

PATENTS

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Presented by
Sam Freund, Ph.D.

Patents

A. Contract Theory of Patents

- Article 1, Section 8, Clause 8: Congress shall have power...to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries
- Inventors secure exclusive rights in exchange for disclosure to the public
- Trade secrets may have to be disclosed

Patents (cont.)

B. Types of Patents

- Utility (Provisional / Nonprovisional)
- Design (FORM / ORNAMENTAL ASPECTS)
- Plants

Patents (cont.)

C. What can be patented?

- Machines (apparatus)
- Articles of Manufacture (products)
- Processes (methods, including business methods)
- Compositions of matter
- Improvements on any of the above

Patents (cont.)

D. Requirements for patentability

- New (Novel)
- Useful (Utility)
- Non-obvious to one of *ordinary* skill in the art
- The invention does not have to be reduced to practice, but often requires more complete disclosure

Patents (cont.)

E. Statutory Bars

➤ Public Use

- ◆ One use in public domain may constitute 'public use'
- ◆ Commercial secret use may be a public use
Example – a hidden invention in a publicly displayed / used machine
Example – A tour of a laboratory may be a 'public use'
- ◆ Experimental use is not a public use

Patents (cont.)

E. Statutory Bars (Cont.)

➤ Offer for Sale

- ◆ The product does not have to be 'on hand' at the time of offer for sale, just ready for patenting
- ◆ Sale does not have to be completed
- ◆ In fact, the offer does not have to even be received by a potential customer for a bar to exist

Patents (cont.)

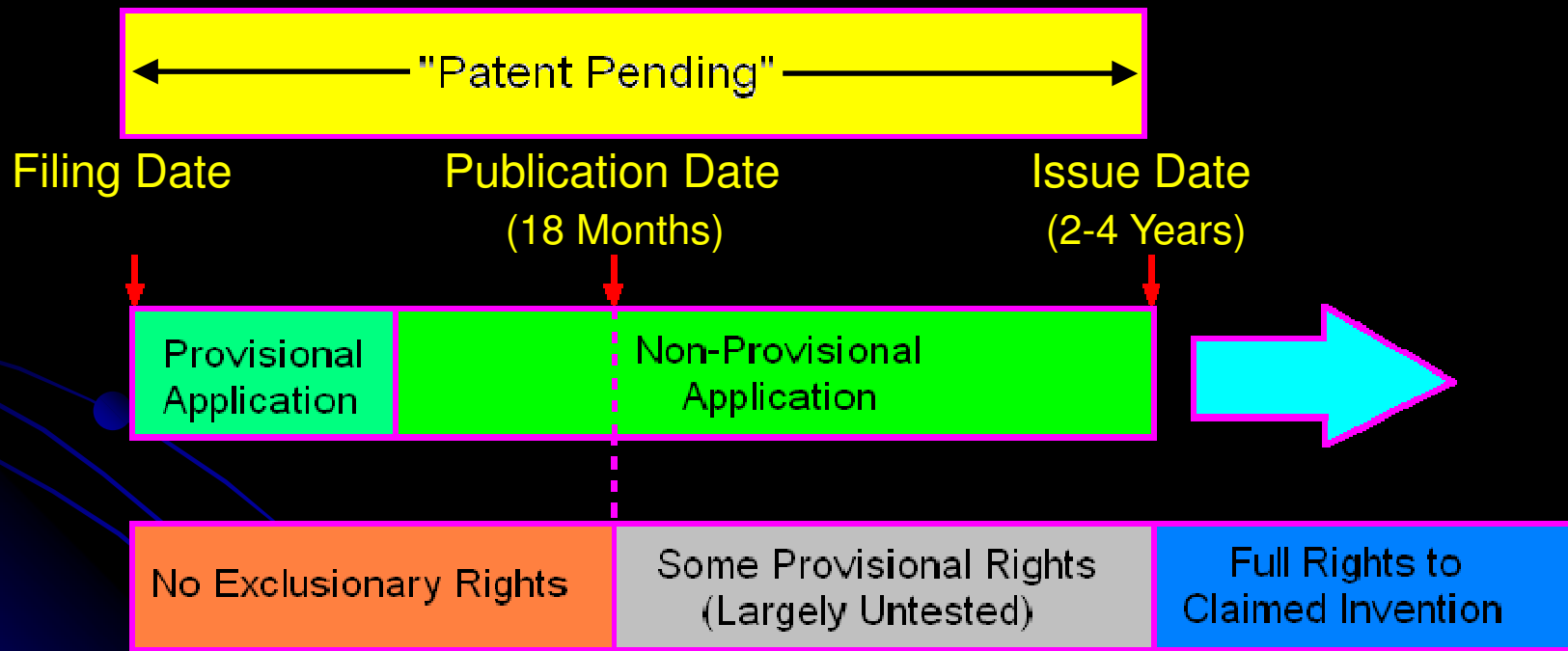
E. Statutory Bars (Cont.)

➤ Publication

- ◆ One year grace period between an enabling disclosure and filing is allowable in the US, Canada and the Philippines, but not the remainder of the World
- ◆ Except for unauthorized disclosure

Patents (cont.)

F. Timeline for Patents



Patents (cont.)

G. Rights

- **Prevent others from making, using or selling your claimed invention**
- **May not be able to practice or authorize others to practice your own invention**
- **May assign or license**

Patents (cont.)

H. Practice Tips

- **Keep good notebooks**
- **Inventorship**
 - **legal matter**
 - **contribution to inventive concept**
 - **reduction-to-practice may change inventorship**

Questions

Cochran Freund & Young LLC
An Intellectual Property Law Firm
www.patentlegal.com

Sam Freund, Ph.D.
Attorney at Law
samf@patentlegal.com

2026 Caribou Drive
Suite 201
Fort Collins, CO 80525
970.492-1100 Phone
970.492-1101 FAX