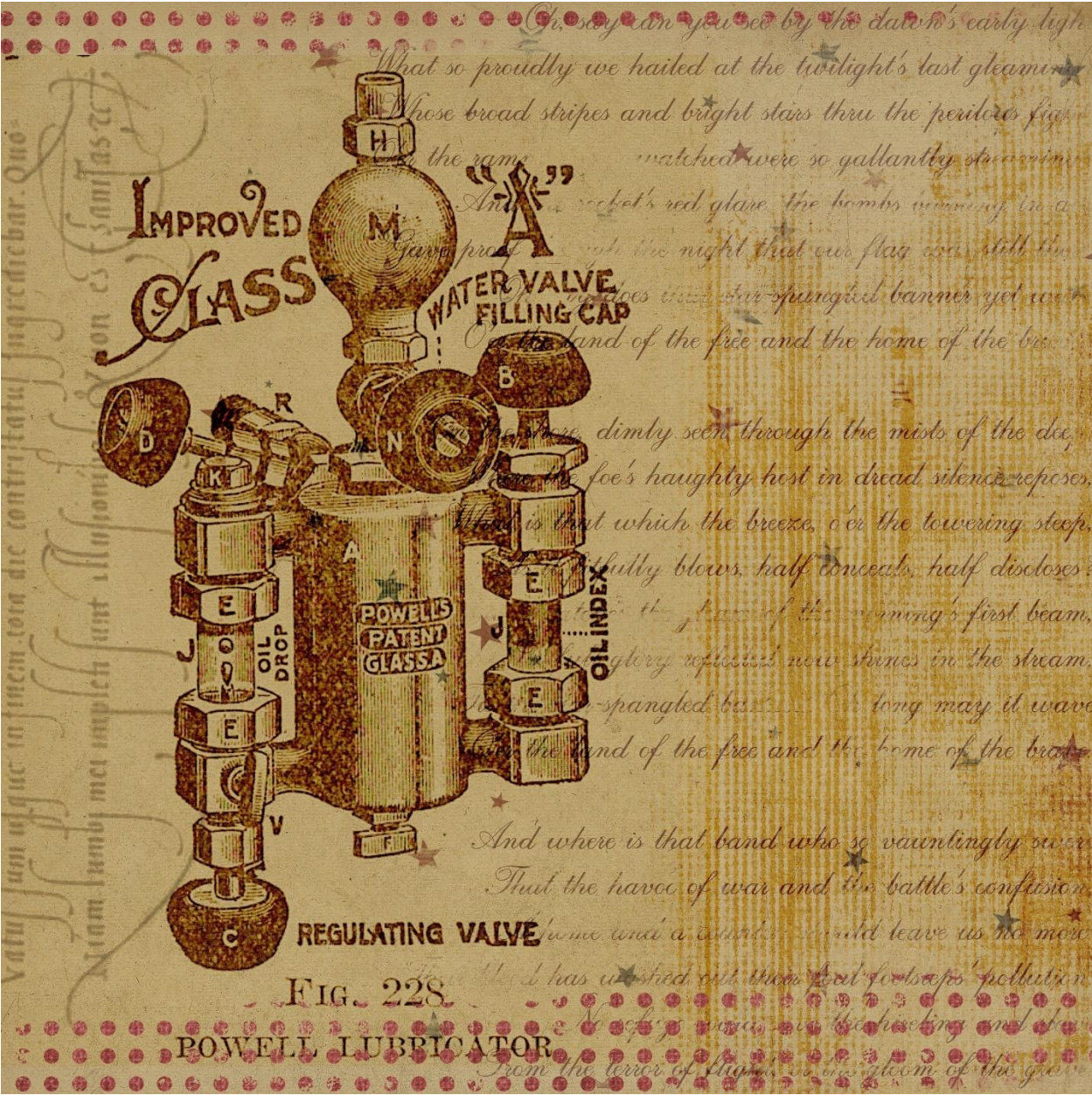


# How Do I Get a Patent in the United States?



Let's talk about the process for getting a patent on your invention here in the United States of America. Overall, the process can be pretty daunting, but that's okay. You can make this happen.

## Idea

The first thing you need to do is the toughest part: you have to invent something. Quite often that comes from wanting or needing to do some task but not having the right process, tool, machine,

material, or component to do the job efficiently or maybe to even do the job at all! Like the old saying goes, “Necessity is the mother of invention.” Once you’ve had that eureka moment and have come up with a novel idea, then you can start down the road towards patenting it.

## Perfecting Idea

After you’ve come up with the idea, you then need to perfect the idea. You can do this in one of two ways:

1. You can actually reduce the invention to practice (i.e. make and use the invention).
2. You can constructively reduce the invention to practice (i.e. know how to make and use the invention well enough that you can teach somebody skilled in that field how, “without undue experimentation,” to make and use the invention).

## Patent Search

While, you’re perfecting the idea, it is good practice to perform a patent search to see if somebody else has already invented something that is essentially the same as your idea.

- The process of getting a patent can be quite time consuming. According to the United States Patent and Trademark Office (USPTO) the process takes about three years from initial submission to patent issuance, but it can and does often take longer than that time.
- The process of getting a patent can be quite expensive. Except in very rare cases, it generally costs several thousand dollars to obtain a patent, so it would be a good thing to know what other “prior art” is out there.
- It may be the case that somebody else has already come up with something so similar to your possible invention that it isn’t worth the time nor the effort to obtain a patent. Even if they didn’t patent their idea, if the idea was in the public domain, it can count as prior art against your idea.

## Patent Application

After performing a search, if you still believe your idea is truly an invention, you can begin the process of applying for a patent. The way to do this is to put together a patent application and submit it to the United States Patent and Trademark Office (USPTO). When you receive a patent, the U.S. government, through the patent office, grants you a limited monopoly to exclude others from making or using your invention. This limited monopoly typically lasts a period of 20 years from when you submitted a non-provisional patent application to the USPTO. That limited monopoly is where you get value from the patent.

The government gets value from the patent as well. In order to receive a patent, you have to tell the world how to make and use the invention “in such full, clear, concise, and exact terms as to enable any person skilled in the art ... to make and use the same ... without undue experimentation.” When you have done this in your application, you are said to have “enabled” your invention. Because you’ve told the world how to make and use your invention, anybody and everybody else can try to come up with ways to improve upon your invention and actually invent something even better than yours.

To enable your invention, your application will include a specification or description of the invention and will also include at least one claim regarding what you believe your invention is and does. The application will also almost always include drawings to help clarify the description of the invention. (The old “a picture is worth a thousand words” mantra getting put to good use.) It is very important to get your invention enabled via the specification and the drawings. If you don’t, then you don’t really have a patent application.

## Patent Application Review

After you have submitted your patent application, the USPTO will assign a patent examiner to review the application and the “prosecution” of your application begins. Once you have submitted your patent application, you can claim that your idea is “Patent Pending” while the prosecution is ongoing. By ongoing, I mean that you haven’t abandoned the application nor has the patent issued.

The examiner will review the application to ensure that it does enable your invention and will also review your invention to determine if it is novel, useful, and non-obvious compared to the prior art that was available at the time you first submitted your application. Anything that was in existence prior to the date you submitted your application is considered prior art. Subsequently, the subject matter of your application is prior art for anything that comes into existence after you submitted your application.

## Office Actions

Once the patent examiner has reviewed your application and compared it to the prior art, you will receive what is known as an “office action.” The first office action you receive will nearly always have a reason, or reasons, why the examiner doesn’t believe your idea is worthy of having your claims allowed. Don’t get depressed. Just because the examiner decides to reject, or object to, your claims doesn’t mean that you can’t get a patent issued. But it does mean you have some more work to do. You can overcome rejections in several ways, the details of which are beyond the scope of this blog. Primarily, by altering the claims and/or by making arguments convincing the examiner that although he/she initially believed that your claims similarly describe another invention or inventions, there are subtle (and not so subtle) differences between what you’ve invented and the prior art that existed at the time you submitted your application.

Oftentimes, it may take several tries to get a set of claims allowed. Sometimes you may decide that the changes you’d have to make to your claims would limit the scope of your invention so much that you don’t see the value in continuing to pursue a patent, so you stop the prosecution of the application and the application is said to be abandoned.

## Patent Issued

But, far more often than not, you can reach a point where your claims are determined to be allowed and that you can have a patent issue. At that point, you pay an issuance fee within the appropriate time limit. A month or so later, you’ll get a nice heavy soft-covered booklet stating that your invention has met all the requirements to be patented and the invention will be described via your own words inside.

Congratulations! You are officially an inventor when your patent is given an eight-digit patent number. Through the past 200+ years over 10,000,000 patents have been issued!

Please note that this is merely an overview of the typical process. There are many additional items to be aware of, but this gives an overview of the process to get a utility patent issued in the United States of America.

If you'd like to learn more about patenting or get help in patenting an invention, please contact me at Bassett IP Strategies.

## About the Author

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