

## **BARS TO OBTAINING A US PATENT**

You are not entitled to a patent if:

1. If the invention already existed and was known or used by others in this country before you invented it, even if you were unaware that it existed.
2. If the invention was patented or described in a printed publication in any country more than 1 year prior to your patent application even if you were unaware of this fact, even if you were the one who published the article, and even if you invented it first.
3. If the invention was in public use or on sale in this country more than 1 year prior to your patent application even if you were unaware of this fact, even if you invented it first, and even if you were the one who put it into public use or on sale.

## **FACTS TO CONSIDER**

If you must show your invention or have someone help test your invention make sure it is done under a non-disclosure agreement. Having a potential user test your invention under a non-disclosure agreement so that you can debug the details that are only testable under actual use is OK. Make sure you distinguish this situation from an offer to sale.

A Provisional Application for Patent is all that is needed before the 1 year time period has passed, but be careful. If you offer the invention for sale and then file a Provisional Application up to 12 months later you are fine UNLESS the examiner determines that your eventual Regular Application has important details not covered by the Provisional and so he disallows your claim for the benefit of the Provisional filing date. Without benefit of the Provisional filing date you must make sure that the Regular Application is filed before the one year period has passed. By the time you find out the examiner will not allow benefit of the Provisional filing date the 1 year period may have already passed.

*This document is intended only as a brief introduction to the issues which can bar an inventor from being granted a patent.*