

Patent Attorney Droning On and On

An Overview of Patents, Trademarks, Copyrights.

Presented By:

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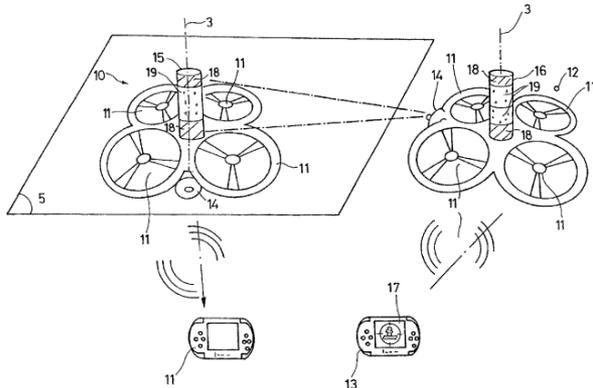
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Protecting Your Ideas With...

Patents

- A right to *exclude* others from manufacturing, selling, or using your invention for a number of years.



Trademarks

- Any name, symbol, figure, letter, word, or mark adopted and used by a manufacturer or merchant in order to designate his or her goods or services and to distinguish them from those manufactured or sold by others.

Parrot®

Copyrights

- The legal right to exclusive publication, production, sale, or distribution of a literary, musical, dramatic, or artistic work.

Dronestagram Blog

All the news about Dronestagram

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THE INTERVIEW



#1 Top Pilot Interview - Eric Hanscom

Intellectual Property	Protects	until issue or final rejection?	(attorney fees + costs)*	Length of protection	Renewable?	Practical examples in business
Patent (Utility)	How something works	3 years	\$7,000 +	20 years from date of filing application*	No	Devices, substances, business methods.
Patent (Provisional)	1 year grace period to file a utility patent application	1 year	\$3,000 +	1 year "grace period"	No	Devices, substances, business methods.
Patent (US Design)	How something looks	1 year	\$2,000 +	14 years from date of issue	No	Unique shapes of products
Trademark	Name or logo related to business identity	10 months	\$1,000 +	Potentially Infinite w/ 10 year extensions	Yes	Company names, brand names, slogans.
Copyright	Artistic creations	3 weeks	\$300 +	Life of author plus 70 years	No	Websites, owner's manuals, packaging, advertising materials.



Provisional Patents



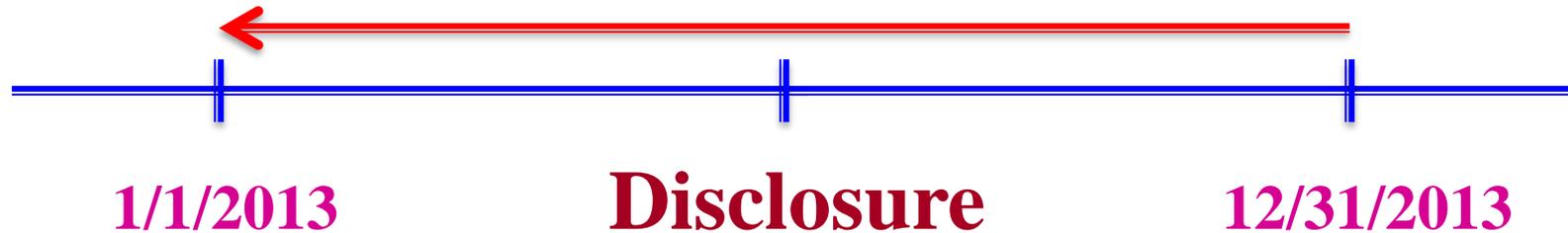
Key Elements to Effective Use of Provisional Patent Applications

- 1 Provisional filed **BEFORE** disclosure.
- 2 Well written so the provisional **SUPPORTS** a utility patent application
- 3 Utility patent application is **filed within 1 year** of the provisional filing date.

Proper Use of Provisionals Can Buy the Inventor a Year of Grace Period

Safe Invention Practice:

Less than 1 year



Provisional



Utility

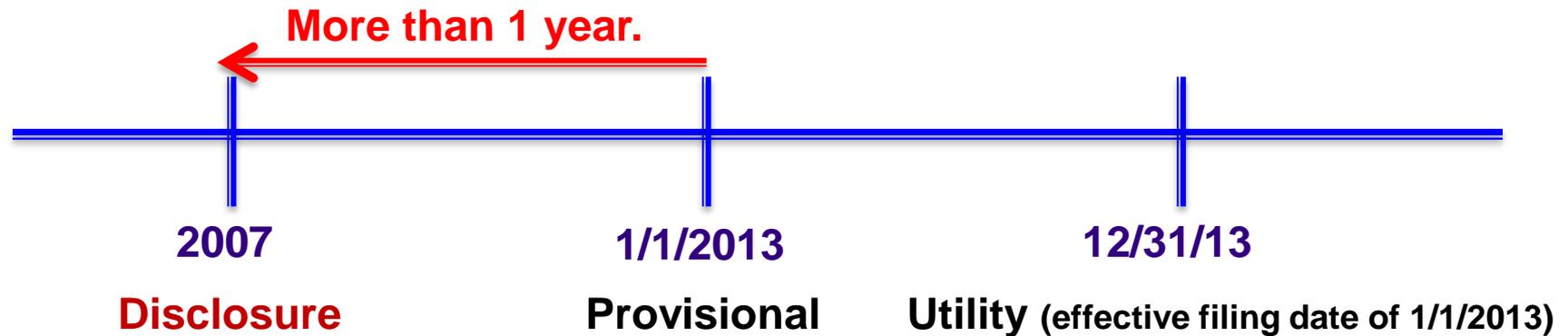
Application:

Effective filing date of 1/1/2013

**With Proper "Support"
from the provisional.**

Disclosure = offer to sell, showing at trade show, selling some on eBay, showing to potential investors.

Achilles' Heel of Provisionals #1: The Cheap Inventor



- ◆ Rather than filing a provision BEFORE disclosure, Inventor tried to “test the market” (trade show, sell a few, etc.) and **delayed more than a year** in filing for patent protection. Inventor’s own actions become “prior art” under 35 USC 102 (**one year to file patent application after disclosure**).

Achilles' Heel of Provisionals #2: The Do-It-Yourselfer



Problem: Inventor tested the market, filed a defective provisional (DIY'er or online patent filing service), USPTO determined Utility is NOT supported by provisional, refuses to allow Utility to take provisional filing date, so Inventor's own disclosure is fatal under 35 USC 102.

Problem With These Approaches



Inventor can still **pay for** and receive a patent, but the patent is fatally flawed as anyone with proof of the inventor's earlier disclosures can successfully invalidate the patent through the "reexamination process", or the USPTO examiner can find proof of disclosure online (archives.org).



Result: Inventional Suicide.

Bottom Line on Provisionals

1 File the Provisional Patent Application **BEFORE** disclosure.

2 Have a solid, well-written provisional application prepared so that the provisional **SUPPORTS** a utility patent application.

3 File the Utility Patent Application **within 1 year** of the provisional filing date.





Utility Patents

Can You Patent Your Idea

Can A Patent Protect
Your Idea?
(35 U.S.C §101)

- You must invent or discover something new *and* useful (has to be new, has to work)
- Only the following subject matter can be patented:
 - Processes (business methods)
 - Manufactures (products)
 - Compositions of matter (substances)

Did Someone Else
Beat You To It?
(35 U.S.C. §102)

- Is there a patent, published paper (including published patent applications), or other public disclosure?
- Did it happen more than 1 year before the filing of the application?
- This is true even if you had no knowledge of the other public disclosure

Is Your Invention
Truly Unique?
(35 U.S.C. §103)

- No patent if your invention is an “obvious improvement” over someone else’s public disclosure
- Usually the largest hurdle in obtaining a patent
- This is true even if you had no knowledge of the other public disclosure

How Do You Know What Disclosures Are Out There

Prior Art Search

Looks for issued patents, published patent applications, and products on the marketplace that are similar to yours.

Prior Art Searches are not perfect. Everything cannot be found.

Use a Prior Art Searching company that **ONLY** does prior art searches; Do **NOT** use invention submission companies who will give you a “package deal” that includes a prior art search and a patent application.

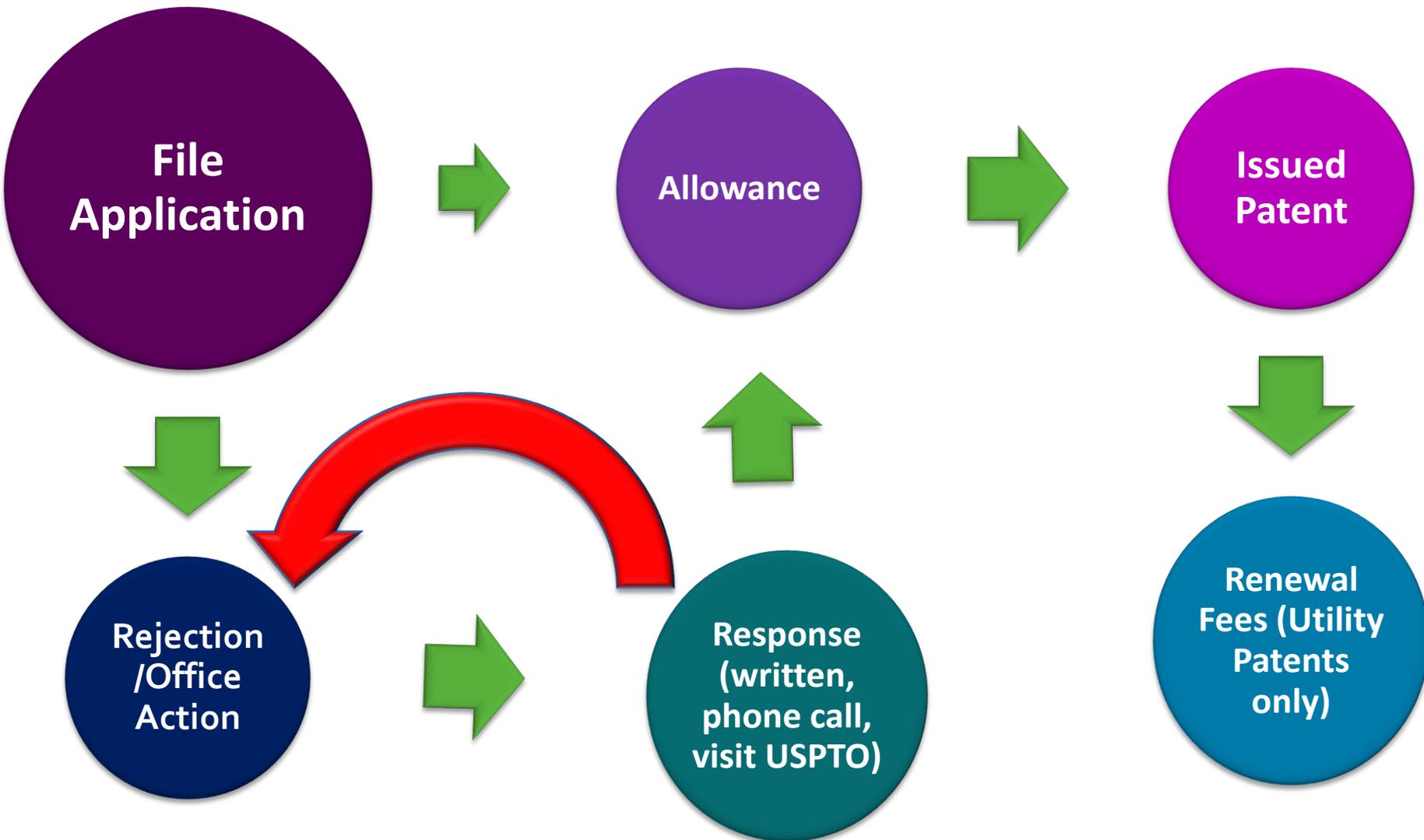
Analyze the Results

Should I apply for a utility patent?

Business decision based upon prior art references found and economic benefit of obtaining (or at least filing for) a patent

Patentability Assessments can be paid for, but remember, they are good only for the laws that exist at the time of the assessment – not at the time of examination.

Basics of the Patent Application Process







Infringement

Infringement

A Patent gives you the right to **exclude** others from **making, using, or selling** the invention.

A patent is enforceable only in the country where you have the patent.

**4 Take-Away
Items you should
remember**

To infringe a patent, you must infringe one claim of the patent.

To infringe a claim, you must infringe every element of the claim.

Infringement

Your Invention

- A drone body that includes:
- 2 U-shaped legs
- 4 Props
- A Battery with Battery Receptacle
- A Camera with Gimbal
- A Solar Panel

Patent 1: Narrow Claims

Claim 1: A Drone Body Comprising

2 U-shaped legs.

4 Props

A Battery with Battery Receptacle

A Camera with Gimbal

A Solar Panel



TOP SELLER EVER!

DON'T MISS THIS DRONE



HOT PRICE Ready to Ship!

Infringement

Your Invention

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- A Solar Panel

TOP SELLER EVER!



HOT PRICE Ready to Ship!

Patent 2: Broad Claims

Claim 1: A Drone Body
Comprising

2 or more legs and a
camera.

Claim 2: A Drone Body
Comprising

3 or more propellers and
a battery.

Claim 3: A Drone Body
Comprising

3 or more propellers, a
battery, a camera, and 2
or more legs.

Claim 4: The Drone Body
of Claim 3, additionally
Comprising

A solar panel.







Trademarks

What Can Be Trademarked?

Logo



Slogan

INSPIRE 1
Creativity Unleashed

Name
of
product or company

Parrot®

What Makes For a Good Trademark Name?

1 Fanciful:

Xerox, Google, Polaroid, Kleenex, M&M's, Kodak, Exxon. (No common meaning, made-up the word)

2 Arbitrary:

Apple, Sun (computers), Shell (gasoline), Delta (airline, faucets, insurance), (common word with no connection to goods or services)

3 Suggestive:

Microsoft, Citibank, Jaguar (cars), Greyhound (bus line), Nike (Goddess of Victory), Reebok (Dutch spelling of gazelle), iPad, Walkman.

4 Descriptive:

Sharp (TV), Windows (Microsoft), International Business Machines, Digital (computers).

5 Generic:

"Drones" as a brand of drones (or 1-4 that was allowed to become generic over time, for example, "aspirin", "Just Google that word", let's "Photoshop" that picture).

Good Trademark Names



Ghost Drone

Quantity:

\$799.00

+ Free Shipping

Parrot

Parrot Bebop Drone



Hero RC XQ-5 V626 UFO Drone

Quadcopter



Hmm, what were they thinking?

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 - RC Car
 - RC Boat
 - RC Quadcopter Parts
 - RC Airplane Parts
 - RC Car Parts
 - RC Boat Parts
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Popular

Ship in 24 hour

Clearance

Presale

Discount

Price

-

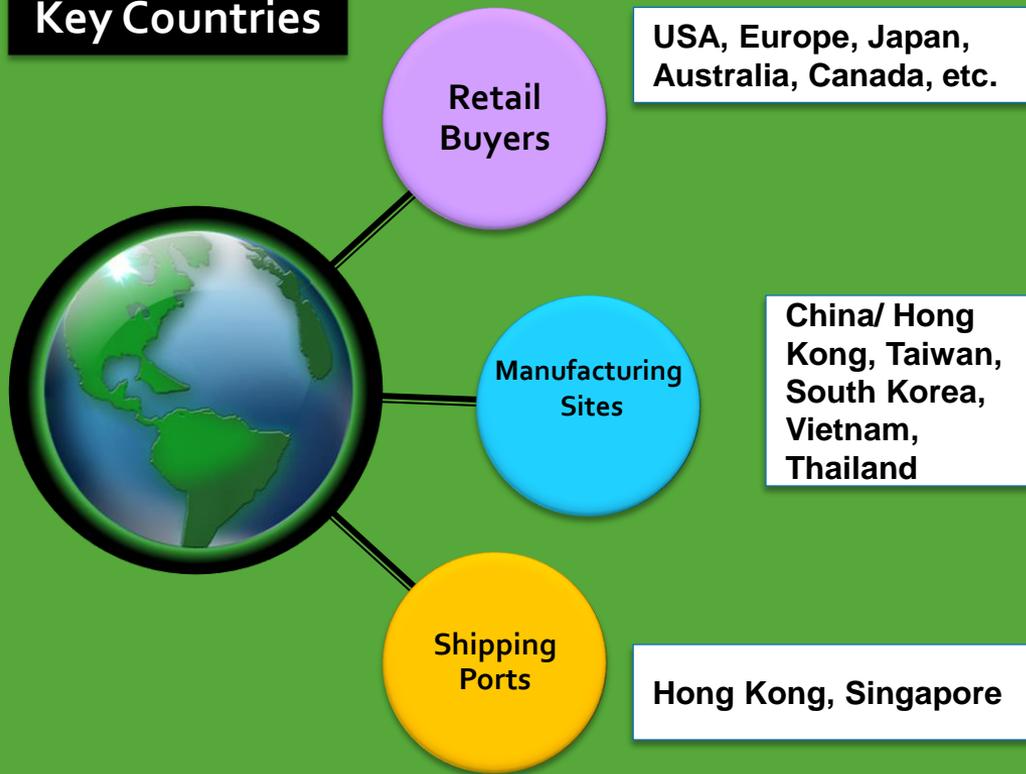




Foreign Patents & Trademarks

Foreign Patents and Trademarks

Key Countries



Foreign Patents and Trademarks



Foreign Patents must be filed:

- Directly in the foreign country
- Buy yourself time with a Patent Cooperation Treaty (PCT) filing C



Foreign Trademarks can be filed:

- Directly in the foreign country
- *En masse* through the Madrid Protocol



Key Factors:

- Number of People in the Country
- Average Income per Person
- Geographic and/or Cultural Factors: Will they buy your product?
- Enforcement of Intellectual Property: Will that country enforce your IP?





Copyrights

Copyrights

What should inventors consider copyrighting?

- Websites (before and after putting on-line)
- Brochures and other Advertising Materials
- Packaging
- Owner's Manuals

Copyright Lawsuits

- Loser usually has to pay some attorney's fees and court costs
- Statutory Damages of up to \$150,000 per infringement for knowing and willful infringement.

Putting It All Together 1

Does it work? (Engineer? Prototype?)

Prior Art Search -> Is it worth filing for a Utility Patent? Where will it sell?

Yes -> Get "patent pending" (Utility or Provisional), then try to sell or license.

No -> Will patent laws change? Worth a Hail Mary application to get patent pending status for a few years?

In any case -> Would a Design Patent be useful?

In any case -> Would a Trademark and/or Copyright be useful?



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