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CLIENT INFORMATION SHEET

AN EXPLANATION REGARDING PATENT SEARCHES

A preliminary search is a common and may be undertaken prior to filing a patent application. Alternatively a filing date may be secured by filing a patent application such as a provisional application, and the search then performed once the filing date is secured and before a utility patent application is prepared. The major goals of a search are to try to reduce the risk of investing in a patent application on an invention, that might clearly be blocked by references that can be found in a search, and to enable your attorney to prepare your application with a better understanding of what "prior art" patents can be discovered in the same field of technology by the search.

Often clients ask for a "quick" search to be performed. In general such a search because of its limited scope of time invested, is not worth much in determining patentability. Also, with the availability of the various searchable patent data bases available (not the least of which is the database available at the US Patent Office's website) such a search to get an idea of what is out there may be performed easily by the inventor.

If a thorough search is desired, our firm may use the services of an independent professional search company that specializes in this kind of work. If asked to perform an analysis of the search result (at our standard hourly rates), we rely on the search results received from the searcher, and our analysis is limited to the results received from the search.

Here are some of the limitations of a search:

1. A normal search is typically made only through issued U.S. patents, and does not include foreign patents, textbooks, technical journals, or other publications which could affect the patentability of your invention.
2. The searcher cannot search through pending patent applications that have not yet been patented or published because they are held in secrecy by the Patent Office. A newly issued patent placed in the search files after your search is made (or even after your application is filed) may affect patentability of your invention.
3. Searching is more art than science, and every searcher will occasionally miss relevant patents due to the vagaries of the classification system and a searching strategy used by the searcher.

The problems inherent in searching can be reduced by conducting extended searches, if you wish, but the risk in searching can never be completely eliminated. It is quite possible, and often happens, where the patent examiner asserts a reference not found in a search provided by us.

An additional point to consider before performing a search is that all material references found are required to be turned over to the patent office after filing a utility patent application.

We cannot and do not warrant that the results of the search are necessarily complete. You should view the search results as only a preliminary indication of the prior art that an examiner might discover when the Patent Office examines any patent application filed on your invention.



Paul B. Heynssens is the Managing Member and registered patent attorney with a substantial background in electrical engineering. He counsels clients in a variety of intellectual property and technology matters including patent prosecution and portfolio management, preparation of patent validity and infringement opinions, and preparation of licensing agreements, non-disclosure agreements and other intellectual property agreements. Mr. Heynssens has prepared and prosecuted many patent applications in the area of electronics, software, semiconductors, lasers and computers, among others.

Paul B. Heynssens Attorney at Law, PLC prepares Client Information Sheets to provide general information about the intellectual property topics that may be of interest to our clients. The information and opinions contained in this Client Information Sheet do not constitute legal advice. For more information, or to set up an appointment please visit our website at: www.pbhpatents.com

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