

For small businesses, there is much to consider when it comes to [intellectual property](#). Our guide on patents will help you learn more about this type of intellectual property, develop a strategy for protecting your intellectual property and much more.

You can also receive free professional business advice and free or low-cost training from [your local Small Business Development Center](#)!

The United States Patent and Trademark Office (USPTO) [defines](#) patents as “the grant of a property right to the inventor.” Patents were created to foster innovation while protecting the rights of the inventor’s intellectual property. A patent provides protection for an invention and strengthens an organization’s ability to [monetize](#) the concept by selling or licensing their invention as well as to claim damages against unauthorized use. Furthermore, a patent can increase the [reputation](#) of an organization by demonstrating innovation and expertise, possibly leading to new investment opportunities.

The [first](#) U.S. patent issued was signed by President George Washington on July 31, 1790. Inventions predating the Patent Act of 1836 were only identified by the patentee and date of issue. In May 2021, the USPTO issued patent number 11 million. In his statement to commemorate the occasion, Drew Hirshfeld, performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO remarked: “Since the founding of our nation, American inventors have driven our culture and commerce with incredible ideas that have improved every function of our lives. We owe a debt of gratitude to inventors who continue to show up day after day with solutions to the world’s most pressing problems.”

Patent Process Overview

Today, the basic steps requiring a patent filing come with certain guidelines, scheduled dates and corresponding fees. Once preliminary fees are paid, the Patent Examiner reviews the application and corresponding drawings, claims and description to which the inventor may face possible rejection. Conversely, if accepted and granted, the inventor is responsible for maintaining the patent with corresponding fees into the future and legal assistance when infringement may warrant such action.

The Process Overview

Short list of steps:

- Determine if the idea is patentable
- Preparation needed to apply
- Identify the costs and time demand
- Consider national or international coverage
- File a Provisional or Nonprovisional application
- Hire a patent attorney or agent
- Submit your initial application with drawings
- Work with your patent examiner
- Receive approval
- Maintain your patent

The USPTO provides a visual overview of the [life cycle](#) with links to guide inventor's through the most critical steps. From filing to issuance or abandonment, the process takes an average of 23.3 months according to the [USPTO Performance and Accountability Report](#) for fiscal year 2021.

Patent Cost Considerations

Ready to start the process? While the USPTO recommends using a registered patent attorney, this may be cost prohibitive to independent inventors and small businesses. The American Bar Association estimates the [cost](#) of getting a patent between \$15,000 and \$25,000. The USPTO offers the [Pro Se Assistance Program](#) that provides outreach and education to support applicants who file on their own to increase the quality of the applications and to make informed decisions regarding their application. Online electronic is available through [EFS-Web](#) from the USPTO.

Patent Fee Schedule

The fee schedule, revised April 1, 2022, provides the rates for the various USPTO products and services. Of specific note to getting started is the [fee schedule](#) and the [maintenance fees](#) for patent granted.

Provisional Application with the Nonprovisional Patent Filing

The [Provisional Application](#) is a lower cost filing option for the inventor for one year; however, the [Nonprovisional Application](#) utility patent should be filed simultaneously along strict Patent Office guidelines.

Micro Entity Status

[Micro entity status](#) offers a 75% reduction on most patent fees. There are two ways to qualify for micro entity status: (1) Gross Income Basis, or (2) Institution of Higher Education Basis. USPTO outlines specific criteria to qualify as for micro entity status and identifies the “Maximum Qualifying Gross Income” eligibility as \$202,563.

Which of the three types of patents do you need?

The nature of the invention determines the type of patent needed. The following provides a distinction of these to help you identify which is the most applicable to apply for along with resources to provide additional information. A major difference being that the design patent offers a 14-year term from grant date, whereas the other two are for 20-year term from filing date.

Utility Patent – granted by law with exclusive rights of an inventor to protect their invention from being reproduced and sold by another individual or business. Granted to anyone who invents or discovers a new and useful process, machine, article of manufacture, or compositions of matters, or a novel, new useful improvement thereof. Most patent

applications filed at the USPTO are utility applications.

- [Applying for a Utility Patent](#)
- [Maintaining your Utility Patent](#)

Design Patent – or “visual aesthetics” granted to anyone who invents a new, original, and ornamental design for an article of manufacture; lasts 14 years and is nonrenewable.

- [Definition of a Design Patent](#)
- [Difference Between Design and Utility Patents](#)

Plant Patent – granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant (such as the unique annual rose).

- [Overview of Plant Patents](#)
- [Plant Patent Examining Procedure](#)

Legal Assistance Resources

- [Finding a practitioner](#) – search for local registered patent agents by city and state who are eligible to practice before the USPTO.
- [Pro Bono Program for independent inventors and small businesses](#) – offers free legal assistance to under-resourced inventors interested in securing patent protection for their inventions.
- [Law School Clinic Certification Program](#) – free legal help available from law students, who gain experience drafting and filing patents as well as trademark applications for clients of the law school clinic.

Additional Resources

Already in business or thinking about starting your own small business? Check out our various [small business resources](#):

- View our small business help topics here: [Small Business Information Center](#)
- View our business reports here: [Small Business Snapshots](#)
- View our industry-specific research here: [Market Research Links](#)
- View our small business cybersecurity resources here: [Cybersecurity](#)
- View our pandemic business resources here: [COVID-19 Publications](#)

Remember, you can also receive free professional business advice and free or low-cost

business training from your [local Small Business Development Center](#)!

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