

PATENT PROCEDURES AND COSTS
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The six main steps in obtaining a patent and the estimated cost range associated with each are as follows:

1. **Prior Art Search/Patentability Study - \$2,500-\$3,500**
2. **Application Preparation - \$5,000-\$8,000**
3. **Application Filing - \$1,000-\$2,000**
4. **Prosecution of Application - \$1,500- \$2,500 (per action from USPTO)**
5. **Issuance of Application - \$2,800-\$3,200**
6. **Maintenance of Patent - \$8,000-\$8,500**

1. Prior Art Search/Patentability Study - Cost Estimate \$2,500-\$3,500

After receiving an invention disclosure, a professional search firm conducts a "patentability" search on the disclosure to identify patents or other references that may preclude the issuance of a patent. We review the references from the search and provide our assessment on the patentability of the invention. There is no requirement at this time that a prior art search be performed. However, a search may reveal that it is unlikely that a patent may be obtained, and a decision may be made to cease further work on the application. Thus, the more substantial costs of preparing, filing and prosecuting a patent application, only to have it rejected by the United States Patent and Trademark Office (USPTO), may be avoided, saving considerable time and money. The patentability search typically costs \$700-\$1,200 and usually requires five to ten hours to review the references and prepare an opinion, assuming an average of 10-15 patents are revealed by the search. Expect this step to take about four to six weeks.

2. Application Preparation - Cost Estimate \$5,000-\$8,000

If the patentability study is favorable, the next step is the preparation of the application. The application includes a description of the field of the invention, background of the invention, a detailed description of the invention with drawings, if necessary, and patent claims. The attorney works with the inventor in preparing the application to assure the invention is adequately described. One or more draft applications are provided to the inventor for review. An average application usually takes about 25-50 hours to prepare. Of course, the amount of time varies based on the complexity of the application. Especially complicated inventions, although rare, are more costly. Typically, this step will take about two to four months.

3. Application Filing - Cost Estimate \$1,000- \$2,000

Once the inventors approve, the application is ready for filing at the USPTO. To file the application, a variety of documents have to be prepared including a declaration/oath for execution by the inventors and USPTO transmittal documents. In addition, a filing fee of \$1,090 is required by the USPTO for the application. A standard filing includes 20 claims, three of which may be independent. Additional fees can be paid to file the application with additional claims. These fees are set by the USPTO and may be adjusted periodically. Ideally, this step will take about two to four weeks.

4. Prosecution of Application - Cost Estimate \$1,500-\$2,500 (per action from USPTO)

After an application is filed at the USPTO, it is placed in line for examination. The current backlog at the USPTO is on average about 18 months, but may be significantly longer in electrical and computer related applications. Once the application is examined by a Patent Examiner, the USPTO will allow the application or issue an office action. The office action will cite any defects in the application and will provide an assessment of whether the claims are patentable. Most often, the majority of claims are initially rejected by the Examiner in view of prior art references. Normally, an applicant has three months to respond to the office action, which may be extended up to six months with payment of an additional fees. The response addresses in detail the defects identified by the Examiner. The claims may be amended and arguments can be made as to why the claimed invention is distinguishable from the prior art and/or why the prior art does not teach the claimed invention. A decision not to proceed in obtaining a patent may also be made at this time. Most often, at least two actions are issued by the USPTO, requiring responses, before the application is in condition for allowance. In the response, the attorney must address each issue or defect raised by the Examiner in the action.

For most office actions, 5-10 hours are necessary to prepare a response. However, exceptionally lengthy actions that may be issued by the Examiner may require additional time. The length of an action cannot be predicted in advance. After each action by the USPTO, a decision on how best to proceed is made jointly with the inventor.

5. Issuance of Application - Cost Estimate \$2,800- \$3,200

After an allowance is received from the Examiner, issue and publication fees will have to be paid to have the application issued as a patent. Currently, the issue fee is \$1,510 and the publication fee is \$300. These fees are set by the USPTO and are adjusted periodically. Formal drawings, if not already present in the application, may need to be prepared at this time. The cost of formal drawings will typically range from \$700 - \$1,200, usually \$75 - \$100 per sheet. This is included in the cost estimate. Please note that the application may be filed with formal drawings, which would obviate the need to have them prepared at this time. If formal drawings are filed with the application, the corresponding cost of the drawing preparation can be subtracted from this estimate and added to the estimate for the preparation of the application.

6. Maintenance of Patent - Cost Estimate \$8,000- \$8,500

After the patent has been issued, maintenance fees of \$980, \$2480 and \$4,110 are due at 3.5 years, 7.5 years and 11.5 years from the issue date of the patent, respectively. The maintenance fees are set by the USPTO and are adjusted periodically. These maintenance fees are required to continue the enforceability of the patent. A decision may be made not to pay the maintenance fees and allow the patent to go abandoned if the invention is not found to be commercially successful after the grant of the patent. A small attorney or staff fee is required to monitor and pay these fees.

Several factors determine whether the cost will be on the low or high side of an estimate. For example, the USPTO currently reduces several fees for filings by individuals and small businesses by half. Other major factors that affect the cost of patenting include the technical complexity of the invention, the degree to which the inventor provides timely invention disclosure information, the assistance the inventor provides during preparation and prosecution of the application, and whether multiple embodiments or variations of the invention exist. Additionally, an inventor may want to file patent applications in other countries to protect the invention abroad, which would involve additional costs.

This discussion of the cost of obtaining a patent is intended only to provide a starting point for consideration when determining if patent protection should be sought. In view of the uncertainties involved, an exact figure for what it will cost to secure patent protection for a particular invention cannot be provided. Furthermore, no guarantee can be made that the USPTO will issue a patent for any invention. Nonetheless, as a guide, the estimated cost for time and expenses for preparing and prosecuting an application for a US utility patent of moderate complexity and two responses is between \$12,000 and \$17,000 plus USPTO fees. Maintenance fees increase the lifetime cost of a patent to between \$15,500 and \$24,000.

The following chart shows an abbreviated list of USPTO fees that contribute to this cost.

	<u>Large Entity</u>	<u>Small Entity</u>
Basic Filing fee	\$330	\$165 (\$82, if filed electronically)
Search fee	\$540	\$270
Examination fee	\$220	\$110
Issue fee	\$1,510	\$755
Publication fee	\$300	\$300
Maintenance fees (3.5/7.5/11.5 yrs)	\$980/\$2,480/\$4,110	\$490/\$1,240/\$2,055

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