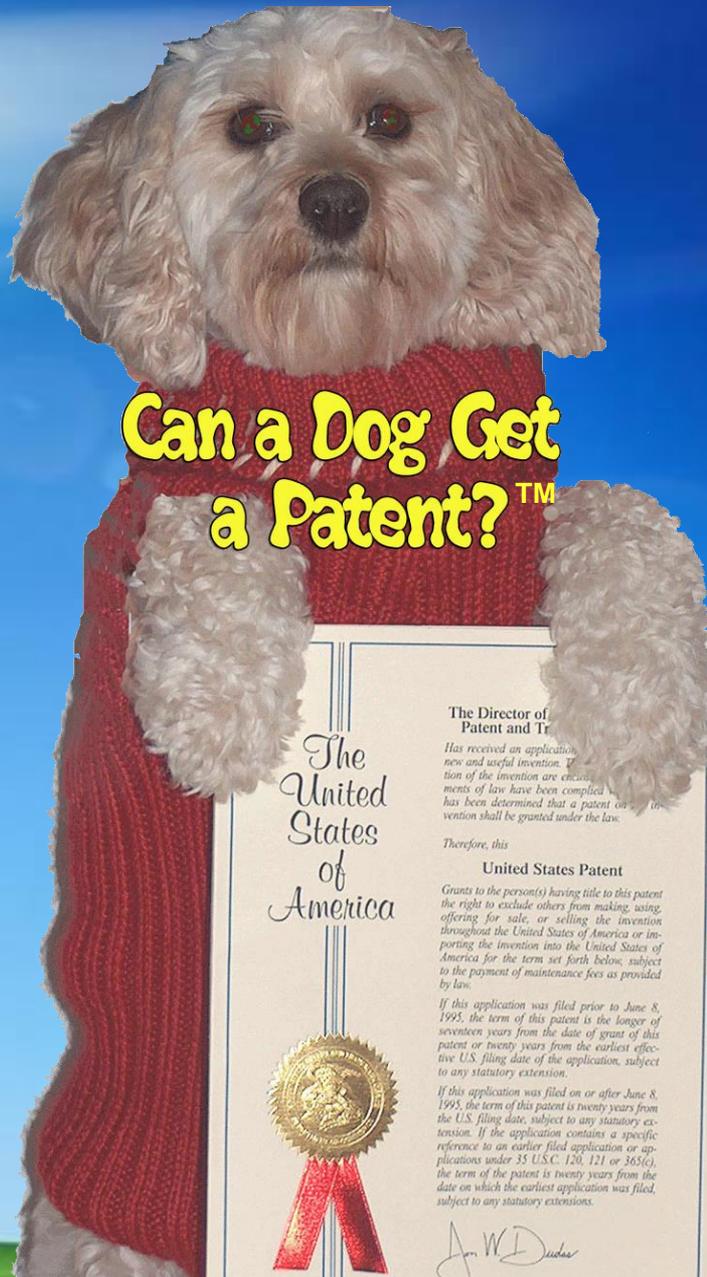


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Patentnow.com®

Can a Dog Get  
a Patent?™

Introducing  
Cookie™



The Director of  
Patent and Trademark  
Office

*Has received an application for a patent in respect to a new and useful invention. The claims of the invention are circumscribed in the accompanying claims of law have been complied with the provisions of the law. It has been determined that a patent on this invention shall be granted under the law.*

Therefore, this

**United States Patent**

*Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America for the term set forth below, subject to the payment of maintenance fees as provided by law.*

*If this application was filed prior to June 8, 1995, the term of this patent is the longer of seventeen years from the date of grant of this patent or twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.*

*If this application was filed on or after June 8, 1995, the term of this patent is twenty years from the U.S. filing date, subject to any statutory extension. If the application contains a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121 or 365(c), the term of the patent is twenty years from the date on which the earliest application was filed, subject to any statutory extensions.*

*Am WJ Dudas*

# An Introduction To Patents for Kids Aged 5-99

By  
Walter J. Tencza, Jr.  
Registered Patent Attorney

with special thanks to Kristin and Katie Tencza

Starring...  
Cookie  
our talented Cockapoo

© Copyright, 2013, Walter J. Tencza Jr.



# Can A Dog Get a Patent?

## Interested Inventor:

Our friend Cookie is very talented, even though she is only five years old. Cookie wants to be an inventor, just like many others, and has a great idea for a new dog bowl.

Cookie wants to get a U.S. patent because a **U.S. patent will allow her to prevent others from making, using, or selling her invention** in the U.S. But Cookie does not know what to do.



# What Should She Do?

## Patent Attorney:

The **first step** Cookie should take is to **write down** or type **all the details about her invention**. This is not as hard as it may seem, because answering questions about her own invention will be easy for Cookie.

If the invention is meant to be bought by shoppers (a consumer good):

- ❖ How do you make your invention?
- ❖ What does your invention do?
- ❖ What does it look like?
- ❖ What do you use it for?

Look in the appendix for a sample invention disclosure form



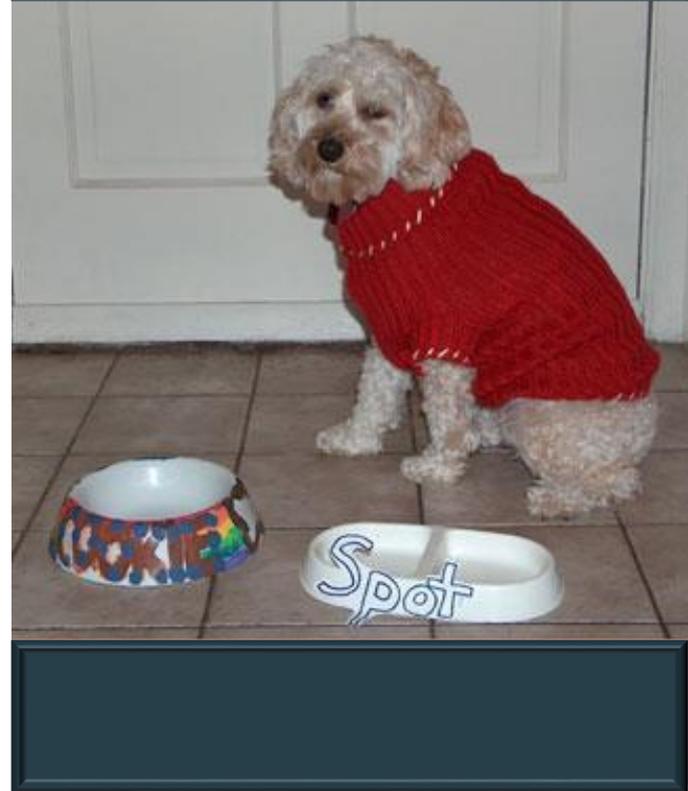
If your invention is a **method** (meaning it's a way to do something), also ask:

## How Does it Work?

After she writes down those things about her invention, she should make a **rough sketch** of what the invention looks like, or a chart of how it works if it is not an object. A rough sketch is a **drawing** of something that doesn't have to be neat and **is not the final copy**.

One of the most important parts is that Cookie should write about what she thinks is new about her invention.

I have to write down what is new about my dog bowl



# Can Cookie Tell Her Friends?

## **Potential Client:**

Ok, so once Cookie is done with making a rough sketch, and describing her invention, can she tell her friends about it? I'd probably be really excited and want to tell everyone I know!

## **Patent Attorney:**

It is better for Cookie to keep her invention confidential until after her patent application is filed.

In the United States, if Cookie puts her invention out in the public and doesn't file a patent application within a certain time, she may lose her rights to file. All that hard work would be lost, and Cookie would be very sad.

Tell Cookie to keep her invention a **SECRET** until a patent application is filed



## Potential Clients:

So Cookie has described and sketched here invention and is going to make sure she doesn't tell anyone.

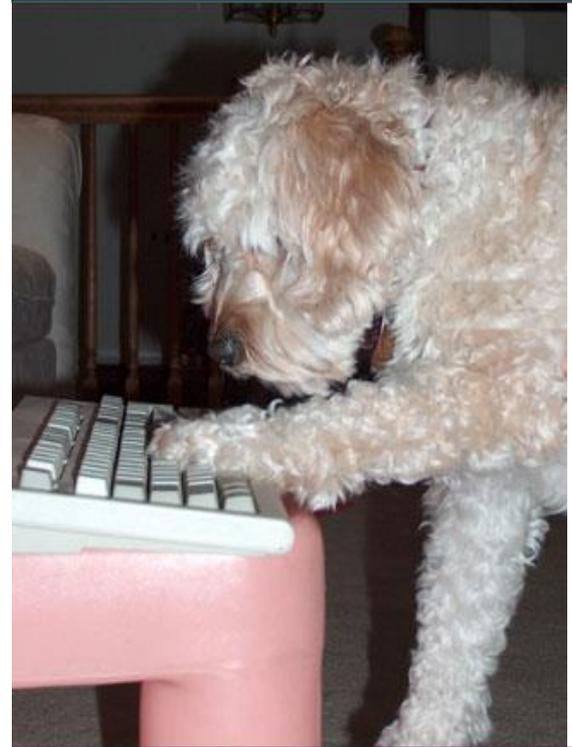
## Where Does She Go From Here?

### Patent Attorney:

The next step is to do some free patent searching on the United States Patent and Trademark Office web site, [www.uspto.com](http://www.uspto.com).

What's this for? Well, it is a good idea for Cookie to check whether someone else already came up with her idea. Although it will be impossible for Cookie to check every patent or other document which could be close to her invention, a quick free search may reveal similar patents or documents. Cookie can type in words related to her invention to do a search.

Cookie heard about the free patent searching at the US Patent Office



Try it- go to [www.uspto.gov](http://www.uspto.gov), click on Search (under the Patents column) and Quick Search



# What if Cookie's Search Doesn't Find Her Invention in the Search?

## **Potential Client:**

If Cookie doesn't find her invention in an old patent or other old document, what should she do next?

## **Patent Attorney:**

Next, she should call a registered patent attorney.

## **Potential Clients:**

Wait- what's a patent attorney?

## **Patent Attorney:**

Well, for one thing, I myself am a registered patent attorney, so I can tell you all about it.



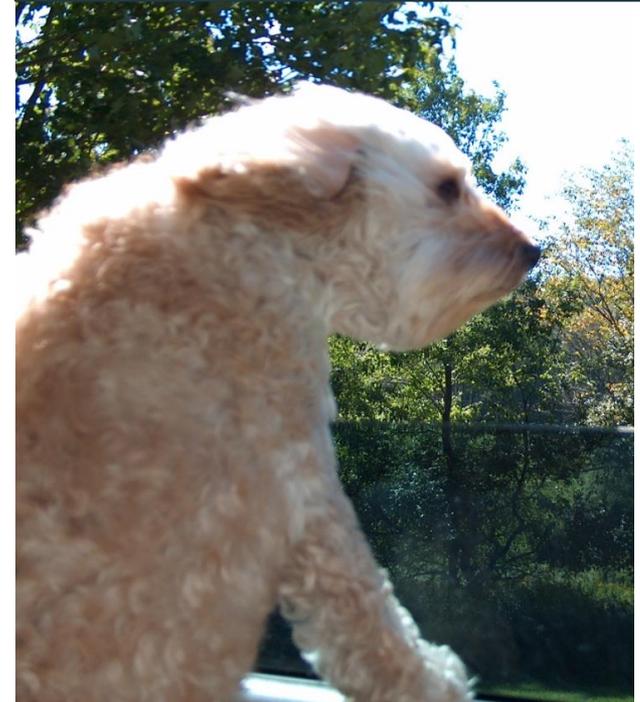


## **Patent Attorney:**

If Cookie thinks she has searched enough, she can ask the patent attorney to file her patent application without searching further. However, it may be a good idea to have the patent attorney do another search. Cookie should keep in mind that no matter how much searching is done, because there are millions of patents and billions of documents which can impact whether she can get a patent, no patent search is fool proof.

If Cookie or her patent attorney are done with searching, Cookie can have the patent attorney prepare a first version or draft of the patent application based on the description Cookie provided. The way the patent application is prepared by the patent attorney may be confusing to Cookie at first, but it is important for Cookie to read over the entire application, and make sure she understands it. Ultimately, it is Cookie's invention and if she thinks it should be changed she should tell her patent attorney.

Cookie drives to the Patent Attorney's Office



## Patent Attorney

### Explanation of patent application process:

Cookie will probably go back and forth a few times with her patent attorney, with Cookie providing suggestions, corrections, and changes, and with her patent attorney rewording the application to make sure it represents Cookie's invention and is written in a way to satisfy US Patent and Trademark Office rules and to protect Cookie's invention.

When both Cookie and her patent attorney are satisfied with the patent application, Cookie will need to sign a document stating that this is Cookie's invention.

The patent attorney will then typically file the application. If the application is filed electronically, Cookie will get a serial number back from the US Patent and Trademark Office immediately after filing.

However, it's an **application** and Cookie still doesn't know if her patent application will be approved- it still has to be examined. It could take anywhere from a year or even much longer for Cookie's patent application to get examined.

Cookie suggests corrections to the application



# What About Money?

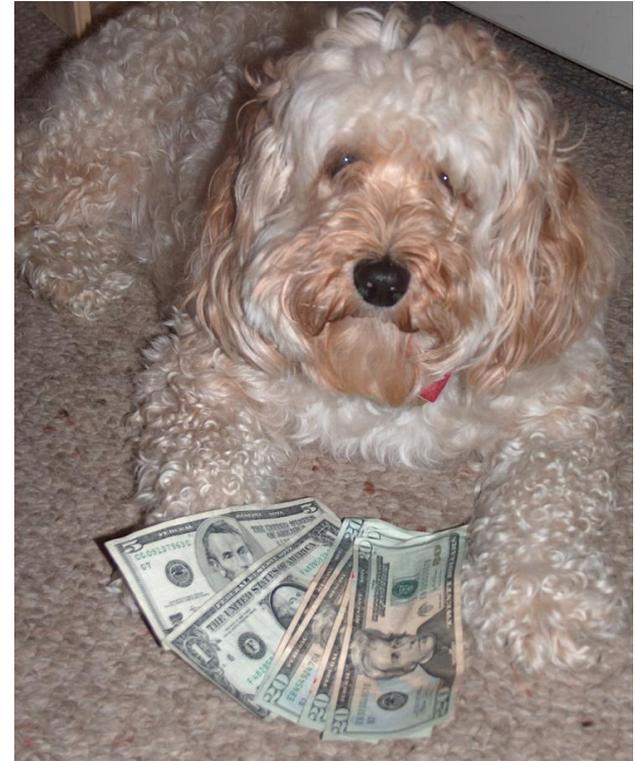
## **Potential Clients:**

Can Cookie have a patent attorney help her out for free? If not, how much will it cost?

## **Patent Attorney:**

It may take a lot of time and effort for a patent attorney to review Cookie's description, understand Cookie's invention, prepare a draft of text of a patent application, prepare drawings, and go back and forth with Cookie until a final patent application is done. This may involve a lot of work, which depends on how complicated Cookie's invention is.

Patent attorneys may charge different amounts depending on the particular area of technology it involves (such as computer, electrical, or chemical), how complicated the invention is, or how many revisions of the application are required.



Cookie, you'll have to save more money to pay USPTO & patent attorney fees...



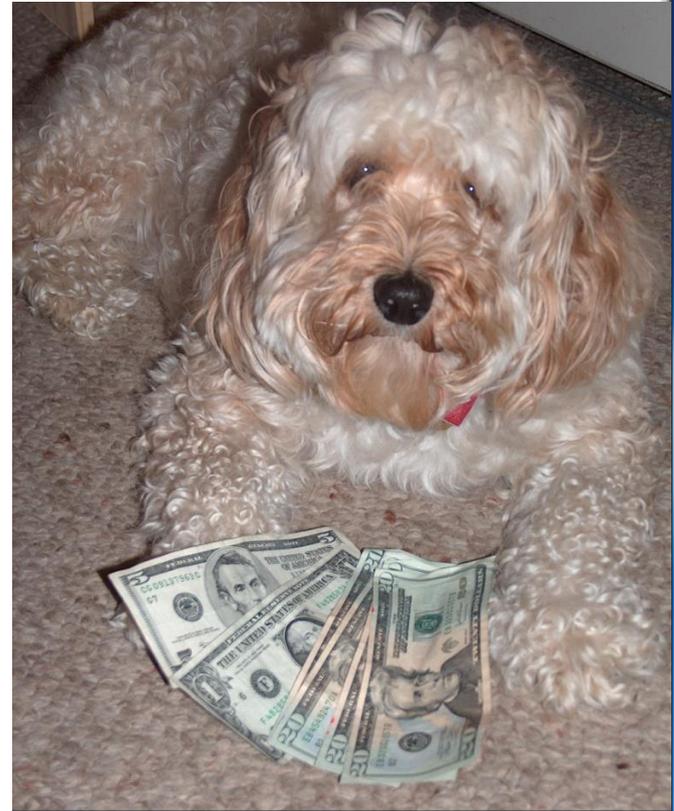
## What About Money (Continued)?

### **Potential Clients:**

What if Cookie doesn't have a lot of money? Wouldn't it make sense that she just file the patent application by herself? After all, can't she just do these steps by herself?

### **Patent Attorney:**

I know that Cookie could try to do it by herself because she is so smart, but she herself is not a patent attorney and would have trouble preparing the application the way the US Patent and Trademark office wants, and to get her the best protection possible.



Cookie- you should review Appendix 2 for a sample of USPTO fees...



## **Patent Attorney:**

This would make it very, very tricky, for Cookie to file the patent application on her own.

And even if she was able to, since Cookie is not familiar with US Patents, she will most likely make many mistakes. Some of these mistakes may result in the loss of her US patent rights. Some of these mistakes may result in a US patent that is not as well written as it could be, and does not protect Cookie's invention as well as it could.

Cookie would be much better off if she used a professional who has prepared and filed US patent applications before.

I decided it's a smart business decision to have a Patent Attorney prepare my patent application. That's why I called:  
1-866-PAT1NOW



# Is that It? Does Cookie Get Her Patent Once an Application is Filed?

## **Patent Attorney:**

Not yet. Now all Cookie can do is sit back and wait and hope that all those steps and hard work paid off. Now her patent application is referred to as **patent pending**, because the US Patent and Trademark Office has not examined her application yet and decided whether she may be entitled to a patent. And this deciding could take quite some time. There are hundreds of thousands of patent applications filed every year with the US Patent and Trademark Office. Because there are so many other patent applications waiting to be examined, Cookie's patent application may take a year or much longer just to get to the front of a very long waiting list.



# What Things Will the People at the US Patent and Trademark Office Look For In Cookie's Patent Application?

## Patent Attorney:

First of all, in a typical case, a USPTO examiner does their own search to find material which is "prior art" to Cookie's application or invention. "Prior art" basically means "old" sources or "old" information which typically occurred prior to Cookie's patent application. For example, "prior art" to Cookie's invention, may include U.S. and Foreign patents issued and published prior to Cookie's patent application. The "prior art" may include other "old" references such as "old" known products on sale in the United States and "old" known publications.

After the examiner has found "prior art" to Cookie's invention and/or patent application, the examiner compares what are called the "claims" of Cookie's patent versus the "prior art".

The examiner may then reject Cookie's claims (and her patent application) if Cookie's claims are too similar to what is already shown in the prior art or if the examiner feels Cookie's claims are "obvious" in view of one or more references of the prior art.

The examiner may reject Cookie's claims in a first office action.

I wonder what the USPTO Examiners look for?



# Does Rejection Mean the End of the Road for Cookie's Patent?

## **Potential Client:**

If the US Patent Examiner rejects the claims, does that mean that Cookie can't get a patent?

## **Patent Attorney:**

Getting a first office action rejection actually happens so often that Cookie should expect it. Many times the patent attorney can respond to the first office action rejection by amending claims or making arguments to overcome the rejection.

Don't be sad Cookie...it's very common for the claims to get rejected the first time



## Potential Client:

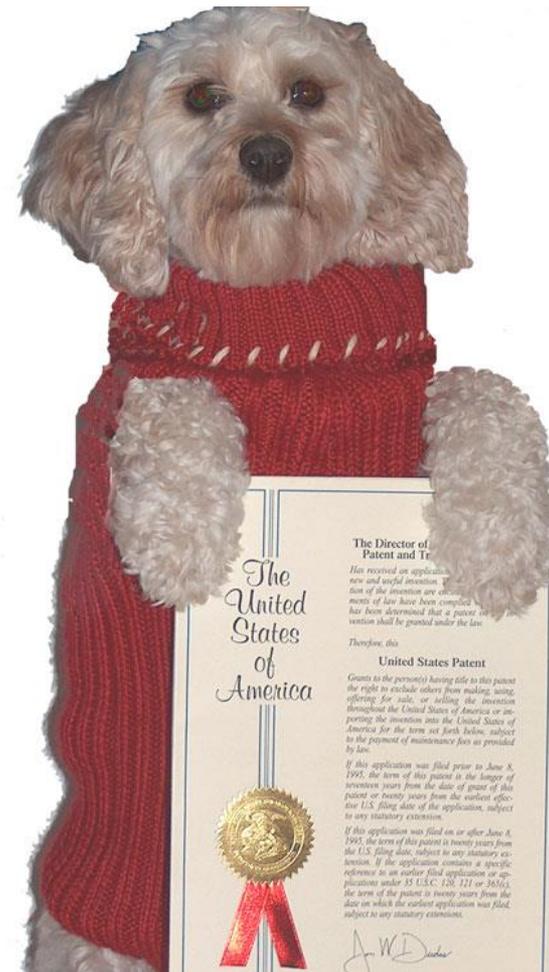
OK, so the patent attorney responds to the rejection, then what?

## Patent Attorney:

The Patent examiner will review the patent attorney's response, and if the patent examiner agrees with the patent attorney, the examiner may send out a Notice of Allowance. A Notice of Allowance typically means that an issue fee and in some cases a publication fee needs to be paid, in order to get a US Patent to issue.

## Potential Clients:

Now that Cookie has her patent, will it last forever?



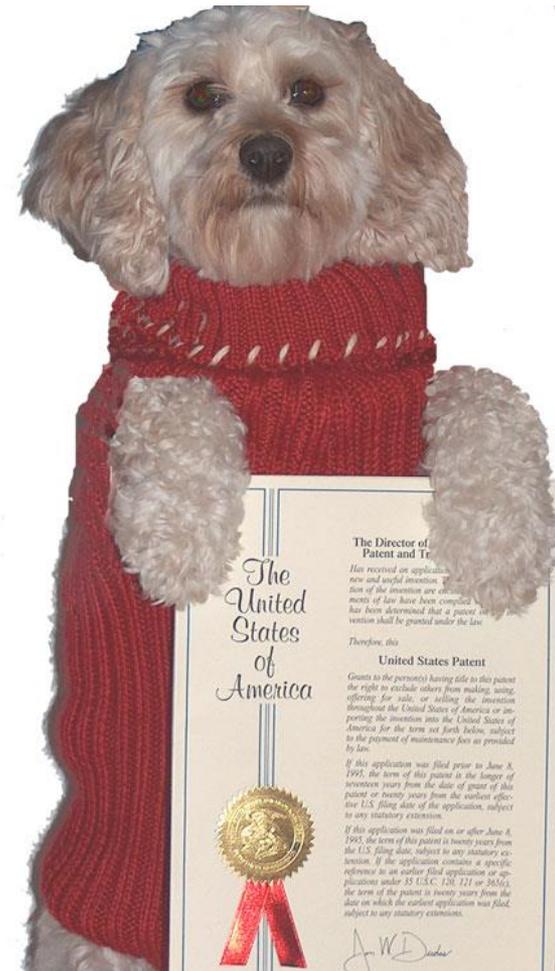
# Now that she has her patent, will it last forever?

## Patent Attorney:

Sadly, it won't. Her patent will end at a certain date. Utility patent applications filed in the year 2013 have a term which ends twenty years from the date it was filed, however, there may be some adjustments or extensions in some cases. But if Cookie wants to make sure her patent lasts as long as it can, she also needs to pay maintenance fees, which are due at three and a half, seven and one half, and eleven and one half years after issuance of a patent. Failure to pay a maintenance fee results in expiration of the patent. See Appendix 2 for a sample of USPTO Fees.

Hooray Cookie!

You are the proud owner of a US Patent!



## Appendix 1- Page 1/2

### Confused? Here's a Glossary of Terms:

**Patent Application** - An application filed to attempt to obtain a patent. For example, a U.S. patent application needs to be filed with the United States Patent and Trademark Office to attempt to obtain a U.S. patent. Patent applications in the U.S. typically go through an examination process, and the filing of a U.S. patent application for an invention does not mean necessarily that an issued U.S. patent will be granted for the invention.

**Apply for a patent** - File a patent application. For example, an individual applies for a U.S. patent, by filing a U.S. patent application.

**Claim** – A statement in a patent application or in a patent, which defines the limitations and/or metes and bounds of an applicant's invention.

**Invention Disclosure** - Includes description and drawings which describe an inventor's invention.

**Method** – a process or way of doing something.

**Notice of Allowance- for U.S. patent applications,:** A document from the U.S. Patent and Trademark Office indicating that one or more claims of an inventor's U.S. patent application have been allowed and that a U.S. patent will issue following payment to the USPTO of an issue fee and in some cases a publication fee.



## Appendix 1 - Page 2/2

### Glossary of Terms

**Patent** - A patent for an invention is the grant of a property right to the inventor, issued by the US Patent and Trademark Office. The term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in cases appropriate priority is claimed, from the date an earlier related application was filed, subject to the payment of maintenance fees, and subject to some possible adjustments /extensions.

**Patent Pending** – After the complete patent application has been received by the US Patent Office, it is called patent “pending” . Patent “pending” does not mean that a U.S. Patent, necessarily, will issue.

**US Registered Patent Attorney** - A lawyer who is admitted before the United States Patent and Trademark Office and is authorized to file patent applications on behalf of others.

US Registered Patent Attorneys typically have a technical degree in addition to their law degree. The technical degree helps them to understand the technology of how an invention works. The law degree gives them the legal background to understand how to properly word a patent application and how to properly proceed with the patent application before the US Patent and Trademark Office.

#### **Rough Sketch**

An informal or rough drawing or diagram of an aspect or feature of an invention .



# Appendix 2- Invention Record-

Law Offices of Walter Tencza, Jr.

www.patentnow.com

## INVENTION RECORD AND DISCLOSURE FORM

Side 1 of 2

Instructions: Please print or type in the spaces provided below. This form by itself does not provide any protection. A patent application must be diligently filed. Feel free to attach additional pages if needed to fully describe the invention. Please indicate if you know of any similar inventions.

A. TODAY'S DATE: \_\_\_\_\_

B. YOUR NAME: \_\_\_\_\_

NAMES OF OTHER INVENTORS(IF APPLICABLE): \_\_\_\_\_

\_\_\_\_\_

C. BUSINESS NAME (IF APPLICABLE): \_\_\_\_\_

D. ADDRESS : \_\_\_\_\_

\_\_\_\_\_

E. HOME TELEPHONE: (    ) \_\_\_\_\_

F. WORK TELEPHONE: (    ) \_\_\_\_\_

G. FAX TELEPHONE: (    ) \_\_\_\_\_

H. TITLE OF THE INVENTION: \_\_\_\_\_

I. BRIEF DESCRIPTION OF THE INVENTION: (Please attach any sketches, drawings, or photographs you have. Initial and date these separate pages) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



