

An Introduction to Patent Searching

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To see if someone has already patented an idea, you can do a pretty fair patent search yourself, with a little effort and patience. The simplest online site for a patent search is www.google.com/patents.

First, identify as many key words as you can think of that relate to your invention. At www.google.com/patents, enter a key word and click the “Search Patents” button. Google will provide you with a list of patents and patent applications which contain that key word. Click on one from the list to see the Google page for that patent or application. From that Google page, you can click to read the entire document or download a pdf of the document.

Do the Google patent search for as many key words as you can think of, alone and in combinations. As you find relevant patents you will likely see other key words to try. When you use a Google search to find a patent, the Google page which shows you the thumbnail of the patent, the abstract, and the claims will also usually have sections called Citations and Referenced By. The Citations are patents which this patent refers back to (i.e. earlier related patents) while the Referenced By section lists later patents which refer to this one. The patents listed in both sections will have hyperlinks you can click on to look at those other patents. This is a quick way to find as many relevant patents as possible.

The Claims in a patent are the legalese statements which define exactly what is patented. If you see your idea described in the Claims of a patent, then your idea is already patented and you cannot patent it yourself. Plus, if the patent has not expired you may need a license to use or sell that invention.

If your idea is described in the other text in the patent, but not in the Claims, then your idea has been published but not patented. You cannot patent your idea because it has already been published by someone else, but you can still use or sell your idea (assuming there is not some other patent which Claims it).

If you see your idea anywhere within a patent application, your idea has been published but it has not been patented unless it is found in a patent. A patent application is a published application that someone has filed which may or may not result in a patent someday. Applications are generally published about 18 months after they are filed. It can take years for an application to finally be rejected or result in a patent being granted.

As you do your search, make a note of the patent number or application number for any one you find that is fairly similar to yours. It is best to simply download the pdf files of them. Before engaging your patent attorney or patent agent, you should make some notes about how your idea differs from each of these similar patents and applications. Your attorney or agent will likely want to include text in your application that explains how your idea is different from each of these existing patents and applications, thus trying to pre-empt a rejection from the Patent Examiner when he does a search and finds these same patents and applications. You do not need to pay an attorney or agent to sit with you and ask you, patent by patent, how yours is different. Save time and money by doing as thorough a job as you can upfront.