

Introduction

Is This Book for You?

If you are an inventor or entrepreneur who wants to understand how to use the patent system to help fulfill your business goals, this book is for you. If you have an idea that's important (*valuable*) to you, to your business, or to the start-up venture you have in mind, you are *not* going to try to patent it yourself. Smart entrepreneurs use patent attorneys. Really smart entrepreneurs use their own time effectively, learning just what they need to know to understand the process, so they can use their patent attorney's time effectively and work the system to their advantage.

Entrepreneurs with valuable ideas hire professionals to help them. But that doesn't mean they always spend their money efficiently or wisely. Before you do invest in a patent, it pays to invest a little time and learn how the patent system works. Reading this book will help you understand (1) how to work the patent system to your advantage, and (2) how to work effectively with the patent

attorney who will represent you. As a result, you might save yourself a lot of time, money, and aggravation.

You might not know it, but the American Bar Association (ABA) publishes a lot of books! However, they're mostly books written by lawyers to explain to other lawyers the intricate details of a particular area of the law.

This book is different. The "ABA Consumer Guide to Obtaining a Patent" is written for *consumers*—non-lawyers who want a better understanding about how to use the patent system effectively to obtain a patent.

When we speak of consumers, typically we are speaking of people who are in the process of buying, or at least contemplating making a buying decision. In this context, it means people who are considering applying for a patent and who may be considering hiring professionals to help them secure their patent rights. If that's you—a potential consumer of patent services—then I think you'll find this book to be quite helpful.

What Will You Learn by Reading This Book?

Think of the manager at a mid-sized company that hires patent attorneys all the time to protect its important innovations:

- How much does *that guy* know about the patent process?
- What type of experience does he have that helps him make good decisions about *what* to patent and *when*?

That's the benchmark for this book. I want you to know as much as *that guy*, so you can make equally effective and efficient decisions *with confidence*—as if you've done this many times before. If your patent attorney recommended this book to you—or perhaps even gave you a copy—it's probably because your attorney knows that the better you understand the process, the better client you will be. The more you understand the dynamics of the patent system, the more likely you are to make the most of it, and of his or her representation of you.

By reading this book, you will learn:

- *What* you might already be doing *without realizing* that can jeopardize your chances of ever getting a patent
- *How* to determine if you can get a patent on your invention
- *Why* a patent may or may not be important for your particular business goals
- *When* to file a *patent application*, and at what point you should get an attorney involved
- *How to avoid* making the patenting mistakes that even smart entrepreneurs make every day

This book won't teach you how to write a patent application. What it *will* teach you are the most important principles to understand about patent applications, and about the patent system, if you want to protect your patentable ideas effectively and efficiently—and avoid wasting time and money.

Before I went to law school, I thought that it would be about studying and learning all the laws

I would need to know in my professional career. When I got there, however, I found out that in law school they don't try to teach you everything a lawyer would need to know to competently practice law. Instead, they train you to *think like a lawyer* and to effectively use various available resources to find out what you need to know, when you need to know it.

Similarly, my intention here is not to teach you all of the detailed rules about patents. Instead, I want to give you a framework and an understanding of the resources you will need so that you can begin to think like a patent lawyer—or better yet, think like an entrepreneur who is “patent savvy.”

Why I Wrote This Book

Over the past 20+ years as a patent lawyer, I've had the amazing opportunity to represent thousands of entrepreneurs, and helped them obtain nearly 2,000 patents. I've counseled more than 10,000 inventors about the patent process one on one and educated at least another 10,000 through my online videos.

Along the way, I've learned what entrepreneurs *need* to know about patents to be successful. But even more important than that, I've learned what entrepreneurs *want* to know about patents so that they can make decisions they are satisfied with, and then turn their attention to starting and growing their companies. I am proud to have the opportunity, through this book, to share my experience and insights with you.

What to Expect in Reading This Book

Most of the book is written like a conversation, just between you and me. I recognize that if you're reading this, it's probably not just an academic exercise for you; you are actually considering getting a patent. Because of this, I feel it appropriate to be a bit informal and to speak directly to you.

You'll find that I tend to use the words “idea” and “invention” (and sometimes “product”) interchangeably. In doing so, I run the risk of offending the purists who say, “You can't patent an idea, you

can only patent an invention.” Well, they are technically correct. You can’t patent, for example, the fanciful idea of *a machine that can fly*, but you could get a patent when you’ve taken it a step further and conceived of an actual structure that is capable of flying, like an airplane or a helicopter. So yes, you can patent an idea, when it is more than just an abstract notion but is a real-world manifestation. Now, with that out of the way, for the rest of this book, I’ll just use “idea” and “invention” interchangeably.

Also, I’m not going to constantly hit you over the head with “you’ve got to use an attorney.”

Moving forward, I’m going to assume that protecting your idea is important to you, and your intention is to do it right. That being said, here’s the disclaimer: This book is not intended to be legal advice. It is intended to inform you about the principles of patenting. Legal advice, and appropriate actions to establish and preserve your legal rights, should only be taken upon consulting qualified legal counsel who is fully aware of your facts and circumstances.

Now, let’s get started by discussing *why* you might want a patent.