

# What Is the Patent Search Process?

A patent search is a vital part of any IP strategy. Patent searches can help you refine your invention, complete a successful patent application, and fully protect your intellectual property. And, a professional and comprehensive patent search can help you avoid unnecessary expenses and delays. Learn more about patent searches below.

## Why Do I Need a Patent Search?

In order to receive a patent, you must prove that your invention is novel. In other words, there must not be evidence of “prior art” concerning your invention, including:

- Knowledge in the public domain,
- Prior or pending patents,
- Published discussions, or
- Public use or sale of identical products.

A thorough patent search helps you understand your chances of patenting your invention. And, it may help you fine tune your patent application — resulting in an approved patent.

While all patent searches are highly technical and time-intensive, software-related searches are particularly complicated. (Not all software is patentable and the USPTO sometimes struggles to understand the nuances of software development.) An IP lawyer can help you understand your rights and ensure that your algorithms and systems are fully protected.

## When Should You Do a Patent Search?

Inventors perform patent searches for different reasons. For example, you may perform a patent search:

- During the invention process when you want to understand the amount of unpatented “white space” in the field, and
- Before you file a patent application — ensuring that your claims have not already been patented.

While some inventors delay their patent searches to avoid the expense, filing a patent (or producing a product) without a thorough patent search involves significant risks. No one wants to spend their time and financial resources “developing” a product that has already been patented or face unnecessary patent infringement litigation.

## What Your Patent Search Lawyer Will Do for You

While there are free patent search tools available, nothing compares to a professional search. Frequently, inventors believe they have done a thorough search on their own — only to discover patent and IP issues later on. And, do not assume that your idea is novel simply because the product is not on the market — only a small number of patented inventions are commercially available.

A patent search lawyer will:

- Work with you to understand the technical details of your invention and business plan,
- Perform extensive research and analysis (often using proprietary methods), and
- Issue a report and recommendations.

Typically, this search includes an analysis of publications and existing and pending patents — both in the United States and internationally.

Once the patent search is completed, your lawyer will draft a report or opinion. This document may discuss:

- Potential challenges to your patent application,
- The likelihood of your invention's patentability, and
- Which specific claims are most likely patentable.

While the level of detail may vary, depending on your needs, the patentability opinion should always disclose existing patents that are similar to your invention. And, your IP lawyer's opinion should provide you with insight on how to proceed with your patent or other IP strategies.

If your invention appears patentable, you can prepare and file a patent application. And, a patent application can help you successfully frame your invention as new and novel. For example, you can tailor your descriptions and claims to focus on the most patentable elements of your inventions.

## Filing a Provisional Patent

Sometimes, it may be in your best interest to apply for a provisional patent before a comprehensive patent search is completed. A provisional patent grants "patent pending" status and may preserve an earlier effective date for your nonprovisional patent. If you are unsure whether a provisional patent is in your best interest, contact an IP lawyer for an assessment. A lawyer can help you develop a patent strategy that both protects your intellectual property and is cost effective.

## Speak with a Patent Search Lawyer

A thorough patent search is a vital part of the patenting process. At Bold IP, we provide our clients with detailed patent searches and other customized IP solutions. We can help you protect your intellectual property and long-term business goals. Contact us for a confidential evaluation today.