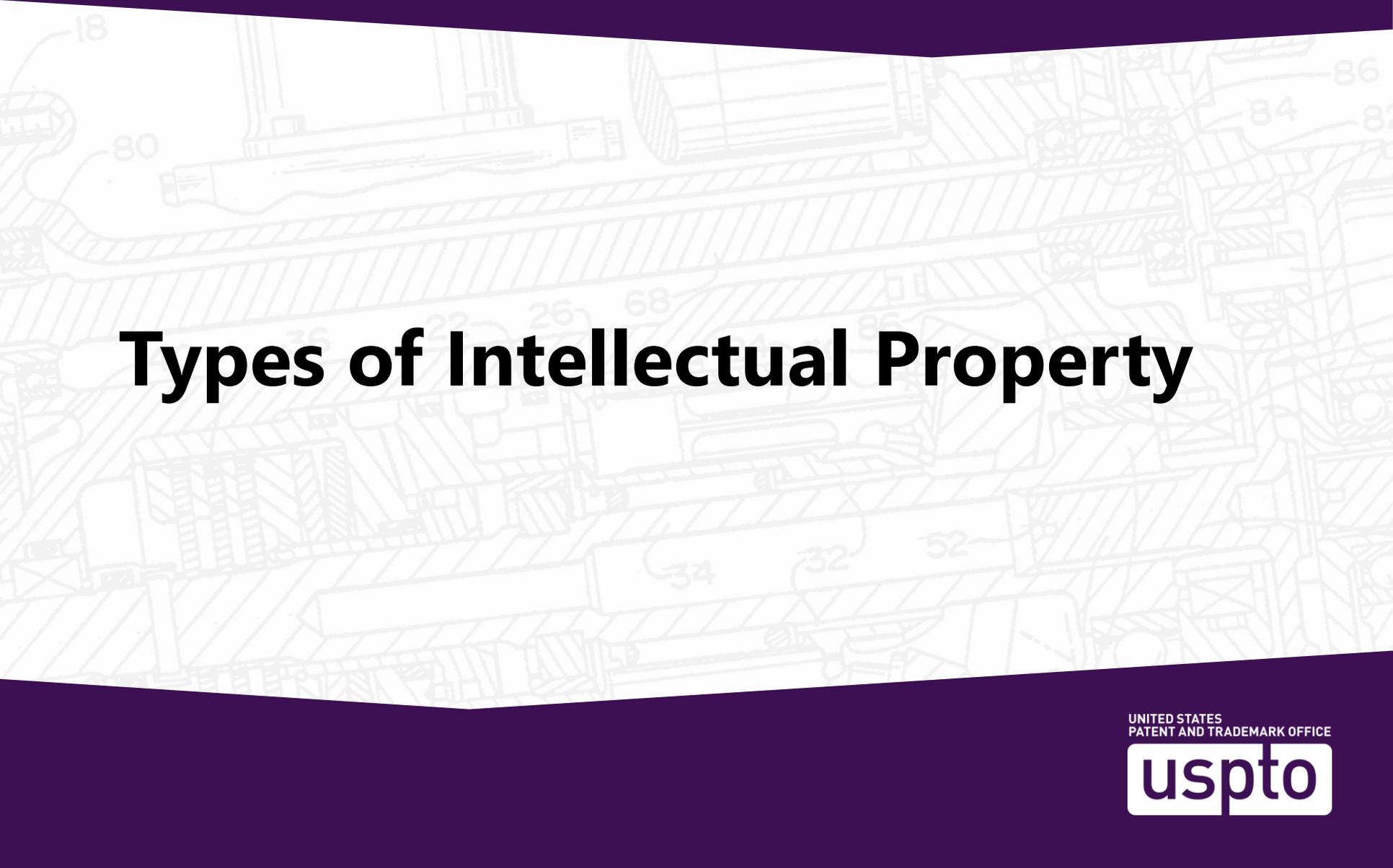
- Assess your company's IP assets and prioritize
- Know your competition
- What's the pace of innovation and opportunities for growth?
- Determine the best way to protect your IP
- Develop a plan, set goals and implement
- Get help!

Risks of Early Public Disclosure

- US is a First Inventor to File system
 - Grace period
- Loss of rights internationally
- Crowdfunding campaigns
 - Disclosure vs. On Sale Bar issues?

Determine the type of IP protection that you need

- Patents
- Trademarks and servicemarks
- Copyrights
- Trade secrets



Types of Intellectual Property

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Intellectual Property Overview

	<u>Utility Patent</u>	<u>Design Patent</u>	<u>Trade Secrets</u>	<u>Copyrights</u>	<u>Trademarks</u>
What is protected	Inventions -Process, machine, manufacture, or composition of matter	Ornamental characteristics embodied in, or applied to, an article of manufacture	Business related information (formulas, techniques, information)	Art, in an all encompassing sense	Marks that indicates the source or origin of goods or services
Requirements	Utility, novelty, and non-obviousness	Novelty and non-obviousness	Commercial value, generally not known, and reasonable efforts of secrecy	Original, authorship, and fixation in a tangible medium	Use in commerce and either distinctiveness or secondary meaning
Protects Against ...	Making, selling, offering for sale, and importing	Making, selling, offering for sale, and importing	Stealing	Copies, performances, displays, and derivative works	Use of a mark that causes the likelihood of confusion
Endures until ...	20 years from filing date	15 years from issuance	Public Disclosure	The life of the author +70 years	Abandoned
Rights of Independent Creators	None	None	Full	Full	None

Examples of IP in a Mobile Phone

Trademarks:

- Made by "Apple"
- Product "iPhone"
- Software "iOS"

Utility Patents:

- Data-processing methods
- Semiconductor circuits
- Chemical compounds
- Battery/Power Control
- Capacitive Touch Screen
- Camera

Design Patents:

- Form of overall phone
- Icon layout
- Bezel Design

Trade secrets:

- ???

Copyrights:

- Software code
- Instruction manual
- Ringtone



© Apple

uspto

Copyrights

Definition: A form of protection provided to the authors of "original works of authorship"

Protects: Literary, dramatic, musical, artistic, and certain other intellectual works

Duration: In general, author's life + 70 years



Copyrights and the Economy

- \$1.2 trillion to the U.S. GDP
- Employed nearly 5.5 million workers with an average compensation 38% higher than the average
- Music, television, video, motion pictures, software, newspapers, books and periodicals in foreign markets amounted to \$177 billion
- Between 2012 and 2015, the these industries grew at < 127% of the rest of the economy



Trademarks

Definition: Any word, name, symbol, or device, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods or services

Protects: All of the above & logo, banner, sound, smell, etc.

Duration: 10-year terms with 10-year renewal terms



Trademark Registration #: **GE:** 3386370, **Kellogg's:** 3445274, **LG:** 3250589, **FedEx:** 3413407, **Starbucks:** 3428128, **IBM:** 3002164

Federal Trademark Registration Benefits

- Filing date “constructive” date of first use
- Evident of the registrant’s ownership of the mark and exclusive right to use the mark in commerce for goods or services specified in registration
- Right to sue in federal courts and recover profits, possibly treble damages and attorney’s fees
- Customs Service aid



Trade Secrets

Definition: Any information that provides economic value that is not in the public domain and that has been reasonably kept secret

Protects: Formulas, patterns, compilations, programs, devices, methods, techniques or processes

Duration: As long as they remain secret



Defend Trade Secrets Act (2016)

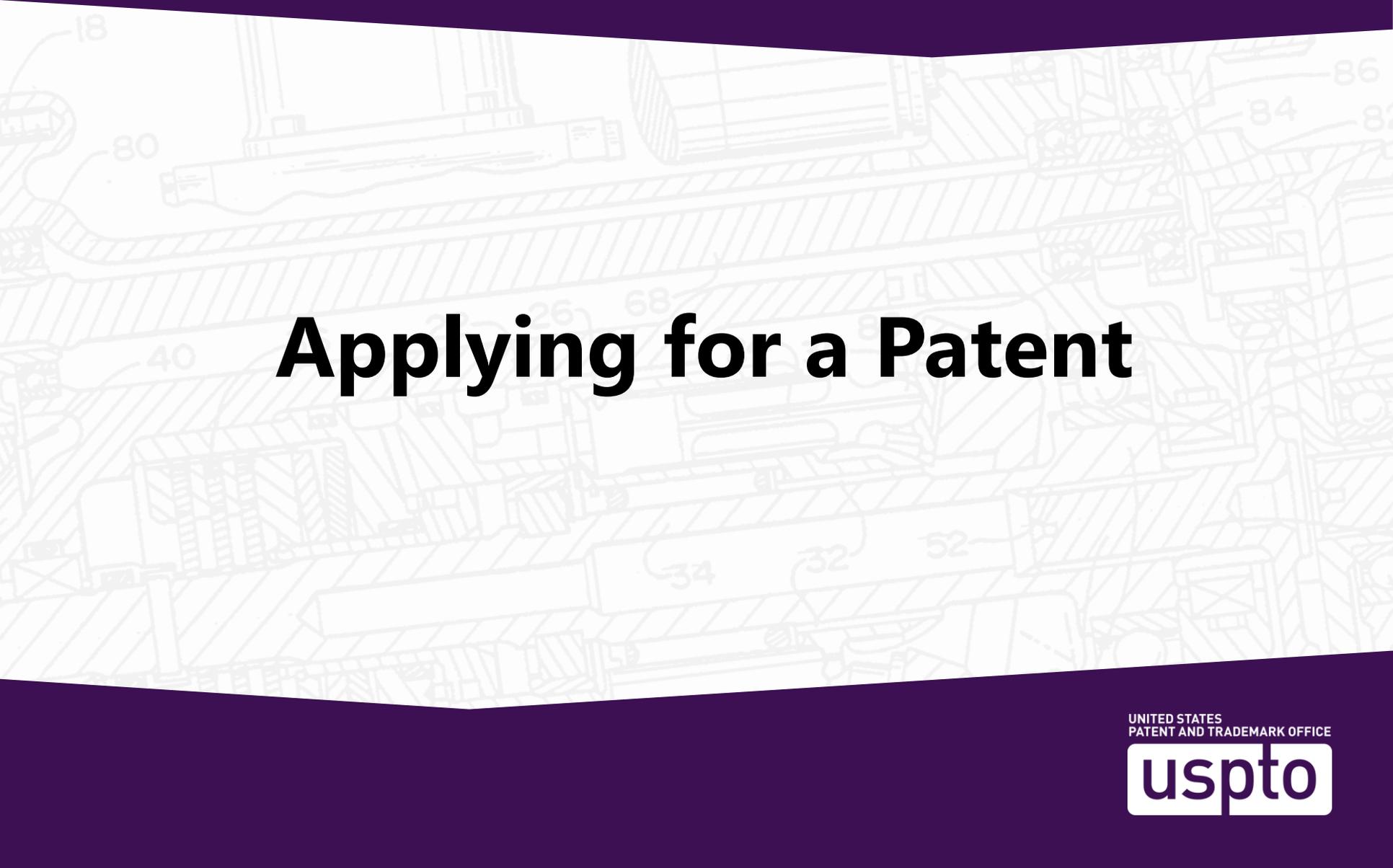
Creates federal jurisdiction for theft of trade secrets including:

- A Federal civil cause of action for misappropriation of trade secrets
- An *ex parte* seizure provision that can be invoked in extraordinary circumstances
- Statutory damages provisions

uspto

www.patentdocs.org/2016/05/president-Obama-signs-defend-trade-secrets-act.html

May 11, 2016

A background of a technical drawing or patent illustration, showing various mechanical parts and components with numerical callouts such as 18, 80, 40, 26, 68, 34, 32, 52, 84, 86, and 82. The drawing is rendered in a light gray color against a white background.

Applying for a Patent

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Getting a patent

- Who can apply?
- What can and cannot be patented?
- Is my invention patentable?
- How long does protection last?
- How much does it cost?

What kind of patent?

- **Utility:** a process, machine, article of manufacture, or composition, or an improvement thereof
- **Design:** an ornamental design for an article of manufacture
- **Plant:** an asexually reproduced variety of plant

Considerations

- **Cost**
- **Time**
- **International protection**
- **Provisional or nonprovisional**
- **Hire a patent attorney or agent**

Prepare and submit your application

- Required parts
- File online

Work with your examiner

- Pre-exam
- Examination
 - Interviews
- Appeal
- Allowance

Maintain your patent

- Maintenance fees
- Change of ownership
- Corrections
- Post-grant review



Resources

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Startup Resources

Many startup businesses face unique IP-related challenges, such as IP portfolio prerequisites to secure funding, and the possibility of costly patent infringement demand letters and lawsuits. We have tailored this area of our website to suit the specific needs of startup businesses, a segment of our stakeholders that continues to be recognized as an outsized engine of job creation, economic growth, and unparalleled innovation in the United States.

This portal is part of our [Startup Partnership Initiative](#)—putting key resources and critical information for startups in a single place so it's easier to find what you may need when you need it.

Patents for Startups

The patent process can be challenging if you are not familiar with it. Here is basic information on the patent process.

- [Patent Process Overview](#)
- [Inventors Assistance Center](#)
- [Patent FAQs](#)
- [Patent Homepage](#)
- [Search for Patents](#)
- [Official Gazette for Patents](#)

Trademarks for Startups

The trademark process can be confusing for a beginner, so here is basic information on registering a trademark.

- [Trademark Basics](#)
- [Search for Trademarks](#)
- [Filing online](#)
- [Trademark Homepage](#)

Startup Assistance

The Inventors Assistance Center and Trademark Assistance Center provide information and services to the public. Center staff can answer questions on patent and trademark processes, but cannot provide specific legal advice.

- [Inventors Assistance Center](#)
- [Trademark Assistance Center](#)
- [Patents Ombudsman Program](#)
- [BusinessUSA \(link is external\)](#)

USPTO

Current Events

Information about conferences, conventions and other opportunities to engage.

- [Upcoming Events](#)
- [Inventors Eye | Events & Announcements](#)



- **Special status for a final disposition within ~12 months**
- **Utility and plant applications**
- **\$4,000 (normal)/\$2,000 (small)/\$1,000 (micro)**

Small Entity

- Must be an individual or
- A small business (less than 500 employees) or
- A non-profit organization

Independent Micro-entity

- Qualify as a small entity
- Filed no more than 4 previous applications
- Income not greater than 3x median income
 - January 2018: \$177,117
- Not assigned to other than a micro-entity
- Inventions assigned to employer don't count against you
- A 75% reduction in fees

Pro Bono Assistance Program

In general, there are three basic eligibility requirements:

1. Household income below a certain threshold,
2. Knowledge of the patent system and
3. You must have an invention-not just an idea!

uspto.gov/probonopatents

Any questions? Email: probono@uspto.gov

uspto

Pro Se Assistance Program

- Three percent of all applications
- Pro Se Art Unit expanding
- Resources for client education



Additional Resources

- **IP Awareness Assessment**
IPassessment.uspto.gov
- **Law School Clinic Program**
- **Patent and Trademark Resource Center**
UNL College of Law – Schmid Law Library
University of Nebraska, Lincoln
1875 N 42nd Street
Lincoln, NE 68503

Thank You

rockymountain@uspto.gov



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