



LICENSING

So you have filed a patent application, what do you do next?

LET THE GIANT MULTINATIONAL CORPORATIONS START A BIDDING WAR OVER YOUR INVENTION; SELL TO THE HIGHEST BIDDER; AND THEN, THE BEST PART, SIT BACK AND WATCH THE MONEY ROLL IN!

Of course, we jest, although there are a few invention promotion companies out there that would have you believe the foregoing is true.

The truth is for most the hard work begins after you get the patent on file. The patent (or patent application) gives you the freedom to disclose the invention to the public. In other words, the patent application permits you to PROMOTE your invention without fear that others will steal your invention. And unless others know it, you will never make money from your invention.

So what should a patent pending inventor do? Basically, there are only a few options with many variations as presented below in reverse order of desirability along with some of the ways our firm can help you achieve your goals:

1. Just sit back. You know: if you build a better mouse trap, the word will beat a path to your door. We won't say this strategy NEVER works but you have a greater chance of being hit by lightning multiple times and surviving at least the preceding encounters with the heavenly spark. We refer to this strategy as the **Do Nothing** strategy.



HOW WE CAN HELP:

- Hey, you don't need to pay us to do nothing. With this strategy, your on your own.
2. Hire an invention promotion company. Now, if you have read much on this site and have pursued our BLOG, you should be able to guess our take on this one. Actually, we really had a hard time ranking this one. For all but a very select few, it is much cheaper for an inventor to do nothing rather than hire one of these companies, AND the outcome is likely to be the same as doing nothing. We refer to this strategy as the **Throwing Your Money Away** strategy. Yeah, we know that is harsh, but we call them as we see them. Now, there are a few marketing companies that can help you either commercializing your invention or presenting it to companies BUT reputable marketing companies are few and far between. If you want names, contact us. At the very least, check out the company on the web and talk to former clients (several). Always, use your best judgment. If the voice in back of your head is saying move on, you probably should move on.

HOW WE CAN HELP:

- If you need a marketing company to help you sell your invention, give us a call for the names of reputable ones.
 - If you have a company in mind, we will freely give you our impressions and advice. Maybe, we can save you thousands of dollars and a lot of heartache.
 - If you do use an invention promotion company and they have wronged you, we can try and help you get some of your money back. This is a long shot and you are best to not use one of these companies in the first place.
3. Contact the new product department of a major corporation, send them a copy of your patent application, and wait for them to make you an offer you cannot refuse. Well, this may happen on occasion, but be forewarned being successful with this strategy is a rarity. This strategy is often



referred to as **Licensing** your invention. If you are going to follow this strategy despite the risk, please do it right the way so as to maximize your chances.

HOW WE CAN HELP:

- We can negotiate a licensing agreement that is more favorable to you.
- We can write the agreement.
- If the company to whom you are licensing your patent already has a “standard” agreement, we can review it and suggest or even negotiate changes. Remember, the company’s standard agreement is written for their benefit not yours. We can help ensure you get a fair deal.

4. Manufacture your invention and sell it yourself. This option has a greater chance of success than all the preceding options but it is also significantly more time consuming and difficult. You have to find one or more companies to manufacture your product or you have to set up your own factory. You have to identify a distribution means and you have to secure the means. You have to market your product. And finally, you have to manage growth if the product takes off. Dedication, drive and belief in your product are necessary for the **Manufacturing** strategy to work. A bit of money doesn’t hurt either: have any rich uncles? But if you have the drive, the dedication, the determination and the money, this is one of the best ways to go. By the way there are a few reputable marketing companies out there that can help but be forewarned for every good one you are likely to come across there are four or five others who would better be described as slick and sleazy.

HOW WE CAN HELP:

- We can put you in touch with reputable service providers from engineers to companies that will assist you in getting your product manufactured overseas.



- We can review manufacturing contracts to make sure you fully understand the ramifications positive and negative of any deal.
 - We can set up your company: whether as an LLC, a corporation or a partnership. See our Business Law section for more information.
 - We can draft Private Placement Memorandums often necessary in obtaining private funding.
5. Manufacture your invention, sell it until its viability in the market place is proven then either sell the company and the patent rights to a larger company or license the patent to the larger company. This really isn't much different from the preceding strategy. In fact, in terms of time, effort, drive and dedication, it is basically the same. The primary difference involves the realization that you will never have the capital necessary to grow your company fast enough to keep up with demand for your patented product. In many respects, this **Manufacture and License** strategy requires you go for broke. In other words, you build the market share for the product as fast as you can with the realization that the increased manufacturing and marketing costs will constantly exceed revenues and in the end you will either need an infusion of capital, such as from a venture capital firm, or need to sell out to one of the market players in the industry.

HOW WE CAN HELP:

- We can assist with all of the items listed above in (3) and (4)

And if none of these sound easy or if we don't seem particularly encouraging about the chances of anyone of these strategies succeeding, it is because sheer probability is against you. Even with the best product, the best strategy, the highest amount of dedication and plenty of financing, your chances of success are probably less than 25%. Truth be told, most entrepreneurs and inventors lack in one or more areas: they



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An Intellectual Property and Business Law Firm

usually lack in sufficient funding. So given these typical constraints, the real word chances of making more money than you spent on your invention is probably 2-5%.

If the previous paragraph is enough to deter you, that is probably a good thing. You probably shouldn't be spending substantial sums of money on a patent and other invention related services if you don't believe, or better yet know, you are one of the 2-5%. While it is usually always a virtue to realistic, having an unyielding faith in their ventures is often a common trait among successful inventors and entrepreneurs. To be sure, many successful inventors think long and hard before they commit to the road of commercializing their inventions but once they take the leap, it is all or nothing till the venture is seen through to its conclusion.

Of course, Leyendecker & Lemire will be there to assist you throughout the life and hopefully success of your venture. We are here to help maximize the potential value of your venture by providing high quality intellectual property and business protection. We are here to negotiate and help you obtain the best business deals possible. We are here to make sure your legal affairs remain in order thereby minimizing the risk of suit, and if you are sued, maximizing the chances that you will ultimately prevail. Just as your work isn't done once you receive your patent, our work isn't done either. Remember, we view your success as our success. Good luck!