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Internet, Design and Business Method Patents

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Internet Patents

E-commerce patents have attracted a lot of attention in the news lately and the U.S. Patent Office is facing criticism, once again, relating to their examination and issuance of patents relating to a revolutionary new technology. I say "once again" because this is not the first time a new technological development has stirred up controversy at the U.S. Patent Office. Over a century ago, there was severe criticism relating to the granting of agricultural inventions. This was followed by debates about the patenting of the telephone, the automobile, pharmaceutical drugs and the recent criticism of the biotechnology industry. With this historical backdrop, it is little wonder that the development of the Internet has spawned another patenting debate.

The term "Internet patent" or "e-commerce patent" is a very broad term used to define innovations in cyberspace. These terms have little legal significance and were coined simply out of necessity. How else can you describe the wide variety of patents relating to the World Wide Web? A software patent protecting a novel Internet-related application and a business method patent designed for use in e-commerce are both commonly bundled under the general category "Internet patents". Indeed, an increasing number of patents are being issued for patents that combine software or Internet use with a novel business methodology. Internet and e-commerce patent applications are being filed in record numbers by banks, stockbrokers, insurance companies, and online retailers to protect their innovations.

The important thing for inventors to realize is that they need to act quickly and do everything possible to protect their e-commerce related ideas no matter which "fashionable" term for their innovation happens to be in vogue at the time. Novel ideas should be kept secret and confidential and a consultation should be arranged with a Registered Patent Attorney as soon as possible to determine whether filing a patent application to protect the innovation is warranted.

Design Patents

The patent laws provide for the granting of design patents to any person who has invented any new and non-obvious ornamental design for an article of manufacture. It is important to understand that the design patent protects only the appearance of an article, but not its structural or functional features. It is different than a utility patent because it offers no protection for the way an article is used and works and can only protect the unique "look" of an article. As such, the focus of a design patent is the ornamental aspects of a product. In order to protect the way an invention works, it is necessary to obtain a utility patent.

The proceedings relating to granting of design patents are similar to those relating to utility patents with a few differences.

A design patent has a term of 14 years from grant, and no fees are necessary to maintain a design patent in force. If upon examination it is determined that an applicant is entitled to a design patent under the law, a notice of allowance will be sent to the applicant or applicant's attorney, or agent, calling for the payment of an issue fee. The drawing of the design patent conforms to the same rules as other drawings, but no reference characters are allowed and the drawing should clearly depict the appearance, since the drawing defines the scope of patent protection.



Special Interest Articles:

- Internet, Design and Business Methods Patents
- Market Research
- Helpful Web Sites

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Mission Statement

To provide a forum that fosters creativity, freethinking and education that will help further our members' innovations.

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The claims of a design patent are different from a utility patent. A utility patent has multiple claims while a design patent is limited to a single claim. The drawings of a design patent provide a visual disclosure of the claim.

It is important that an inventor understand the limitations of a design patent. A design patent should be filed only if the appearance of an invention is important. If it is possible to change the appearance of an invention without significantly altering its function, a utility patent is probably more appropriate.

Business Method Patent

When most people think of patents they automatically think of a new mechanical product, a chemical composition, or a manufacturing process. Since 1998, however, an increasing number of patents are being issued for patents that combine software or Internet use with a novel business methodology. Patents are not just for classical scientific innovations anymore, but are increasingly used by banks, stockbrokers, insurance companies, and retailers to protect methods of doing business.

Business method patents are a type of utility patent that is typically classified as a process because it lacks a physical object such as common with mechanical or chemical inventions.

A business method patent is a powerful barrier to competition. A company that develops a new way of conducting business may be able to prevent others from using it for twenty years.

In the past, the U.S. Patent Office rarely granted business method patents. Additionally, software patents were not considered to be patentable subject matter because of a belief that software was nothing but an unprotectable algorithm. Today, however, patents are routinely applied for and issued for software and business methods as well as Internet-related applications. New software patenting guidelines have been issued by the U.S. Patent and Trademark Office and have made software patents easier to obtain.

A patented business method provides strong protection against infringement. Before revealing your new method of doing business to anyone, it is prudent to consult with a Registered Patent Attorney to discuss the patenting of your idea. ♦

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Abby's Idea Factory Demonstrates Its Marketing Savvy

Abby Waters, President of the Inventors Society of South Florida is cutting a licensing agreement with a multimillion dollar wig company on behalf of one of her inventors, Gaynor Forgione. In its history, this company has never cut a deal with an inventor. Waters flew to Philadelphia with the inventor. Waters has a second product waiting in the wings.

The marketing director of Fortier Tie, Abby Waters, landed a large Kinko's Copies location. Kinko's employees number 20 thousand worldwide; the marketing goal is \$200,000 in ties.

Waters also announces her launch of a full service graphics department at her idea factory. P. A. Graphics has merged with Abby's Idea Factory to provide the most inexpensive and fabulous logos and promotional pieces for our inventors. Visit <http://www.abbysideafactory.com> for services and pricing.