



IP NEWS QUARTERLY



IP Attorneys Group, LLC

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PATENTS 101

You should always perform a patentability search before filing any application with the United States Patent and Trademark Office in order to determine if there are any similar inventions already patented.

Types of Patents

Before we get started, it is important to know there are three types of patents: utility, design, and plant.

Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, composition of matter, or any new and useful improvement thereof. **Design patents** may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture. **Plant patents** may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

Patent Applications

An easy way to start the patent process is by filing a provisional patent application directed to your invention. Provisional applications are allowed only for utility and plant patents—not designs. A provisional application will establish a filing date and serve as a place holder for any non-provisional application that may be filed later. At this step, “Patent Pending” can then be affixed to any of the invention’s commercial embodiments. After filing a provisional application, there is a one year deadline to file a non-provisional application claiming priority to the provisional application. Provisional applications will expire after one year regardless of whether or not a non-provisional application is filed, so once the deadline has passed, priority can no longer be claimed to the provisional application.

Provisional applications are never examined, so many of the USPTO’s formal requirements, such as claims or an inventor’s oath, are not necessary. However, it is best that the specification and drawings provided in a provisional application match as closely as possible to the specification and drawings in any later filed non-provisional application. It is also highly advantageous to disclose as much subject matter as possible in the provisional application—if subject matter is introduced in a later filed non-provisional application and cannot be found within the disclosure of the provisional application, the matter will be considered “new” and will not receive the benefit of the provisional application’s earlier filing date.

Some of the benefits of filing a provisional patent application are:

- ⇒ Establishes a priority date;
- ⇒ Provides an opportunity to make improvements and refine your invention(s);
- ⇒ Provides an opportunity to complete the formal requirements of a non-provisional application; and
- ⇒ Provides an opportunity to determine if the invention will have market value.

The first year of the provisional patent application does not go towards the twenty year term of any patent granted on the filed non-provisional application. Instead, the twenty year term will start on the date of filing the non-provisional application.

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Did you know?

The first patent in the United States was an invention by Samuel Hopkins on July 31, 1790. His invention was a process of making potash an ingredient in fertilizer. The patent was signed by President George Washington. With the first patent number assigned X000001, this began our patent numbering system. (see page 2)

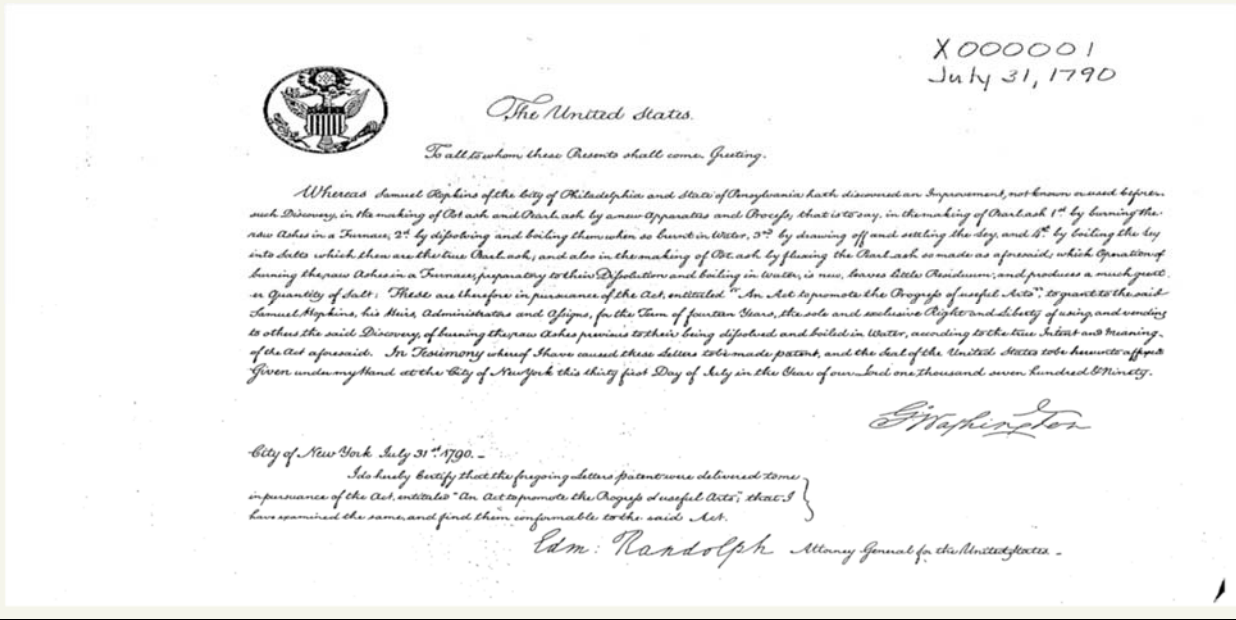
Another important patent was the toilet paper roll, receiving the patent number 465,588. It was invented by Seth Wheeler and patented on December 22, 1891.

www.uspto.gov

Non-Provisional Patent Application

Once you have prepared the non-provisional application and before the one year deadline has passed, you will file the non-provisional application with the USPTO. This non-provisional application will include claims, acceptable drawings, an inventor's oath, and the requisite filing, search, and examination fees. The formal examination process has now begun and will hopefully end in a Notice of Allowance.

Best of luck and happy inventing.



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