

UNITED STATES
PATENT AND TRADEMARK OFFICE



Filing a provisional application

Demystifying the filing process

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Notice

This content is for informational purposes only and is not legal advice. Please consult with appropriate sources for legal authority and guidance on these matters.

Objectives

- Types of patents
- Provisional application overview
- Provisional application filing requirements

Types of patents: An overview

- **Utility patent**
 - Utility patent: may be obtained by anyone who invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.
 - The term “composition of matter” relates to chemical compositions and may include mixtures of ingredients (chemicals) as well as new chemical compounds. Examples may include a pharmaceutical drug or shampoo.
 - An example of a machine may include a bicycle, an apparatus, or device.
 - The term “manufacture” refers to articles that are made or manufactured. Examples may include a tire or an integrated circuit.
- **Design patent**
 - Design patent: may be obtained by anyone who invents a new, original, and ornamental design for an article of manufacture.
 - A design consists of the visual ornamental characteristics embodied in an article. The subject matter of a design patent relates to the configuration or shape of an article.
- **Plant patent**
 - Plant patent application: may be filed by anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

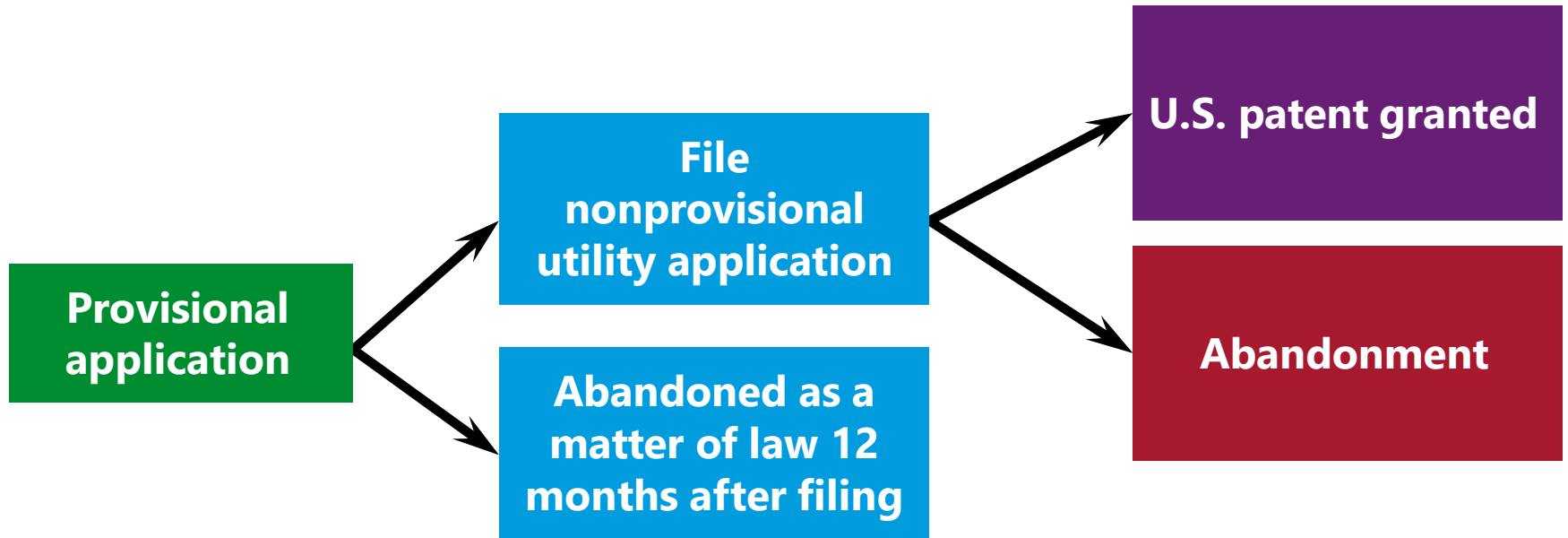
Provisional **utility** applications

- A provisional application for patent (provisional application) is a U.S. national application filed in the USPTO for **utility** and **plant** inventions.
 - Design inventions are not eligible for filing provisional applications.
- Provides a **low-cost** way to establish an early effective filing date (priority date) with fewer formalities.
- A provisional application does NOT issue as a patent, but **only** a later-filed **nonprovisional** application may issue as a patent and benefit from the provisional application filing date.
- Provides a 12-month window to file corresponding utility nonprovisional patent application in order to benefit from the priority date of the provisional application.
- Provisional application is abandoned automatically at 12 months and is not examined.

Provisional utility applications

- Additional benefits of provisional applications:
 - Patent term measured from filing date of subsequent **nonprovisional** application
 - Patent term is currently 20 years from the date of filing
 - Provides up to an additional 12 months of protection on your invention based on filing of the nonprovisional.
 - Term **patent pending** allowed to be applied
 - Inventors may use term during time period after patent application (provisional, nonprovisional, design, or plant) has been filed, but before patent has issued

Provisional utility applications



Provisional utility applications

- Filing requirements:
 - Title of invention
 - Name(s) of all inventors
 - Inventor(s) residence(s)
 - Correspondence address
 - Attorney information (if applicable)
 - U.S. government interest (ownership) (if applicable)
 - NOTE: The use of USPTO form PTO/SB/16 (Provisional Application for Patent Cover Sheet) is encouraged to provide the above information. A fillable form can be downloaded here: www.uspto.gov/sites/default/files/documents/sb0016.pdf

Provisional utility applications

- Filing requirements (continued):
 - A detailed written description of the invention (specification), including:
 - Background of the invention
 - Summary of the invention
 - Drawings describing the invention
 - A detailed description of the invention
 - Filing fees
 - NOTE: A more detailed guidance for writing a specification can be found in the Manual of Patenting Examining Procedures (MPEP) Section 608 (see link):
www.uspto.gov/web/offices/pac/mpep/s608.html



Provisional utility applications

- Guidance for Drafting the Specification:

- Title of the Invention: The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words.
- Background: A statement of the field of art to which the invention pertains. A paragraph(s) describing to the extent practical the state of the prior art or other information disclosed known to the applicant. Where applicable, the problems involved in the prior art or other information disclosed which are solved by the applicant's invention should be indicated.
- Summary of the invention: The summary of the invention, should set out the exact nature, operation, and purpose of the invention. the summary should be directed to the *specific* invention being claimed, in contradistinction to mere generalities of the invention. The subject matter of the invention should be described in one or more clear, concise sentences or paragraphs.
- Drawings: Drawings may be furnished where necessary for the understanding of the subject matter sought to be patented.
- A Detailed Description: The detailed description must be in such particularity as to enable any person skilled in the pertinent art or science to make and use the invention without extensive experimentation. Applicant is permitted to use his or her own terminology, as long as it can be understood. The subject matter of the invention should be described in one or more clear, concise sentences or paragraphs.
- ***NOTE***: A more detailed guidance for writing a specification can be found in the Manual of Patenting Examining Procedures (MPEP) Section 608 (see link): www.uspto.gov/web/offices/pac/mpep/s608.html



Provisional utility applications

- Fees:
 - Low-cost submission to establish filing date
 - \$140 small entity
 - \$70 micro entity
 - For micro entity status, the following certifications are made:
 - Qualifies as a small entity (less than 500 employees);
 - Has not been named as an inventor on more than four previously filed patent applications;
 - Did not, in calendar year preceding the calendar year in which the applicable fee is paid, have a gross income exceeding three times median household income; and
 - Has not assigned, granted, or conveyed (and is not under obligation to do so) a license or other ownership interest in the application concerned to an entity that, in calendar year preceding the calendar year in which applicable fee is paid, had a gross income exceeding three times the median household income.
 - To obtain a Micro Entity Certification, the applicant must fill out the [Certification of Micro Entity Status](#) form (PTO/SB/15A). The form can be downloaded here: www.uspto.gov/sites/default/files/forms/sb0015a.pdf
 - Guidance for filling the form can be found here: www.youtube.com/watch?v=yZwOdSMSLVA&feature=youtu.be

For more information

- Contact the Pro Se Assistance Center:
 - 866-767-3848
 - innovationdevelopment@uspto.gov
- Visit our Website:
 - <https://www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program>

