



# Instant Retirement Loopholes Armchair

## Cashing in Other Peoples' Genius

How many times a week do you hear it?

"You know what they ought to make....?" "Boy, don't you wish someone would invent a....?"

Who is "they"? Who is "someone"?

**I think it's you, or someone you already know, or someone you could easily meet.**

Now, I know what you're likely to say.

You're not an engineer or scientist. You don't hang around with "brainiacs".

But you CAN invent, and you CAN bring inventions to market, no matter how much education, money or experience you have.

Over the years, I have developed an EASY, FUN, practically FAIL-SAFE method of making a comfortable living developing, improving, making and marketing new products.

**I can do it. You can too!**

Notice I said "easy". Not effortless, just easy. It DOES require some time and effort. You have to use your people skills. You have to think ahead, plan how to run your business, pay attention to what "hot" items are appealing to consumers these days. You have to have faith in yourself and your ability to sell new ideas.

And I said FUN. It certainly is fun for me, and for others who have gotten involved with patenting, developing and marketing innovative products.

As for just about FAIL-SAFE, I'm offering you an opportunity to make choices, and I'm giving you the best ideas I know to make it work.... but only YOU are in charge of your own success!

There are five main sections to this book.

The first section is a discussion of the general topic of inventions, patents and marketing new products. If you have an idea that's ready to go, you'll find some solid advice on these pages - sort of a 'freshman orientation' for creating new products.

The second section is on how to "find" an inventor or an invention. If you are more interested in getting someone else's idea off the ground - with a nice part of the profit for yourself, of course - this will probably be the most valuable chapter for you.

Section three of the book deals with becoming an inventor. Believe it or not, you can learn how to open up the creative side of yourself. Even if you didn't get good grades in science class... even if you're not good with drawing diagrams... even if you don't own any power tools!

We'll spend some brief but valuable time in section four talking about the patent process. Although that's not the most important part of this book, it's important to educate yourself about patent laws and patent options if you want to succeed.

The final section is on the business part of your new business. I've taken care to provide you with a number of useful guides on business planning, marketing, pricing and financing.

This is not a get rich quick proposition. Yes, indeed, you can get rich. And you can do it fairly quickly if all goes well. But I don't want you to think of this as a scheme where money falls into your hands with little or no effort.

Instead, think of this as a blueprint for changing your life and your lifestyle. It is a challenge like any other. Take the ideas, apply some time, thought and effort, and success CAN be yours!

## SECTION ONE: INVENTIONS

Most of us don't have a real good grasp of what an 'invention' might be. When we talk about famous inventors - Thomas Edison, Henry Ford, the Wright brothers, for instance, or Bill Gates in modern times - we think of big, expensive items that were well beyond the imagination of most of the people of their day.

Well, guess again.

First of all, even great things like automobiles and airplanes were on a lot of inventors' drawing boards at the turn of the century. A lot of fellows (and a few women, surprisingly enough) created plans for airplanes that might work. The Wright brothers were just the first ones who - by trial and error, luck and persistence - made it actually happen.

It should be comforting to know that the Wright brothers had to deal with two kinds of opponents.

There were plenty of other people - every bit as intelligent, well-funded and hard-working as they were - who were very, very close to making a flying machine.

On the other hand, there were people - also intelligent, I'm afraid to say - who tried to convince them that a machine that could fly was absolutely impossible... and they should quit wasting all that time!

Fortunately, these young tinkerers kept at it. That's the inventive spirit!

Henry Ford didn't invent the automobile. He just improved upon the handful of horseless carriages being made, and figured how to manufacture them so they'd be inexpensive, reliable, and available without a lengthy wait.

Now, I personally have nothing against thinking big. But, frankly, if you are on the verge of creating something spectacular like a car or airplane you probably wouldn't be reading this book.

So for a minute, just think small.

Inventions I have used this afternoon that anyone could have made:

- Paperclip
- Stapler
- Scissors
- Back-scratcher
- Pencil sharpener
- Auto seatbelt
- Sticky note
- Plastic containers with snap-on lids
- Nail clippers
- Self-sealing plastic bag
- Crayons
- Velcro

The list could go on and on...

And don't forget about foods and food products:

- Sippy cups
- Pasta mixes
- Frozen pizza
- Self-sealing cereal and chip bags
- Single-serving heat-and eat soup
- Cake mixes
- Canned icing
- Individually-packaged cottage cheese with fruits

Got more you'd like to add to the list? Well, of course!

The point is that every day you touch hundreds - maybe thousands - of products that have been *invented* and *patented* by people just like you and me.

(We'll deal with how it happened in the Third Section of this book... for now, I just want you to think about how *inventions* are part of daily life.)

You are "inventing" when you substitute something (like a safety pin) for something you don't have (like a needle and thread). When something like this is patented, this is called a UTILITY. It can be a machine (and, remember, something as simple as a ratchet screwdriver is a machine for this definition), a composition of matter (making a product out of a new material, or mixing materials in a new way) and the other tangible things we have around us.

A second time of patentable item is the DESIGN. Shoe manufacturers patent the look of their product - otherwise, everyone would be making duplicates of the best sellers. And, of course, lots of toys fall under this category. You couldn't take out a general patent for a baby doll - they've been made for centuries - but you could certainly patent a specific DESIGN of a baby doll you think would be particularly appealing.

The U.S. government also allows for patents of specific animals and plants. Mice and other small mammals that are "engineered" to be susceptible to certain diseases, particularly cancer or metabolic diseases, have been granted patents. Very few of them are created by individuals since the technology and proof are extremely complex.

Patenting animals and plants is done sometimes done. Many research labs rely on 'patented' animals bred to be susceptible to cancer, or color-blind, or diabetic. That's probably isn't a practical project within the reach of ordinary folks.

Some patented plants, of course, are the products of genetic engineering: think of a laboratory with folks in white jackets injecting DNA from one plant to another. But there are naturally-occurring plant 'freaks'. That's where the first seedless oranges and watermelons came from.

It's not likely that most of us have any interest in designing and patenting plants for a living. But if you've got a green thumb, and especially if you've had luck growing the biggest, juiciest, sweetest-smelling, hardiest or whatever, it may be worthwhile to see if it's unique enough genetically to qualify for a patent. Your local farm bureau or extension service will help you pursue this very special project.

For most of us, though, Design patents and Utility patents are the ones to pursue.

Before we go on, of course, let's be sure of some of the things that you CAN'T patent:

- Items or processes found in nature (sand, wind, gravity, tides)
- Abstract ideas (like a new way to do a math problem)
- Inventions that are considered "morally offensive". This is a sticky one - there's no question that lots of people enjoy an occasional "adult toy", and the mechanics of them require the same type of thinking, planning and research as any other gadget. Some of them can be and are patented, but if that's your contribution to the world of invention you may not get much help from the government!
- Music, art or writing (these are protected by copyright, not patents)
- Things that don't have a use. *However*, the category of decoration, amusement and novelty covers a lot of things that aren't really that necessary. Pet Rocks, Chia Pets and those swinging-ball desk toys come to mind. If you think you can make a convincing argument that it is useful as an amusement, you might be able to patent it.
- Creations that resemble a current product too closely. Minor changes in size, color, or material of an established product aren't eligible for a utility patent, and most likely won't be granted a design patent unless you can make a VERY strong case that your changes create a substantial improvement in use or cost over the currently-available product.

Most of it is probably common sense. You can't manufacture safety pins out of colored aluminum and expect to get a patent. You can't patent hurricanes. You can't claim you invented algebra. But there's a big, open world of things you can invent, patent and sell - things that can make the world a better place, and help you reach your financial goals.

# How can you be sure you're cut out for creating, designing and/or marketing new inventions?

I assume you're reading this book because you're excited about the idea of bringing your inventions to market, or representing and promoting the work of other inventors.

Good for you!

But before you dive in, let's have an honest conversation about what you can and can't do, should and shouldn't do.

Reality check....

*1. What is your primary motive?* If making money is the first thing on the list, take a deep breath. You absolutely can make money.... lots of us have. But frankly - especially at first - you might start feeling like you're putting in a lot of effort for a fairly modest return. If you've never done manufacturing, sales and promotion, your first couple of efforts may not pay as well as you think they should. *You have to be able to write it off as a "learning experience".* After you've made some connections - manufacturers who know you by name and welcome you when you visit to pitch your product(s), outlets who trust you to be able to deliver quality items on time and at agreed quantities - you can literally make good money with just a few days effort.

*2. How honest are you?* Pardon me for asking, but can you be trusted with other people's hopes, dreams and investments? I'm not just being nosey....

One of the things that's happened in the world of product creation is that it's attracted some nasty rip-off artists. Their ads on TV and radio, on the Internet, and on billboards look legitimate - and very inviting. They offer to help novice inventors get patents, locate manufacturers, and sell the product... all for a "modest" fee.

Many months and many dollars later, the inventor has lost hope. That nice fellow promised a goldmine - and gave him the shaft.

Decent, responsible people who've made promoting new products their life's work suffer when the creeps creep in. If you're the type who wants interesting, challenging, rewarding work, that's great. Many, but certainly not all, of us are trying very hard to keep this a reputable business based on honorable tactics.

**There's another reason why I want to dwell on the need to run an honest operation. The simple fact is that the Federal Government and virtually all state governments have active, aggressive agents who spend their full time pursuing 'invention representation' scams. They set traps, they answer ads, and they don't waste any time hustling the hustlers off to jail. Using the mails and the telephone to scam someone is a federal offense; felony charges are something that no one should ever risk. If your goal is to make quick money by charging inventors a hefty fee, without a concrete, workable plan to follow through as promised, please do everyone a favor and choose another line of work!**

*3. Do you have faith in yourself?* This is probably the most critical issue. Can you handle both success and failure? Can you, for instance, get rejected over and over without losing track of your dreams? (Just remind yourself that WD-40 - the handy spray that's one of my personal all-time favorite useful products - has "40" in its name because that was the 40th try for a formula that met the need. The product is successful only because the creator missed the mark 39 times and didn't give up! )

*4. Are you a People Person?* One of the reasons that there's such a need for individuals who can take a rough idea and turn it into a marketable product is that no everyone who can invent can sell. Plain as that! In fact, the cartoon inventor - dorky guy with thick glasses and a pocket protector in every shirt, spending all day and all night in his basement - is exactly the kind of guy who CAN'T successfully turn his dream into reality.

Some of the People Skills that will do you well as a product developer:

- Ease with strangers. Shy people can sometimes fake it, but most of the very successful product representatives are just as at ease with an ambassador as they are with the checkout clerk at the grocery store. They don't get intimidated; they genuinely like meeting new people.
- Cordiality. This is a cousin to those old "good manners" and "etiquette" older folks seem to get hung up on. Well, guess what. It's really important. Sincere use of common courtesy - saying please and thank you,

looking people in the eye when you talk, and being attentive when you're listening, is the Gold Standard for selling items and ideas. If you're impatient it will show, and you'll find yourself leaving empty-handed. If you can turn on the charm (and not the fake charm, the real "I like you" attitude) you'll be a winner.

- Thinking on your feet. This is not the same thing as being able to blurt out a fast answer. This isn't about intelligence .... it's about being able to stay relaxed and thinking things through when you're on the hot seat.
- Analytical skills. Can you listen to the question, and figure out not just what the person is asking, but why they are asking it? Can you 'trouble-shoot' a process, following a problem to a solution?
- Thick skin. I'm not kidding. Suppose you're working with a friend, and together you've patented a really cool product. You find a factory that already has nearly all the equipment needed to manufacture it. You're so excited... and the factory owner says it's the stupidest product he's seen in years. Pow. At that moment, it's not particularly comforting to hear about all the wonderful, successful products that were rejected over and over. You just can't let a bad experience kill your enthusiasm.

5. *Do you have the time, energy and other resources necessary to commit to this project?* Getting a new product off the ground always takes more time than you estimated. It's one of those Murphy's Law things. Think of it as a substantial part-time job... 10, 20 hours a week, maybe more, for up to a year. OK, that's less time than most of us waste watching TV shows we're not really interested in... but you have to budget your time so you're success doesn't cost you a paying job, a marriage, or your health.

6. *Are you creative at finding the right resources?* You might need a machine shop... another investor... a package designer... an authority who can vouch for your product. If you're the person other people call to ask "where can I find a....?" you're probably suited for the job.

## How do you know when an idea or product is worth patenting?

Sometimes, the answer is 'your guess is as good as mine'... Almost all of us have gadgets sitting, unused, in the back of the drawer. Maybe it was a cute little kitchen gizmo we thought might come in handy. (Get real!) Or maybe it was a gift from someone. Or just an impulse buy - it was affordable, interesting, never saw one like it before....

The truth of the matter is that there are millions - MILLIONS - of items that are patented and manufactured (at least for awhile). Some of them have made their inventors and patent-holders quite well-off. Others hit the market and quickly fail.

Whether you are an inventor, an investor, a patent-owner or an independent marketer: the VERY FIRST STEP in determining what to put your efforts behind, you must do some market research.

The basic questions you need to start with are:

- Does it fulfill a need? (This goes back to the first thing I said in the introduction: is it the kind of thing that falls into the category of "somebody ought to make a....")
- Can you or one of your partners establish a way to manufacture it?
- Can it be manufactured cost-effectively? Can you make a reasonable profit?
- Is the potential consumer market large enough?
- Do you have (or can you create) a SOLID sales and marketing plan?
- Does it have LONG-TERM POTENTIAL? (if it's based on a fad, that's OK, but you have to know upfront that the clock for manufacturing and marketing is ticking fast)
- Will it draw endorsements from consumers?
- Does it have the potential for secondary or companion products?
- Do you have strategies for FREE visibility for you and the product?
- Are you certain it can pass all safety / environmental/ legal requirements? For example, a cute little toy is worthless if small parts make it off-limits for small children, but it's not "grown-up" enough for the over-3 crowd.

- How long will it take to recoup your investment? Will the shelf life of the product be long enough to accomplish that?
- What are the KEY advantages of this product over what's currently available? Is it enough to overcome customer loyalty to the current item?

Now, I'll be the first to admit that there are millions of things on the market that I think aren't interesting or useful... I wouldn't own one even if they were free. But that's not the point. The person or people who developed this particular product knew how to sell the idea. They got a manufacturer interested, they had a marketing strategy, and their product - whatever you personally think about it - is on the shelves and producing profits.

And that, in a nutshell, is what making money from inventions is all about.

## **SECTION TWO: LOOKING FOR INVENTORS AND PRODUCTS**

This may be the easiest or hardest part of your journey, depending on who you know, what you know, and what you want to do.

Maybe you have it in the back of your mind that you can just put an ad in the paper "Inventions Wanted" and some Einstein will call the next day.

Realistic?

First of all, consider the fact that there are "inventions wanted" ads in most every reputable newspaper and magazine - and in all of the not-so-reputable ones. (The last time I looked in the classified ads in USA today I spotted four of them!)

Some of these folks are genuine. But, as I said before, the market is crowded with people who are out to make a fast buck, and have made just about every legitimate inventor gun-shy about answering a blind ad.

If you want further proof, try a Google search of "inventions wanted". There's no lack of competition! All of them seem to promise the same basic things... send me your idea, and we'll both get rich and famous. Some of the advertising, frankly, is very persuasive. You'd have to put a lot of effort into an ad that would help you catch your fair share of clients. And there's no such thing as a free newspaper ad.

That's not to say that advertising doesn't work. In fact, you'll never get ANYONE to partner with you in this venture if you don't do some fairly aggressive marketing. But an ad in a newspaper, or on the Internet, is almost certain to disappoint you.

Instead, get that creative mind of yours working on where and when you might be able to develop a working relationship with inventors and inventions. What opportunities do you have to stir up new products worth developing?

## **SEARCH: GROUND ZERO**

Chances are, you can start your search much closer to home. Every community (even tiny towns!) has a handful of inventors. Many of them, particularly in larger cities, create formal or informal organizations where they can meet, talk about what's happening with their creations, and offer each other suggestions and support.

Joining one of these organizations - as an interested observer, at least at first - could be an excellent way to link up with people and products that can use your help. More than one great partnership started this way.

Ever hear the advice about how to get a good job? Namely, tell everyone you know that you're looking.

Same advice applies in this situation. Tell your family, friends, co-workers, neighbors, anyone you can think of.... It's a small world, after all, and there's bound to be someone who can pass the word along and help you locate a marketable product or idea.

Attend meetings of local 'small business' groups. Your local chamber of commerce will be happy to help you locate nearby chapters of independent business owners.

Have your ducks in a row before you make the first move. Get yourself a business name. Make sure it's not already someone else's trademark. Search the Internet for any name you think is suitable; search through

business directories in larger libraries. If it comes up not found, you can be pretty sure it's not already claimed. Hint: Using a geographical place, as part of the business name, is an easy way to get a one-of-a-kind business identity. "Inventor Service" is already in use by a number of competing businesses. Inventors Service of Dallas (or wherever) not only provides a unique identity but also establishes you as the "local" provider of support a new product might need.

Before you shake the first hand, have a nice business card ready. If at all possible, use a street address rather than a Post Office Box - people are suspicious of a business you can't easily locate on a map.

Be prepared to answer questions about your qualifications. If this is your very first deal, don't apologize. But be ready to share your skills, your related experiences, and your motives. Rehearse them in front of the mirror if you think it will help:

- "I have five years experience selling widgets for Widgetella Company. I'm ready to do selling on my own"
- "I'm tired of selling items I don't really believe in"
- "I've worked with several manufacturers in the area as part of my current job. I know I can be helpful getting new products to the market."
- "I have money to invest, but I'm not the type to be a silent partner."
- "I'm good at spotting trends and identifying the types of products that will sell well."
- "I've spent years reading books and magazines about product development, and I'm anxious to try out some solid ideas."
- I just graduated from law school (but only say something like this if it's true, of course!) and my special interest is in new product patents and development.

Be sure to emphasize the personal traits you think are most important: you've owned and managed your own businesses; you've been an officer or a member of the board of influential organizations; you have the support of prominent businessmen; you have a track record as a team player; you are able to make clear decisions for long-term benefits.

Think of what you would put on a resume if you were applying for a formal job as a product developer and salesperson. Think about what you would want to know if you had a bright idea and were looking for a partner to turn that idea into a reality.

## **SEARCH: ON CAMPUS**

Nearly every college or university with an engineering or science program has budding engineers and scientists with big, big ideas.

This is the one exception to the general rule that an 'inventions wanted' ad isn't worth the cost. A small ad in a campus newsletter, explaining that you are looking for creative minds to help you develop marketable products, can be a fertile place to find the new generation's Edisons and Einsteins.

Few college students have enough money or experience to pursue product development, research and marketing. If these are your strong points - and if you don't mind listening to 'crazy' music and eating pizza during your working meetings, this can be a very fertile territory for you.

## **SEARCH: SPECIALTY GROUPS**

I have an acquaintance who has made an impressive amount of money a number of years ago selling specialty clothing for people with disabilities. She didn't set out to make money. She just wanted to help her mom after a stroke.

She discovered that there weren't many places where you could buy comfortable, stylish women's clothing that didn't have a bunch of unmanageable snaps, buttons and zippers. She was a clever seamstress who loved problem-solving. Within no time she had her own mail-order business with a trademarked name, some small patents that cover the design of one-handed closures and easy-to hold grooming tools, and the satisfaction that her efforts help a lot of people like her mother.

Your unique experiences, like my friend's, can be a good starting place for uncovering unmet needs and bright new ideas.

Advocacy organizations and support groups are a wonderful place to meet people who can help you identify the needs of specific consumers. They often have had experience of creating, altering and searching for products that will meet the needs of real people.

Don't limit your search to narrow categories! Remember to include churches, scout groups, people of specific ancestry, etc in your thinking. (After all, somebody invented the "Kiss Me I'm Irish" bumper sticker! )

## **SEARCH: SPORTS AND HOBBIES**

Not long ago I sat on a plane with a fellow who had a modest claim to fame. He created a slightly improved way to attach 'feathers' to arrows. He was a competitive archer, and after years of noticing what worked and what didn't, he was able to develop, patent, and profit handsomely from his creativity.

Ever talk to a genuine fly-fishing fanatic? There's more fake insects and other lures than you can imagine. Some of them spin, some shine, some look exactly like a natural thing, some look like something a space alien left behind. What they have in common is that (1) they all seem to have very loyal fans and (2) the person who owns the patent on each one is probably living more comfortably than you are.

Remember the revolution in golf a few decades ago? Someone discovered that the "dimples" (little indentations) on golf balls could be changed ever so slightly, making the ball more accurate and more dynamic. Now, I personally have no idea what it took to figure that out. I do know, however that among golfers - and manufacturers of golf equipment - that it was a goldmine. And, of course, the people who were involved with producing it certainly profited from the discovery.

Of course, Athletic Associations have very stringent rules about "standard" equipment. But if you're a golfer and can make a grip on a club a little more comfortable, or you're a swimmer with a slightly-improved nose clip, come on down!

The point is that almost every true fanatic has an idea of what might give him or her a competitive edge. They are the ones who think long and hard about how to shave a point or two off the golf score, or add a point or two to the bowling score. They have the potential to be excellent partners - steering you toward great new products to develop, and being able to supply first-hand information on markets and marketing strategies as well!

Some of the ideas might not make sense to you - I have to admit, it took me awhile to figure out one fellow's idea of embedding a chalky substance into a disposable towel... but then he explained the finer points of billiards cues and sweaty palms. If your goal is to let other people do the imagining, and you step in and make it a reality, don't overlook the folks who are serious about their leisure activities!

## **SEARCH: KIDS**

This is not as silly as it sounds. We live in a society that puts a lot of emphasis on kids, and countless products - toys, sports equipment, educational programs, child-size furniture, cartoon-character decorative items - reach the marketplace each year.

Do you know what the kids in your life enjoy the most? Did you ever just sit back and watch them play? What generic kinds of themes (dinosaurs, babies, trains, butterflies) are they attracted to?

Of course, you need to be aware of very strict licensing requirements (you can't, for example, use Mickey Mouse's face or the name "Barney Dinosaur" on an item without paying dearly for the privilege).

But if you've spent time with small children you know that the best and most valuable toys are easy to hold, visually attractive, challenge the young imagination, and present a variety of different ways they can be incorporated into play.

Kids aren't miniature adults. Designing products for them, whether it be clothing, games or books, takes a different designer's eye. If you have a tendency to be very creative and off-beat, this may provide some wonderful opportunities for you.

Toy manufacturing and marketing is a very specialized field. It does offer a few obvious advantages:

- There's a fast turn-over in new customers. First-time parents... kids who are just entering school... pre-teens that have suddenly developed their own wild tastes ... they're all a wide-open market that's always expanding.
- Developing prototypes and designs for kid items is generally far easier than the plans for more complex consumer goods.
- "Testing" prototypes on potential consumers is easier. Identifying who might be willing to use the product is pretty straight-forward, and most kids gladly offer a painfully honest evaluation of anything you ask them to comment on.

## **SEARCH: ON THE JOB**

The guy who built my swimming pool for me was telling me about a patent he was pursuing. After years of designing, building and caring for pools, he got a better idea for how the filter system should work. I'm not sure of the details, but there's one thing I know for certain. My pool guy knows just about everything there is to know about how a swimming pool is - or should be - built, and if he's on to an improvement, no matter how small, I'm rooting for him.

When I told my sister that I was planning to write this book, she said she was going to get her hairdresser to call me. It seems that this hairdresser - maybe every hairdresser - has a problem with nipping herself with the points of the scissors, and after a long day she's got a lot of little cuts at the base of her thumb. Well, she's spent enough time thinking about the problem, and she came up with a neat little gadget that should cut her injury rate by quite a bit.

Who knows more about toys than kids and their parents? If a better mousetrap is what we need, it's probably the exterminator, not the free-lance engineer, who'll get it on the drawing board. Who understands what works well, and what doesn't hack it, better than the person who depends on a particular tool or product every day.

One of my favorite on-the-job inventors is Bette Nesmith, mother of Monkee Michael Nesmith. She invented White-out. What a simple idea - paint over your typing mistake instead of erasing (messy and incomplete) or (horrors!) pitching it out and retyping. From all of us who have used gallons of the stuff, Thank You! And you can bet that she invented it because she saw the problem up close and personal, saw the solution as an inexpensive way to get better results with less effort, and thanks to her onservant mind millions of imperfect typists got a break.

Keep in mind that in major industries, everything you invent on the job belongs to the company. But your tinkering at home, in an effort to solve issues on the job, is likely your own intellectual property, especially if you're working for a small business and/or your inventing isn't part of your routine job. If you've got an idea based on an on-the-job-problem, make sure you're free to sell it on your own. Check with a legitimate patent or worker's rights attorney to be sure!

Likewise, talk to friends and family about their efforts to solve inconveniences on their on-the-job life. My bet is that you'll find several folks who have a bright idea on how to make their workday a bit better. That's the nature of the inventive mind!

## **SEARCH: AROUND TOWN**

One of the most interesting ways to get in contact with inventors and inventions is simply to keep your eyes and ears open. So many long-lasting improvements in the products available came about because one person had a 'quick fix' and the word got passed along.

Some of the best places to look: small-town fixit shops, one-man repair garages, old craftsmen and tradesmen (carpenters, plumbers, tailors, clockmakers etc.). Chances are that these guys have a bunch of things they've created to serve a particular need. It's just a matter of time before someone else gets a patent and starts selling it retail. You have to step up to the plate before it's too late!

## **SEARCH: OLD RECORDS**

There are plenty of things that were created, patented, and perhaps even manufactured, but are no longer available or in use. Sometimes there are logical reasons - like they failed to meet modern safety standards or they were unreliable - but there are thousands (some people insist there are millions) of things that are ready to be re-introduced.

There's a real gold-mine of potential in discontinued products, and there are thousands of reasons why products that are easy to make, market and use go unnoticed. ***Keep this category in mind - we'll be talking more about it later!***

And they have some real advantages. They already may be protected by patents (but obviously you need to check out if and when a patent was granted, and make sure it still has some life left). Patent-holders' names and (sometimes outdated) addresses are listed on the US Patent Office site. If you find something that excites you - something you'd be anxious to go out and buy yourself - by all means make a contact.

In fact, you may well find that this is the NUMBER ONE PLACE to meet up with inventors who need assistance in getting the product to market. As an entrepreneur and problems solver, you may be able to link them up with the right manufacturer, ad agency, distributor, attorney, producer or salesmen who can make a bright idea really pay off.

A word of caution, however.....

Since patents are public record, they are published every Tuesday in a weekly called the *Official Gazette*. They contain very specific information about new patents, including the names and addresses of the new patent-holder.

Unscrupulous characters subscribe to the Gazette, and mail out official-looking stuff to every new patent-holder. It's a veritable flim-flam picnic. **If you try to contact a designer during the first few months, chances are your letter will wind up, unopened, in the trash.**

A much better strategy is waiting until the time is ripe. After a year or more, if the product isn't already in distribution, the inventor may be coming to terms with the fact that he or she actually does need help. A polite letter or phone call can start the ball rolling for you. Your approach:

1. I'm thinking about a way to (describe the problem here: ie: get coffee filters out one at a time... open a can without leaving sharp edges... package uncooked lasagna so it wouldn't break, etc)
2. I was checking through patents, and discovered you've already got a solution that looks real good to me
3. I'm surprised that I never saw your product in the store or advertised
4. I'm wondering if you could use my help in getting it manufactured and marketed. It's a great product, and I think there's no reason why it's not on the shelf here in my town.

Spend some free time looking at Internet sites on patents. You'd be surprised how many things might fit into your plans...

## **SECTION THREE: TAPPING YOUR OWN INVENTIVE MIND**

In spite of these sure-fire ways to find creative people to partner with you, maybe your real dream is to invent things yourself.

Maybe you're like my nephew. Ever since he was a toddler, he was always "Making somethin". He loved to tear apart the old radios his dad gave him... never put them back together the way they were, but turned them into toy trains and space ships and who knows what else.

On the other hand, maybe you've got all the marketing and business skills you need to, as they say, get a new refrigerator in every igloo, but don't have much faith in your skill at creating something unique. If that's the case, I highly recommend reading a nifty little book called "The Kid Who Intended Popsicles" by Don Wulffson. It tells how a hundred every-day items - from animal crackers to zippers - were first created. Sometimes the trick is just looking at something from a different angle, putting something old to a new use, or putting several things together to solve a problem. Give yourself a chance. Allow yourself to dream.

Perhaps you have many ideas... or just one idea. Either way, you can become an independent inventor, making your own choices and living your own dream.

Let me offer you some solid suggestions about how you can increase the likelihood of success in pursuing this dream.

Most of the best suggestions for product creation are the complete opposite of what you'd expect!

## **Rule #1: Reinvent the wheel!**

Suppose no one ever tried to modify or improve on any product already on the market.

"Tape" is a patented product. If no one tried to improve it, we'd have tape. But we wouldn't have adhesive tape, duct tape, masking tape, electrical tape, packaging tape or removable tape.

There are very few things on the face of the earth that can't be fine-tuned.

Of course, you'll have to be very careful about not infringing on a patent already in place. But a good place to start as an inventor is looking at things that have been around forever. Are there ways to make them better, stronger, cheaper, more flexible, less flexible or just plain better....?

Keep yourself aware of the products you routinely use. If you're frustrated because they just aren't quite right, you have an idea and a new product to pursue.

## **Rule #2: Stay up all night watching TV**

Think there's nothing new under the sun? Spend a night or two watching all the infomercials and home shopping shows!

This is a wonderful place to educate yourself about consumer trends, marketing techniques, and development potentials.

Look closely at products being offered. If that had been your product, what differences would you have made in the design, quality, price, packaging...? You'll keep your mind alert and fine tune your product development instincts.

(Incidentally, this will give you a quick head start when you are ready to market your product. Think all TV shopping shows are alike? Not at all. Get to know the hosts, the products, their consumer base and their pricing. You may discover that selling on middle-of-the-night shopping shows is an affordable, fast way to get instant visibility.)

## **Rule #3: Go to Las Vegas and don't gamble... Go to Orlando and stay inside**

If you live near, or plan to visit, a convention city, product-specific trade shows offer an excellent opportunity to shop around, looking for marketing trends and evaluating items being introduced.

Eventually, these trips can really payoff. When you have a product that's ready to move to market, you already have contacts in the trade who can help you get to the front of the line fast! You become a familiar name and face, and people always prefer doing business with someone they know.

If a trip isn't on your schedule, do the next best thing. Read catalogues carefully, making note of new items and seeking inspiration from products that appear to be unavailable, overpriced, poor quality or lacking a connection to more obvious markets.

## **Rule #4: Make a mess**

Set aside a little space to tinker. It'd be nice to have a huge basement full of power tools (or test tubes, or mechanical parts) but it's not absolutely necessary. You do need, however, a space of your own - even just a little space in the corner of the bedroom - where you keep pencils and notepads. Don't be neat about it. Keep your notes in plain sight from time to time... "Meditate" on them and give yourself an opportunity to let new ideas roll around.

## **Rule #5: Act childish**

Ever notice the way small kids explore their universe? You can learn a lot about life by turning the cereal bowl upside down or trying to take a bite out of a pillow. It is this deep-down-inside curiosity that helps creative people pursue new ideas.

Of course, I'm not suggesting that playing with your supper or annoying your family will result in a great idea. But what I am saying is that imitating a child's wonderment - carefully studying an insect's wing or spending a long afternoon scooping up sand and rearranging it - opens up the parts of the brain where the real creative work will be done.

## **Rule #6: Look for answers that don't have questions; keep asking questions as if there weren't answers**

The stereotype of 'inventing' is a guy who locks himself in the basement, determined to build a better (fill in the blank). He spends time drawing diagrams and jotting down thoughts.

Now, you can't help but admire someone with such a single-minded attitude. Good for him. And, frankly, that's how some marvelous things came to life.

Just don't forget that there a lot of things - from Popsicles to silly putty to microwave ovens to vulcanized rubber - that happened by serendipity.

If you have a concrete idea you'd like to pursue, please don't let me talk you out of it. Just keep in mind the fact that when you're open and curious about how and why things happen, it opens up a whole world of potential ideas.

## **Rule #7: Prepare to fail**

This isn't the least bit contrary to my other advice: believe in yourself and have faith in your potential to succeed.

Here is, however, the stark truth.

About nine patent applications out of ten are turned down. Sometimes they too closely resemble something that's already on the books. Sometimes they are what patent officers say is "too obvious" for a patent.

And most things that are patented don't make any major money.

**DO NOT LET THIS STOP YOU!**

If you know what the odds are going in - if you're fine with the idea that you have to kiss a lot of frogs before you find a prince - you'll be better able to handle the roller-coaster rides that lie ahead.

## **Rule #8: Talk to strangers**

If your ultimate goal is to not just invent and patent something new, but also to escort it to market, you have to get comfortable talking to people you don't know. Take a chance talking to strangers in safe surroundings - standing in line at the store or the bank, sitting in the stands at the baseball game, whatever - and see if you can get three specific pieces of information from them:

What tool do they use at their workplace (remember we're using "tool" in the broadest sense) that needs to be improved?

Is there an item they used to be able to get that seems to have disappeared from the marketplace?

What's the best 'household hint' they can offer?

You may have to talk to dozens, even hundreds of people to get even one useful idea to pursue. Trust me, though... you'll be improving your people skills, and getting a whole bunch of invention information percolating in your head.

## **Rule #9: Take risks**

One of the brightest guys I know could make a fortune on any one of several rather remarkable ideas he's got in his head and in a little notebook he keeps in his workshop. For years, I've been putting a lot of pressure on him to let me help him get patents and manufacturing agreements.

Unfortunately, he's a real pessimist. He gets close to agreeing, then backs out. "It's not as good as I could make it... give me a bit more time" or "it's not that good, I don't think anyone would buy it".

At the risk of sounding cold-hearted (sorry, Chuck, but you know it's true), I know his son's going to inherit the famous 'notebook of ideas', and he's going to be a rich young man when his father is gone!

## **Rule #10: Take as many naps as you can**

It is absolutely true that success depends much more on "per"spiration than "in"spiration. You're not going to succeed at anything, let alone a challenging project like developing and marketing new products, if you spend every waking moment watching old movies on TV or playing solitaire.

As you might have noticed, your brain works very differently when you are asleep than during waking hours. In your dreams you can fly. Or you can have lunch with someone who died ten years ago.

**THE SLEEPING BRAIN DOESN'T PARTICULARLY CARE WHAT'S POSSIBLE AND WHAT'S IMPOSSIBLE!**

A surprising number of inventors tell me that the idea for a successful new product "came in a dream".

You cannot count on that happening by itself. Use that sleeping, creative, brainpower to solve problems, produce designs and generate wonderful ideas. You can **MAKE** it happen by an appropriate pre-bedtime or pre-naptime ritual.

### **1. Create a structure for the problem to be solved:**

Make a list of design issues, or

"Doodle" shapes and diagrams, or

Use everyday objects to create a symbolic structure of your product (for example, a shoebox where you've sketched pictures of "parts" can substitute for a motor; an empty plastic milk jug can be your new shoe design. **IT DOES NOT NEED TO BE PARTICULARLY ACCURATE!** Just as long as you know what the structure represents

### **2. Clear your mind for just a few minutes before you fall asleep:**

Concentrate on the most neutral thing you can. (My own favorites are imagining what black velvet looks like in a darkened room; a good friend says she "blanks out" on imagining the middle of the desert with absolutely nothing but blank sky and colorless sand)

### **3. Be prepared to capture ideas:**

Don't risk losing any scrap of dream information! Keep a notebook and several pencils (or a tape recorder, if that works better for you) and record anything that might be related to your product. Scientists who "unraveled" DNA did it dreaming of worms, you know!

## **SECTION FOUR: THE NUTS AND BOLTS OF PATENTS AND OTHER PROTECTIONS**

All revved up! Ready to go? Got the invention in mind, on paper, in your head, in your hand?

So where do we go next? If you guessed Patent Office, you're wrong.

And please, don't say "I'm going to write a description and draw a picture of it, then mail it to myself." That almost never stands up in court if someone else steals your idea.... and even if you prove your thought of it first, are you up to the multi-year, big buck court suit that you might be facing?

Now, of course, common wisdom says you need to patent an idea before it's stolen. That's a legitimate worry, no doubt. But there's a great deal of investigating - time consuming now, but well worth the time and effort later, trust me - before you send your idea to the Patent Office.

**STEP ONE, CAN'T BE SKIPPED!**

Is your idea:

- New
- Patentable
- Marketable

You'll need to do a thorough search before you get in the door of the patent office!

Here's the place to start: Search <http://www.uspto.gov/patft/>

You can do your preliminary search patent name or category. (If you want, you can hire a patent attorney or a search consultant to do this for you. I **HIGHLY** suggest that you do this preliminary search yourself. You can do a fairly thorough search in a couple of hours - and a couple of hours of patent attorney time is a good chunk of change.)

Suppose you are sick and tired of trying to peel off just one paper coffee filter when you make your morning brew. It occurs to you that you can make a little container for standardized filters that uses some kind of pressure or sticky substance or something to get just one at a time. Great idea! Who wouldn't want one?

Go to the patent search website. Try various things that this invention might be named: coffee filter dispenser, coffee filter holder, filter dispenser, filter retrieval unit...

You will find a hundred or more patents that address the problem of filters that bunch up and won't let go.

So why have you never seen one on the market? Why can't you find one in any online shopping site? If there are a hundred inventors who solved the problem, why is the problem still there, in your kitchen, every morning?

*This is why I suggested looking at products **already patented** for "clients" you can walk through the manufacturing, licensing and marketing maze! In almost any category of something you think should sell, there are patents and prototypes sitting and gathering dust. Choose a narrow product description ("pasta cooker"... "ear wax removal system" ... "Bubble Blower") and you'll find an overwhelming number of examples of stuff that got invented and never went anywhere....*

But back to our search.

In this 'coffee filter dispenser' example, look at the descriptions and drawings of designed that have already been patented. If your idea is significantly different than the ones you find listed, it doesn't mean you are home free.

When you search yourself, you are (bad news, sorry) likely to find that someone else has already been granted a patent on "your" idea.

**Frankly, the earlier you do this search the better!**

You can protect yourself from wasting hours and hours drawing diagrams and developing prototypes of something that won't earn you a patent.

You can also find out what's been done - and start thinking more clearly about what HASN'T been done.

If you don't find a close match to your dream product, hire a patent attorney or patent researcher to do some further checking for you. I'm never in favor of spending money on anything you can do well enough by yourself. But this search is vital to your success.

YOU ARE NOT required to use a lawyer, however.... if you have a lot of time on your hands, of course, you can travel to Arlington Virginia and do the patent search on-site. (You'll have to spend a hundred bucks or so on the pre-search workshop the government offers that trains you where and how to do the search thoroughly. Still cheaper than a lawyer, if you don't think your own time is worth money.)

Once the patent search is completed, and you are relatively sure that this is a one-of-a-kind idea, you'll need to decide whether you want to pursue a design patent, a utility patent, a trademark, a copyright, or all of the above.

It's an important decision which, frankly, becomes easier after you've been working in this field awhile.

Let's start with some basic definitions.

In general terms, a "utility patent" protects the way an article is used and works (35 U.S.C. 101), while a "design patent" protects the way an article looks (35 U.S.C. 171). Both design and utility patents may be obtained on an article if it is innovative in both in its utility and its ornamental appearance. While utility and design patents afford legally separate protection, the utility and ornamentality of an article are not easily separable. Articles of manufacture may possess both functional and ornamental characteristics.

When trying to determine which type patent is the best fit, here are some important differences that you need to consider:

#### **UTILITY PATENT:**

- Goes to the heart of the product or invention. What is it, how does it work?
- Should not be attempted without a patent attorney
- Costly

- Most secure - fewest risks that someone will steal your design
- Harder to get, more complex appeals process if it's turned down
- Most are rejected because they closely resemble already-patented items
- It's the Ultimate Prize

## **DESIGN PATENT:**

- You will exclusively own only the external appearances, not the mechanics
- Simple paperwork, can do it yourself
- Far less expensive than utility patent (less than \$500)
- Less secure - it takes fewer small changes to let someone else patent a knock-off
- More likely to be granted because it is a far less complex form
- Most applications for design patent are accepted because there is more room for interpreting what's new
- Can be used as a preliminary protection while doing the more complex work on an item that is close to qualifying for a utility patent

A DESIGN patent can adequately protect most simple products, at least during the early phases of development and refinement, manufacturing and marketing. It gives you the security of establishing it as "patented", "patent applied for" and "patent pending", which should hold off all but the most brazen rip-off artists, and it gives you a comfortable level of protection when you are showing your wares to potential buyers.

We'll get into the nitty-gritty of these patents in a minute, but you also should be aware of other legal protections your product might qualify for.

Other forms of protection you should consider when you are first seeking protection for your new product:

### **Product and Company Name**

I've had several very knowledgeable people tell me that the COMPANY NAME and the PRODUCT NAME are more important than the product itself.

I'm not sure that's always accurate, but a good name can make a mediocre product much more competitive, and a name that just plain 'sounds wrong' can really cost you business.

Like patents, company and product names have to be researched, but it's not an overwhelming task. Most larger library reference rooms have The *Thomas Register* and other business directories. You can even begin at home, using the Internet to find out if the name you've chosen is already in obvious use.

In the long run, it's well worth the effort.

- You'll come across names that appeal to you that are already in use. Why do you like those particular names?
- You'll get a feel for why some names 'grab' you and some don't.
- You'll start noticing and categorizing product names that are overused.
- You'll have the groundwork started when you're ready to file the patent application.

If you're starting to run out of steam, the simplest new names are foreign or foreign-sounding, innovative spellings of common words, and two words spliced together to create a new name.

That name will be your 'face' in the advertising world. Choose wisely, then trademark it!

### **Trademark**

Your company and product name should be trademarked, along with the design including logo, typeface and other

things that make it appealing and unique. You'll notice that some of the better black-market type sales tables display items that look ALMOST exactly like the well-respected name brands.

Imitation is the sincerest form of flattery, I know, but I'd rather be rich than flattered.... Make sure you clearly own all the details that set your product apart.

*Trademarking a name or slogan or distinctive visual feature* can be done in one of two ways:

1. USE THE TRADEMARK (TM) sign on the product and/or on advertising and displays. You definitely should do this, even when you're already applied for a US Patent Office trademark registration.
2. File a federal "intent to use" application. It takes about a year (government paperwork is like that!) and becomes valid only when you begin shipping a product or opening services outside of your own state.

The advantage of registering it federally - in spite of a small cost and a long wait - is that it:

- Includes your trademarked text on searchable lists, making it less likely that someone will innocently choose the same company or product name after you've informally trade-marked it
- Gives federal courts jurisdiction if there's an infringement
- Provides almost airtight evidence that you are the first and sole owner
- Gives additional protection from competition from manufacturers in some foreign countries whose laws (and enforcement of laws) make 'rip-off's and 'knock-off's a major headache for legitimate manufacturers

When you get federal approval of your trademark, it continues to be yours as long as you follow a few simple steps: renew it after six years (and every ten years after that), and use it actively in trade. If you stop manufacturing or selling a product for two years, another person can file a claim that you've "abandoned" the trademark, and can apply for ownership himself.

## **Copyright**

Copyright applies to written materials like books, poems and songs. Don't overlook the need to copyright written materials that might be part of your product: owner's manuals, assembly instructions, catch phrases and the like. In many cases, an artistic logo is copyrighted. Source codes for computer programs are copyrights.

With some exceptions (like mottos and slogans that are trademarks), almost any written or recorded text can be copyrighted. Although you hear about people trying to copyright words and phrases that are in common use, these are mostly urban legends or publicity stunts. It has to have some originality to become yours alone.

At one level, gaining a copyright is about the easiest process you face. Simply printing or recording something makes it yours.

However, I've found that it's worth the small effort to make a public record of your copyright (by way of the Library of Congress) by applying through the US Patent and Trademark Office. The process takes several months; in the meantime, use the (c) mark along with the date of publication and the name of the owner (in this instance, probably you) to protect your written work.

## **Provisional Patents**

This is a relatively new option in the world of product development. The US Government now allows you to file an abbreviated form of utility patent. It's in effect for one year, giving you some significant protection while you work out the bugs and fill out the pages and pages of responses the non-provisional patent requires.

This is a significant opportunity, particularly if you're new to the business and don't have a comfortable relationship with a reliable patent attorney, researcher, draftsman or anyone else you might need to consult with.

It also gives you a quick reward for your effort. Protecting yourself from discouragement and drawn-out processes helps keep you optimistic and productive.

The provisional patent - like the "design patent" you might acquire while you're completing the Utility Patent - entitles you to advertise, market, sell and shop your product as "patented"," patent pending" and "patent applied for".

Your search for a manufacturer or licensee can often hinge on that very issue.

Get all the protection you can! Just the patent or copyright notice can't prevent anyone from stealing your good ideas... but it can make or break a court case if you find out that someone else is getting rich off your hard work.

## SOME OBSERVATIONS ABOUT THE PATENT PROCESS

After years of experience, I can share a couple of nuggets about the process of applying for the patent:

1. I would never try to get a utility patent on my own. I would find the best patent attorney I could. NOT a general attorney, who spends his days defending arsonists or filing divorce papers. The patent process has paperwork requirements and research that is simply beyond the skills and experience of the guy you'd trust to handle the paperwork when you sell a house. Plus, **Patent Attorneys are licensed by the federal government.**

Does this cost money? You bet it does! But it costs far more money (not to mention the pain of having the dreams you believe in handed over to someone else with a better "mouthpiece"!)

*IT DOES NOT NEED TO BE YOUR MONEY!*

In future sections I'll be sharing some ideas on creative financing: Patent Attorneys who work for a piece of the action... silent partners and financiers who know a good thing when they see it... potential licensees who want to manufacture and distribute the product... sometimes even the inventor you are partnering with who pays you for your skill, time and connections....

But even - last resort - if you have to give up some extravagances to cover the cost of legal assistance, this is one expense that absolutely, positively can't be shrugged off.

2. I would NOT bother with legal consultants for a design patent. The paperwork is simpler, and the level of proof is considerably lower. And, as I said, getting a design patent is a logical first step for many products; you can actually begin getting investors and your 'chain to market' on this basis.

3. I also wouldn't be in a hurry to get an attorney for trademark and copyright protection. What I've done, quite successfully, is just to do it on my own, using the helpful guides provided free of charge by the patent office and its examiners.

4. I spend as much time and effort doing work myself. It's not just that a good attorney costs a lot. Even after I got a, shall we say, comfortable income from my own product development efforts, I have always done most of the research myself.

## Doing Research

Part of the reason I do my own preliminary investigation - a must-do early in the patenting and production game - is that I like to explore. Doing research on Intellectual Property is fun for me. When I have an interest in developing a new or improved product (and sometimes, I confess, just to browse for awhile) I know I need to find out as much as I can about what similar products and designs are available.

I am always surprised at how many inexperienced inventors skip this step.

They invent a clever little item - say, a soup ladle that's a bit easier to use.

They never saw one like it in the stores, didn't find one using an Internet shopping search.

Bingo, they think they hit paydirt. Only later, they find out that their design is already patented, and they are disappointed - and maybe in legal hot water - without a clue that their idea wasn't an original.

Even if you're not crazy about "doing homework", you'll soon find out that it saves huge amounts of time and money in the long run. Let me explain

- After a meeting with an inventor I'll want to double-check what he knows, or says he knows, about competing products. If it's a product that's so obvious that my gut tells me it's already been invented, on my home computer I'll do a quick check on <http://www.uspto.gov/patft/> which can be done by patent name, inventor, patent number etc.
- *By the way, you can get the classification number (patent code) for your - or someone else's - invention by*

*contacting the Branch Office Patent Search Room in Washington. You can visit them in person, or fax your question to 703-305-5491. There are 500 main categories of patented and patentable products, and almost a quarter million subclasses. It can take up to two months to get an answer. You can speed up the process considerably by being as specific as possible: Write a description that provides a variety of search words (for instance, "musical toilet paper holder" might be enough, but for a musical bunny rabbit you might need to include words like 'toy, ' soft' 'fabric' ' life-sized', "pre-recorded" "novelty" etc.)*

- When I'm more deeply involved with a new product - mine or someone else's - I visit the major Patent Library (one that, fortunately, is at a college not too far from my home) where I'll spend a few hours or even a few days looking it up in Patent Research and Corporation/Product listings.
- Just for general information - keeping my mind sharp and open to new products - I look at differences among patented items and prototypes in a narrow category. In the example above, the unfortunate inventor would find out right away that his "new" ladle is already being made, but a slightly different one - flared more, deeper cup, easier-to-grip handle, etc - is NOT patented and can be the basis of his new product.

Once you've done the research, and are fairly sure that your idea or product is different enough from current patents to make an application worthwhile, are you ready for a patent?

I think I would be, but a close friend of mine - an inventor who seems to be living very well without ever 'going to work' - says he's gone directly into manufacturing before he pursued a patent.

That really threw me for a loop. I'm a cautious, do it by the book person. It certainly sounded risky!

He explained to me that several of the products that support his comfortable lifestyle were relatively easy to make at home: a machine shop made a mold for a nifty poured-plastic device, another handy creation is made from plastic plumbing supplies....

Rather than spending the time and money and effort in pursuing a patent, he took them directly to a manufacturer he had worked with before. They paid him handsomely for the invention, and patented it in their own name.

Is that a good strategy? In general, I'd argue against it.

But in my friend's case, he just loved the inventing part, and hated all the paperwork that came afterward. The sooner he got the new product launched, the faster the (lump sum) money came in, and the more freedom he had to go tinker with something else.

If you are in the position to sell an idea that has not been patented, make sure you are comfortable with:

- This won't be acknowledged as your creation.
- You get a specific amount of up-front money, but give up any kind of future returns.
- You have to be pretty sure that the company you are selling it to is ethical.
- You have to be able to walk away from the deal when it's done, and not stay up nights wondering how much more money you might have made if you had kept the patent rights to yourself.

If any part of this bothers you, you'll probably be better off sticking to the patenting process. Later, you can sell the patent or sell the license to manufacture your product. In the meantime, if you have the patent you have control over what happens next.

## **UTILITY PATENTS: WHAT YOU NEED TO KNOW**

**It's not my intention to turn this brief book into a boring step-by-step on getting patents.**

But if you've come this far, let me help you get a quick overview of what the Utility Patent - the top of the heap - entails.

The United States Patent and Trademark Office (USPTO or Office) is the government agency responsible for examining patent applications and issuing patents. A patent is a type of property right. It gives the patent holder the right, for a limited time, to exclude others from making, using, offering to sell, selling, or importing into the United States the subject matter that is within the scope of protection granted by the patent.

The USPTO determines whether a patent should be granted in a particular case. **However, it is up to the patent holder** to enforce his or her own rights if the USPTO does grant a patent.

A patent application is a complex legal document. As I have said before, it is well worth the cost to have it prepared by someone trained to prepare such documents.

In spite of that, you are also encouraged to get yourself at least a nodding acquaintance with the process. You'll know what you can do yourself (what parts of it you can write on your own, what elements, like drawings, you can do or know who to get to do them, etc), and you'll feel less lost (and, frankly feel less inadequate) when the attorney asks you questions.

Complete information, including forms you may use are available on the USPTO's Web site [www.uspto.gov](http://www.uspto.gov). In addition, if you want to do some extremely heavy reading, US patent laws and regulations are found at Title 35 of the United States Code (U.S.C.), and Title 37 of the Code of Federal Regulations (CFR). These materials, as well as the Manual of Patent Examining Procedure, are available at the USPTO's Web site ([www.uspto.gov](http://www.uspto.gov)), PTDLs, and at most law libraries.

**A nonprovisional utility patent application** must be in the English language or be accompanied by a translation in the English language, a statement that the translation is accurate and a fee set forth in 37 CFR 1.17(i).

All papers which are to become part of the permanent records of the USPTO must be typewritten or produced by a mechanical (or computer) printer.

The text must be in permanent black ink or its equivalent; on a single side of the paper; in portrait orientation; on white paper that is all of the same size, flexible, strong, smooth, nonshiny, durable, and without holes. The paper size must be either: 21.6 cm. by 27.9 cm. (8 1/2 by 11 inches), or 21.0 cm. by 29.7 cm. (DIN size A4).

There must be a left margin of at least 2.5 cm. (1 inch) and top, right, and bottom margins of at least 2.0 cm. (3/4 inch).

A nonprovisional utility patent application must include a **specification**, including a **claim or claims**; **drawings**, when necessary; an **oath or declaration**; and the prescribed filing, search, and examination **fees**. A complete nonprovisional utility patent application should contain the elements listed below, arranged in the order shown.

A Utility Patent Application Transmittal Form (Form PTO/SB/05) or a transmittal letter should be filed with every patent application to instruct the USPTO as to what actual types of papers are being filed (e.g., specification, claims, drawings, declaration, information disclosure statement). It identifies the name of the applicant, the type of application, the title of the invention, the contents of the application, and any accompanying enclosures. (Form PTO/SB/21 is to be used for all correspondence after initial filing.)

The Fee Transmittal Form (Form PTO/SB/17) may be used to calculate the prescribed filing fees and indicate the method of payment, by check or by credit card. The fees are dependent upon the number of sheets of paper in the specification and drawings, the number and type of claims presented, and whether or not a written assertion of small entity status is provided.

The filing, search, and examination fees for a patent application should be submitted with the application and must be made payable to the "Director of the United States Patent and Trademark Office" if paid by check. If an application is filed without the fees, the applicant will be notified and required to submit the fees within the time period set in the notice. If the basic filing fee was not paid at the time of filing the application, a surcharge is also required for late acceptance of the basic filing fee. Fees are subject to change and the applicant should consult the current Fee Schedule before filing.

Actually, there are two sets of fees: one for small entities and one for other than small entities. If you qualify as a small entity for patent fee purposes, no special form is required to claim your entitlement to reduced fees (you may check a special box on the transmittal form), but you should only pay small entity rates after ensuring that you qualify for the small entity discount. For example, if the inventors have not assigned any rights in the invention set forth in the application and are not under any obligation to do so (as may be required in an employment contract), small entity status is appropriate.

### **Specification**

The specification is a written description of the invention and of the manner and process of making and using the same. The specification must be in such full, clear, concise, and exact terms - clear enough so that any person skilled in the area to which the invention pertains can make and use it.

Computer program listings may be submitted as part of the specification. The pages of the specification (but not including transmittal letter sheets or other forms), including claims and abstract, must be numbered consecutively, starting with 1. The numbers should be centrally located, above or (preferably) below, the text. The lines of the specification must be 1.5 or double spaced (lines of text not comprising the specification need not be 1.5 or double spaced). It is desirable to include an indentation at the beginning of each new paragraph, and for paragraphs to be numbered.

Use all of the required section headings to indicate the parts of the specification. Section headings should be in upper case without underlining or bold type. If the section contains no text, the phrase "Not Applicable" should follow the section heading.

### **Title of the Invention**

The title of the invention (or an introductory portion stating the name, citizenship, residence of each applicant, and the title of the invention) should appear as the heading on the first page of the specification. Although a title may have up to 500 characters, the title must be as short and specific as possible.

### **Cross-Reference to Related Applications**

Any nonprovisional utility patent application claiming the benefit of one or more prior filed copending nonprovisional applications must contain in the first sentence of the specification (following the title) a reference to each such prior application, identifying it by the application number or international application number and international filing date, and indicating the relationship of the applications, or include the reference to the earlier application in an application data sheet. Cross-references to other related patent applications may be made when appropriate.

### **Statement Regarding Federally Sponsored Research or Development**

Although this probably does not apply to you, under certain circumstances the application should contain a statement as to rights to inventions made under federally sponsored research and development, if any. IF THIS DOES NOT APPLY, do not leave it blank; write "not applicable".

### **Reference to Sequence Listing, a Table, or a Computer Program Listing Compact Disc APPENDIX**

Any material submitted separately on a compact disc must be referenced in the specification. The only disclosure materials accepted on compact disc are computer program listings, gene sequence listings and tables of information. All such information submitted on compact disc must be in compliance with current regulations, and the specification must contain a reference to the compact disc and its contents. The contents of compact disc files must be in standard ASCII character and file formats. The total number of compact discs including duplicates and the files on each compact disc must be specified.

If a computer program listing is to be submitted and is over 300 lines long (each line of up to 72 characters), the computer program listing must be submitted on a compact disc in compliance with a listing appendix. A computer program listing of 300 or less lines may be, but is not required to be, submitted on compact disc. The computer program listing on compact disc will not be printed with any patent or patent application publication.

If a table of data is to be submitted, and if this table would occupy more than 50 pages if submitted on paper, the table can be submitted on a compact disc. The specification must contain a reference to the table on compact disc, and the data in the table must properly align visually with the associated rows and columns.

### **Background of the Invention**

This section should include a statement of the field of endeavor to which the invention pertains. This section may also include a paraphrasing of the applicable U.S. patent Classification Definitions or the subject matter of the claimed invention.

This section should also contain a description of information known to you, including references to specific documents, which are related to your invention. It should contain, if applicable, references to specific problems involved in the prior art, the current or state of technology, or the problems you allegedly have addressed with your invention.

### **Brief Summary of the Invention**

This section should present the substance or general idea of the claimed invention in summarized form. The

summary may point out the advantages of the invention and how it solves previously existing problems, preferably those problems identified in the **Background Of The Invention**. A statement of the object of the invention may also be included: in clear terms, why was this new product developed?

### **Brief Description of the Several Views of the Drawing**

Where there are drawings, you must include a listing of all figures by number (e.g., Figure 1A) and with corresponding statements explaining what each figure depicts. Note: If you have strong artistic/diagram skills, you may be able to do this yourself. But, because drawings are so critical to helping Patent Office Examiners grasp the finest details, you might be better off getting a professional illustrator to do them. Even without drawing skills, however, you are the best person to take on this section and describe what the drawings convey.

### **Detailed Description of the Invention**

In this section, the invention must be explained along with the process of making and using the invention in full, clear, concise, and exact terms. This section should distinguish the invention from other inventions. HOW IS IT DIFFERENT? What is the improvement? Describe completely the process, machine, manufacture, composition of matter, or improvement invented. In the case of an improvement, the description should be confined to the specific improvement including all details necessary to completely understand the invention.

It is required that the description be sufficient so that "any person of ordinary skill in the pertinent art, science, or area could make and use the invention" without extensive experimentation. The best mode for carrying out your invention must be described as part of this description. Each element in the drawings should be mentioned in the description. (This section used to be titled "Description of the Preferred Embodiment". Use this as a reminder to paint a clear picture of a useable product in its best function.)

### **Claim or Claims**

The claim or claims must particularly point out and distinctly claim the subject matter that you regard as the invention. The claims define the scope of the protection of the patent. ***Whether a patent will be granted is determined, in large measure, by the choice of wording of the claims.***

A nonprovisional application for a utility patent must contain at least one claim. The claim or claims section must begin on a separate page. If there are several claims, they shall be numbered consecutively.

One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. All dependent claims should be grouped together with the claim or claims to which they refer to the extent practicable. Any dependent claim that refers to more than one other claim ("a multiple dependent claim") shall refer to such other claims in the alternative only. Each claim should be a single sentence, and where a claim sets forth a number of elements or steps, each element or step of the claim should be separated by a line indentation.

If this sounds confusing - and it might, considering I'm trying to help you translate bureaucratic language - my advice is to look at several other patents that have been submitted. You'll soon get a feel for the specific, highly-effective language that they use.

Note: The fee required to be submitted with a nonprovisional utility patent application is, in part, determined by the number of claims, independent claims, and dependent claims.

### **Abstract of the Disclosure**

The purpose of the abstract is to enable the USPTO and the public to determine quickly the nature of the technical disclosures of your invention. The abstract points out what is new in the art/science to which your invention pertains. It should be in narrative form and generally limited to a single paragraph, and it must begin on a separate page. ***An abstract should not be longer than 150 words.***

**Drawings** (when necessary): A patent application is required to contain drawings if drawings are necessary for the understanding of the subject matter you are trying to patent. The drawings must show every feature of the invention as specified in the claims. Omission of drawings may cause an application to be considered incomplete.

Very few products can be adequately described without drawings. I've noticed, however, that the Patent Office is increasingly willing to accept photographs of simple prototypes.

Whether you use drawings or photographs, make sure you have a complete visual picture. Pictures from at least four angles ("elevations") and demonstrating all moving parts (box open, closed, and half-way open from all

angles).

**Format:** There are two acceptable categories for presenting drawings in utility patent applications: black ink (black and white) and color.

Black and white drawings are normally required. India ink, or its equivalent that secures black solid lines, must be used for drawings. Drawings made by computer printer should be originals, not photocopies.

On rare occasions, color drawings may be necessary as the only practical medium by which the subject matter sought to be patented in a utility patent application is disclosed. The USPTO will accept color drawings in utility patent applications and statutory invention registrations only after granting a petition explaining why the color drawings are necessary. If this is the case, you must include brief description of the several views of the drawing. If the language is not in the specification, an amendment to insert the language must accompany the petition. "The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

Color photographs are not ordinarily permitted in utility patent applications. The USPTO will accept black and white photographs in utility patent applications only in applications in which the invention is not capable of being illustrated in an ink drawing or where the invention is shown more clearly in a photograph. Only one set of black and white photographs is required. Furthermore, no additional processing fee is required.

Photographs have the same sheet size requirements as other drawings. The photographs must be of sufficient quality so that all details in the drawing are reproducible in the printed patent or any patent application publication.

Color photographs will be accepted in utility patent applications if the conditions for accepting color drawings and black and white photographs have been satisfied.

**Identification of Drawings** Identifying indicia, if provided, should include the title of the invention, the inventor's name, the application number (if known), and docket number (if any). This information should be placed on the top margin of each sheet of drawings. The name and telephone number of a person to call if the USPTO is unable to match the drawings to the proper application may also be provided.

**Graphic Forms in Drawings:** Chemical or mathematical formulas, tables, computer program listings, and waveforms may be submitted as drawings and are subject to the same requirements as drawings. Each chemical or mathematical formula must be labeled as a separate figure, using brackets when necessary, to show that information is properly integrated.

Each group of waveforms must be presented as a single figure, using a common vertical axis with time extending along the horizontal axis. Each individual waveform discussed in the specification must be identified with a separate letter designation adjacent to the vertical axis. These may be placed in a landscape orientation if they cannot be presented satisfactorily in a portrait orientation.

Typewritten characters used in such formulas and tables must meet the requirements set forth in 37 CFR 1.58(c). A space at least 0.64 cm. (1/4 inch) high should be provided between complex formulas or tables and the text.

The Patent Office Website offers more complete information on optimum use of drawings:

<http://www.uspto.gov/web/offices/pac/>

## **Oath Or Declaration**

Forms PTO/SB/01, PTO/SB/01A, PTO/SB/02, and PTO/SB/02LR are made available by the Office for applicant's use. Each inventor must make an oath or declaration that he/she believes himself/herself to be the original and first inventor of the subject matter of the application, and he/she must make various other statements required by law and various statements required by the USPTO rules.

If an application data sheet is filed, the USPTO rules require fewer statements in the oath or declaration. The oath must be sworn to by the inventor before a notary public or other officer authorized to administer oaths. A declaration may be used in lieu of an oath.

Oaths or declarations are required for applications involving designs, plants, and utility inventions and for reissue applications. A declaration does not require any witness or person to administer or verify its signing. Thus, use of a declaration is preferable. The oath or declaration must be signed by the inventor in person, or by the person entitled by law to make application on the inventor's behalf. A full first and last name with middle initial or name, if any, and the citizenship of each inventor are required. The mailing address of each inventor and foreign priority

information (if any) are also required if an application data sheet is not used.

Any oath or declaration must be in a language the inventor understands. If the oath or declaration used is in a language other than English, and is not in a form provided by the United States Patent and Trademark Office or provided in accordance with PCT Rule 4.17 (iv), an English translation together with a statement that the translation is accurate is required.

If the person making the oath or declaration is not the inventor, the oath or declaration must state the relationship of that person to the inventor. This must include the facts which the inventor would have been required to state, and the circumstances which render the inventor unable to sign (namely death, insanity or legal incapacity or unavailability/refusal to sign). If the inventor has refused or cannot be reached to sign the declaration, then a petition under 37 CFR 1.47 is required, and if there are inventors who have signed the oath or declaration, then the remaining inventors must sign the oath or declaration on behalf of the non-signing inventor.

If the sole or all of the inventors has not signed the oath or declaration, then the oath or declaration must be signed by the party showing proprietary interest in the application, as shown in the petition under 37 CFR 1.47(b). If the inventor has died or is legally incapacitated, then the legal representative of the deceased or incapacitated inventor must sign the oath or declaration on behalf of the inventor.

As you may have noticed, this is a substantial paperwork burden. DO AS MUCH OF IT YOURSELF AS YOU CAN, even if your patent attorney needs to do a bit of 'sprucing it up' before it gets dropped in the mail.

The more you do, the less it costs to get others to do it. The more you do, the better the chance that your ideas and designs will be described as accurately as possible. This hands-on involvement can help you detect flaws and find mistakes so they can be fixed before the paperwork is filed, rather than after it is rejected.

## DESIGN PATENTS: WHAT YOU NEED TO KNOW

A design consists of the "visual, ornamental" characteristics embodied in, or applied to, an article of manufacture. Since a design is apparent in its appearance, the subject matter of a design patent application may relate to the shape of an article, to the surface ornamentation or decoration applied to an article, or to the combination of configuration and surface ornamentation. A design for surface ornamentation is inseparable from the article to which it is applied and cannot exist alone.... you can't patent the decoration of a pillow; you have a design patent on the pillow itself. It must be a *definite pattern of surface ornamentation*, applied to an article of manufacture.

In discharging its patent-related duties, the United States Patent and Trademark Office (USPTO or Office) examines applications, and grants patents on inventions, when applicants are entitled to them. The patent law provides for the granting of design patents to any person who has invented any new, original and ornamental design for an article of manufacture. **A design patent protects only the appearance of the article and not structural or utilitarian features.**

An ornamental design may be embodied in an entire article or only a portion of an article, or may be ornamentation applied to an article. If a design is directed to just surface ornamentation, it must be shown applied to an article in the drawings, and the article must be shown in broken lines, as it forms no part of the claimed design.

A design patent application may only have a single claim (37 CFR 1.153). Designs that are independent and distinct must be filed in separate applications since they cannot be supported by a single claim. Designs are independent if there is no apparent relationship between two or more articles.

For example, if you want to patent the design of a dishwasher and a dog collar, you have to do it as two separate applications, even if you want to put the same floral decoration on both of them.

Designs are considered distinct if they have different shapes and appearances even though they are related articles. For example, if you create a child's toy box, and make one with dinosaurs and one with a ballerina, applications for design patents must be claimed in separate applications. However, if you make two with ballerinas that are nearly identical except for the color of the dress, a single design concept and both embodiments may be included in a single application.

The process of application is similar to what we just discussed above.

Fortunately, it is far less technical, and you can probably do it yourself.

### Filing An Application

While no specific format is required, it is strongly suggested that you follow the guide I've provided to ensure that the application is complete.

**THE MOST IMPORTANT PART OF THE DESIGN PATENT APPLICATION IS THE DESIGN.** The core of a design patent application is the drawing disclosure, which illustrates the design being claimed.

Unlike a utility application, where the "claim" describes the invention in a lengthy written explanation, the claim in a design patent application protects the overall visual appearance of the design, "described" in the drawings. It is essential that the applicant present a set of drawings (or photographs) of the highest quality which conform to the rules and standards.

It is in an applicant's best interest to ensure that the drawing disclosure is clear and complete prior to filing the application, since an incomplete or poorly prepared drawing may result in a "fatally defective disclosure" which cannot become a patent. It is recommended that applicant retain the services of a professional draftsman who specializes in preparing design patent drawings.

**The Application Package consists of:**

- (1) Preamble, stating name of the applicant, title of the design, and a brief description of the nature and intended use of the article in which the design is embodied;
- (2) Cross-reference to related applications (unless included in the application data sheet).
- (3) Statement regarding federally sponsored research or development.
- (4) Description of the figure(s) of the drawing;
- (5) Feature description;
- (6) A single claim;
- (7) Drawings or photographs;
- (8) Executed oath or declaration.

In addition, the filing fee, search fee, and examination fee are also required. If applicant is a small entity, (an independent inventor, a small business concern, or a non-profit organization), these fees are reduced by half.

Whether you are doing it yourself or turning it over to an attorney, you should be familiar with these requirements!

**1. The Preamble**

The Preamble, if included, should state the name of the applicant, the title of the design, and a brief description of the nature and intended use of the article in which the design is embodied. All information contained in the preamble will be printed on the patent, should the claimed design be deemed patentable.

**(The Title)**

The Title of the design must identify the article in which the design is embodied by the name generally known and used by the public. (If it is a design for a sweater, call it "sweater", even if you plan to market it as a Schmetter) Marketing designations are improper as titles and should not be used.

A title descriptive of the actual article aids the examiner in developing a complete field of search of the prior art. It further aids in the proper assignment of new applications to the appropriate class, subclass, and patent examiner, as well as the proper classification of the patent upon allowance of the application. It also helps the public in understanding the nature and use of the article embodying the design after the patent has been published. Thus, applicants are encouraged to provide a specific and descriptive title.

**(Description and intended use)**

This is a very brief, general description of what your product is and how it is used.

**2. Cross-reference to related applications** (unless included in the application data sheet).

This refers to other similar design patents you hold or are pending as well as similar designs that are antecedents

to your design.

### 3. Statement regarding federally sponsored research or development.

In the unlikely event you came up with your design while engaged in federally-funded research, this fact must be disclosed prominently with your application.

IF YOU ARE REPRESENTING ANOTHER INVENTOR, you can face liability if this person is employed in a federally-funded project, and the design was created as part of this employment. Make sure you know who your partners are, because if you are the one applying for the patent you are swearing that everything it contains is "true and correct"!

### 4. The Figure Descriptions

The Figure Descriptions indicate what each view of the drawings represents, i.e., front elevation, top plan, perspective view, etc.

Any description of the design in the specification, other than a brief description of the drawing, is generally not necessary since, as a general rule, the drawing is the design's best description. However, while not required, a special description is not prohibited.

In addition to the figure descriptions, the following types of statements are permissible in the specification:

1. A description of the appearance of portions of the claimed design which are not illustrated in the drawing disclosure (i.e., "the right side elevational view is a mirror image of the left side").
2. Description disclaiming portions of the article not shown, that form no part of the claimed design.
3. Statement indicating that any broken line illustration of environmental structure in the drawing is not part of the design sought to be patented.
4. Description denoting the nature and environmental use of the claimed design, if not included in the preamble.

### 5. Feature description

What sets this apart from similar designs? Although this section is not as critical as the similar section in a Utility Patent, you should be able to write a brief, clear description that sets your design apart from similar products.

### 6. A Single Claim

***A design patent application may only include a single claim.*** (Utility Patents routinely include several) The claim defines the design which applicant wishes to patent, in terms of the article in which it is embodied or applied. The claim must be in formal terms to "The ornamental design for \_\_\_\_\_ as shown." The description of the article in the claim should be consistent in terminology with the title of the invention.

When there is a properly included special description of the design in the specification, or a proper showing of modified forms of the design, or other descriptive matter has been included in the specification, the words "and described" should be added to the claim following the term "shown." The claim should then read "The ornamental design for \_\_\_\_\_ as shown and described."

### 7. Drawings or Black and White Photographs

Since it is the VISUAL ASPECT you are trying to protect, the drawing disclosure is the most important element of the application.

Every design patent application must include either a drawing or a black and white photograph of the claimed design. Since the drawing or photograph constitutes the entire visual disclosure of the claim, your drawing or photograph has to be **clear and complete**! Don't leave anything to the patent examiner's imagination; don't assume that the Patent Office will deduce what your design looks like on the basis on a couple of scribbles, or with a blurry photo.

The design drawing or photograph must comply with the disclosure requirements and must include a sufficient number of views to constitute a complete disclosure of the appearance of the design claimed.

Drawings are normally required to be in black ink on white paper. Black and white photographs, in lieu of drawings,

are permitted subject to the requirements of current regulations. Black and white photographs submitted on double weight photographic paper must have the drawing figure number entered on the face of the photograph. Photographs mounted on Bristol board may have the figure number shown in black ink on the Bristol board, proximate the corresponding photograph.

Choose either photographs or black and white drawings, not both. Black and white photographs and ink drawings ***must not be combined*** in a formal submission of the visual disclosure of the claimed design in one application. The introduction of both photographs and ink drawings in a design application would result in a high probability of inconsistencies between corresponding elements on the ink drawings as compared with the photographs. Photographs submitted in lieu of ink drawings must not disclose environmental structure but must be limited to the claimed design itself.

### ***Color Drawings or Color Photographs***

The Office will accept color drawings or photographs in design patent applications only after the granting of a petition filed in which you have explained why the color drawings or photographs are necessary. Any such petition must include the required fee; three sets of color drawings or photographs, and the specification must contain the following language before the description of the drawings:

"The patent or application file contains a least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

If color photographs are submitted as informal drawings and the applicant does not consider the color to be part of the claimed design, a disclaimer should be added to the specification as follows: "The color shown on the claimed design forms no part thereof." Color will be considered an integral part of the disclosed and claimed design in the absence of a disclaimer filed with the original application. A disclaimer may only be used when filing color photographs as informal drawings, and the disclosure in formal photographs must be limited to the design for the article claimed.

### ***The Views***

The drawings or photographs should contain a sufficient number of views to completely disclose the appearance of the claimed design, i.e., front, rear, right and left sides, top and bottom. While not required, it is suggested that perspective views be submitted to clearly show the appearance and shape of three-dimensional designs. If a perspective view is submitted, the surfaces shown would normally not be required to be illustrated in other views if these surfaces are clearly understood and fully disclosed in the perspective.

Views that are merely duplicates of other views of the design or that are merely flat and include no ornamentality may be omitted from the drawing if the specification makes this explicitly clear.

For example, if the left and right sides of a design are identical or a mirror image, a view should be provided of one side and a statement made in the drawing description that the other side is identical or a mirror image. If the bottom of the design is flat, a view of the bottom may be omitted if the figure descriptions include a statement that the bottom is flat and unornamented.

The term "unornamented" should not be used to describe visible surfaces that include structure that is clearly not flat. In some cases, the claim may be directed to an entire article, but because all sides of the article may not be visible during normal use, it is not necessary to disclose them.

A sectional view which more clearly brings out elements of the design is permissible, however a sectional view presented to show functional features, or interior structure not forming part of the claimed design, is neither required nor permitted.

The drawing must contain as many views as necessary to show the invention. The views may be plan, elevation, section, or perspective views. Detailed views of portions of elements, on a larger scale if necessary, may also be used.

All views of the drawing must be grouped together and arranged on the sheet(s) without wasting space, preferably in an upright position, clearly separated from one another, and must not be included in the sheets containing the specifications, claims, or abstract.

Views must not be connected by projection lines and must not contain center lines.

Waveforms of electrical signals may be connected by dashed lines to show the relative timing of the waveforms.

- **Exploded Views**

Exploded views, with the separated parts embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.

- **Partial Views**

When necessary, a view of a large machine or device in its entirety may be broken into partial views on a single sheet, or extended over several sheets if there is no loss in facility of understanding the view. Partial views drawn on separate sheets must always be capable of being linked edge to edge so that no partial view contains parts of another partial view.

A smaller scale view should be included showing the whole formed by the partial views and indicating the positions of the parts shown. When a portion of a view is enlarged for magnification purposes, the view and the enlarged view must each be labeled as separate views.

Where views on two or more sheets form, in effect, a single complete view, the views on the several sheets must be so arranged that the complete figure can be assembled without concealing any part of any of the views appearing on the various sheets.

A very long view may be divided into several parts placed one above the other on a single sheet. However, the relationship between the different parts must be clear and unambiguous.

- **Sectional Views**

The plane upon which a sectional view is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight.

Hatching must be used to indicate section portions of an object, and must be made by regularly spaced oblique parallel lines spaced sufficiently apart to enable the lines to be distinguished without difficulty. Hatching should not impede the clear reading of the reference characters and lead lines.

If it is not possible to place reference characters outside the hatched area, the hatching may be broken off wherever reference characters are inserted. Hatching must be at a substantial angle to the surrounding axes or principal lines, preferably 45°.

A cross section must be set out and drawn to show all of the materials as they are shown in the view from which the cross section was taken. The parts in cross section must show proper material(s) by hatching with regularly spaced parallel oblique strokes; the space between strokes being chosen on the basis of the total area to be hatched. The various parts of a cross section of the same item should be hatched in the same manner and should accurately and graphically indicate the nature of the material(s) illustrated in cross section.

The hatching of juxtaposed different elements must be angled in a different way. In the case of large areas, hatching may be confined to an edging drawn around the entire inside of the outline of the area to be hatched. Different types of hatching should have different conventional meanings as regards the nature of a material seen in cross section.

- **Surface Shading**

The drawing should be provided with appropriate surface shading which shows clearly the character and contour of all surfaces of any three-dimensional aspects of the design.

Surface shading is also necessary to distinguish between any open and solid areas of the design. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Lack of appropriate surface shading in the drawing as filed may render the shape and contour of the design nonenabling.

Additionally, if the shape of the design is not evident from the disclosure as filed, addition of surface shading after filing may be viewed as new matter. New matter is anything that is added to, or from, the claim, drawings or specification, that was neither shown nor suggested in the original application.

- **Broken Lines**

A broken line disclosure is understood to be for illustrative purposes only and forms no part of the claimed design. Structure that is not part of the claimed design, but is considered necessary to show the environment in which the design is used, may be represented in the drawing by broken lines. This includes any portion of an article in which the design is embodied or applied to that is not considered part of the claimed design. When the claim is directed to just surface ornamentation for an article, the article in which it is embodied must be shown in broken lines.

In general, when broken lines are used, they should not intrude upon or cross the showing of the claimed design and should not be of heavier weight than the lines used in depicting the claimed design.

Where a broken line showing of environmental structure must necessarily cross or intrude upon the representation of the claimed design and obscures a clear understanding of the design, such an illustration should be included as a separate figure in addition to the other figures which fully disclose the subject matter of the design.

## **Paper**

Drawings submitted to the USPTO must be made on paper which is flexible, strong, white, smooth, nonshiny, and durable. All sheets must be free from cracks, creases, and folds. Only one side of the sheet shall be used for the drawing. Each sheet must be reasonably free from erasures and must be free from alterations, overwritings, and interlineations.

All drawings sheets, including sheets containing photographs, in an application must be the same size. One of the shorter sides of the sheet is regarded as its top (portrait, rather than landscape orientation). The size of the sheets on which drawings are made must be:

21.6 cm. by 27.9 cm. (8 ½ by 11 inches), or 21.0 cm. by 29.7 cm. (DIN size A4).

The sheets must not contain frames around the sight (the usable surface), but should have scan target points (cross hairs) printed on two catercorner margin corners. Specific margins are required: each 8 ½ sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm.

On 21.0 cm. by 29.7 cm. (DIN size A4) drawing sheets, each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch) from the edges, thereby leaving a sight no greater than 17.0 cm. by 26.2 cm.

## **8. The Oath or Declaration**

The oath or declaration required of the applicant must comply with the requirements set forth in 37 CFR 1.63. The Patent Office provides fill-in-the-blank forms (Forms PTO/SB/01, PTO/SB/01A, PTO/SB/02, and PTO/SB/02LR) for applicant's use.

Each inventor must make an oath or declaration that he/she believes himself/herself to be the original and first inventor of the subject matter of the application, and he/she must make various other statements - all of which must be notarized -- as required by law and various statements required by the USPTO rules.

A declaration does not require any witness or person to administer or verify its signing. The oath or declaration must be signed by the inventor in person, or by the person entitled by law to make application on the inventor's behalf. A full first and last name with middle initial or name, if any, and the citizenship of each inventor are required. The mailing address of each inventor and foreign priority information (if any) are also required if an application data sheet is not used.

Special circumstances, for example when the inventor is non-English speaking or for some reason cannot read, understand or sign the oath or declaration, other provisions are made just as they are for Utility Patent applications.

## **Disclosure Examples**

In order to help you understand what constitutes a complete disclosure, look at the examples below:

### ***Example 1-Disclosure Of The Entire Article***

I, John Doe, have invented a new design for a cat toy, as set forth in the following specification. The claimed cat toy uses fabric and form to amuse household pets.

Fig. 1 is a front elevational view of a toy showing my new design;  
Fig. 2 is a rear elevational view thereof;  
Fig. 3 is a left side elevational view thereof;  
Fig. 4 is a right side elevational view thereof;  
Fig. 5 is a top plan view thereof; and  
Fig. 6 is a bottom plan view thereof.

I claim: the ornamental design for a cat toy as shown.

Specification

## Disclosure Example #2

Example 2-Disclosure of only the surfaces of an article that are visible during use (no bottom view or description necessary).

I, John Doe, have invented a new design for a platter, as set forth in the following specification. The claimed platter is used for holding food.

Fig. 1 is a front elevational view of the plate showing my new design;  
Fig. 2 is a rear elevational view thereof;  
Fig. 3 is a left side elevational view thereof;  
Fig. 4 is a right side elevational view thereof;  
Fig. 5 is a top plan view thereof.

I claim: the ornamental design for a platter as shown.

It sounds boring and wordy, I know, but there simply aren't shortcuts for this text!

## After it's sent, protect your claim

It is applicant's responsibility to make sure that the reply is received by the Office prior to the expiration of the designated time period set for reply. This time period is set to run from the "Date Mailed," which is indicated on the first page of the Office action. If the reply is not received within the designated time period, the application will be considered abandoned.

In the event that applicant is unable to reply within the time period set in the Office action, abandonment may be prevented if a reply is filed within six months from the mail date of the Office action provided that a petition for extension of time and the fee set forth in 37 CFR 1.17(a) are filed. The fee is determined by the amount of time requested, and increases as the length of time increases. These fees are set by Rule and could change at any time.

An "Extension of Time" does not have to be obtained prior to the submission of a reply to an Office action; it may be mailed along with the reply. Be sure to ask for a schedule of current fees. Note: an extension of time cannot be obtained when responding to a "Notice of Allowance and Fee(s) Due."

To ensure that a time period set for reply to an Office action is not missed; a "Certificate of Mailing" - available at the Post Office - should be attached to the reply. This "Certificate" establishes that the reply is being mailed on a given date. It also establishes that the reply is timely, if it was mailed before the period for reply had expired, and if it is mailed with the United States Postal Service. A "Certificate of Mailing" is not the same as "Certified Mail." A suggested format for a Certificate of Mailing is as follows:

"I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on (DATE MAILED)"

(Name - Typed or Printed) \_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

If a receipt for any paper filed in the USPTO is desired, applicant should include a stamped, self-addressed postcard, which lists, on the message side applicant's name and address, the application number, and filing date,

the types of papers submitted with the reply (i.e., 1 sheet of drawings, 2 pages of amendments, 1 page of an oath/declaration, etc.) This postcard will be stamped with the date of receipt by the mailroom and returned to applicant. This postcard will be applicant's evidence that the reply was received by the Office on that date.

If applicant changes his or her mailing address after filing an application, the Office must be notified in writing of the new address. Failure to do so will result in future communications being mailed to the old address, and there is no guarantee that these communications will be forwarded to applicant's new address. Applicant's failure to receive, and properly reply to these Office communications will result in the application being declared abandoned. Notification of "Change of Address" should be made by separate letter, and a separate notification should be filed for each application.

## **Reconsideration**

Upon submission of a reply to an Office action, the application will be reconsidered and further examined in view of applicant's remarks and any amendments included with the reply. The examiner will then either withdraw the rejection and allow the application or, if not persuaded by the remarks and/or amendments submitted, repeat the rejection and make it Final. Applicant may file an appeal with the Board of Patent Appeals and Interferences after given a final rejection or after the claim has been rejected twice. Applicant may also file a new application prior to the abandonment of the original application, claiming benefit of the earlier filing date. This will allow continued prosecution of the claim.

## **Patent Laws That Apply to Design Patent Applications**

35 U.S.C. 102 Conditions for patentability; novelty and loss of right to patent. A person shall be entitled to a patent unless:

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in -- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) (1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103 Conditions for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatively influenced by the manner in which the invention was made.

(b) (1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if-

(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

(2) A patent issued on a process under paragraph (1)-

(A) shall also contain the claims to the composition of matter used in or made by that process, or

(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.

(3) For purposes of paragraph (1), the term "biotechnological process" means-

(A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to-

(i) express an exogenous nucleotide sequence,

(ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or

(iii) express a specific physiological characteristic not naturally associated with said organism;

(B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and

(C) a method of using a product produced by a process defined by subparagraph (A) or (B), or a combination of subparagraphs (A) and (B).

(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if--

1. the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;
2. the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and
3. the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

(3) For purposes of paragraph (2), the term "joint research agreement" means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

When a complete design patent application, along with the appropriate filing fee, is received by the Office, it is assigned an Application Number and a Filing Date. A "Filing Receipt" containing this information is sent to the applicant. The application is then assigned to an examiner. Applications are examined in order of their filing date.

## Examination

The actual "examination" entails checking for compliance with formalities, ensuring completeness of the drawing disclosure and a comparison of the claimed subject matter with the "prior art." "Prior art" consists of issued patents

and published materials. If the claimed subject matter is found to be patentable, the application will be "allowed," and instructions will be provided to applicant for completing the process to permit issuance as a patent.

The examiner may reject the claim in the application if the disclosure cannot be understood or is incomplete, or if a reference or combination of references found in the prior art, shows the claimed design to be unpatentable. The examiner will then issue an Office action detailing the rejection and addressing the substantive matters which effect patentability.

This Office action may also contain suggestions by the examiner for amendments to the application. Applicant should keep this Office action for his or her files, and not send it back to the Office.

## **YOU HAVE THE PATENT (AND TRADEMARK AND COPYRIGHT) NOW WHAT? ...**

### **The Business Of Doing Business**

Congratulations on your success! You and your partners have a patented, copyright, trademarked item.

There's still work to be done.

Turning an idea into a product is the first part - an important one, obviously, but not sole step - of the **journey from inspiration to income**.

In this section we will deal with some of the nitty-gritty tasks that an entrepreneur must be able to address. Remember how we talked, in a previous chapter, about all the nifty things that have patented and never made it to the store shelves?

Some of them were, frankly, dumb ideas. Just because you can patent and make something doesn't mean that folks will want to buy it.

Some of them are outdated. Cars replaced horses; tires replaced wooden wheels; microwaves replaced pots boiling over the fireplace.

But many of them (I'd bet a large majority of them) didn't become successful, AND DIDN'T MAKE THE PATENT HOLDERS ANY MONEY, because the inventor didn't have a trustworthy partner to locate manufacturers, negotiate deals, oversee marketing and create **an awareness of, and interest in**, the product!

That, my friend, is your challenge.

### **YOUR BUSINESS PLAN**

Your business plan addresses three overall goals:

1. A description of what your business is all about
2. The key aims you want to achieve.
3. The strategy to succeed.

Anyone picking up your business plan should quickly understand your basic idea or proposition. The reader needs to know about the industry, customers, competitors and the benefits your products or services offer. You need to describe your business strategy in detail, showing why it will work and how it affects your products and services, personnel, funding and so on.

### **What is in a Business Plan?**

There's no one outline for all business plans. They depend on your aim, your audience, your industry and so on. The specific titles of the sections, and how much or how little you write about a particular section, are very individualized.

The business plan is a clear expression of your ability, your business and your future. It will help you nail down the ideas and facts, and it can serve as the most effective tool you have for selling your products.

Anticipate questions that a reader might have as he or she reads your plan, such as:

- exactly what your business is
- how and where you will run it
- how you are going to finance it

- how much it has or will earn or lose
- risks and strengths of your business
- the current market
- your long-term goals
- milestones you intend to reach.

If it's carefully constructed, a business plan can help you deal with problems before they get out of hand. It can help you identify, set and achieve goals.

Writing it will help organize and consolidate ideas so you can better promote your business. A written plan will save you time and work. The plan will help you get better contributions from others, including your bank, business consultants and prospective suppliers or investors, because you can give them more complete information.

Your business plan lets you set out your vision and outline a strategy to make it happen. The business plan is your road map, showing you the route to take,

Thinking about the plan helps you fine-tune your tactics to achieve your goals. Make your business plan a well-thought-out document to guide you in your day-to-day running of your business. Let it guide you in how to finance your business and project how much you will earn.

With your main goals and other goals defined, it's much easier to set targets, timetables and budgets. Decisions about whether to buy or lease manufacturing equipment, employ more staff or invest in new advertising become much easier. Each business decision taken must help you reach your defined goals. When there are competing strategies, the ones that help you hit your targets and goals are the ones to follow.

The business plan should be an interesting and thought-provoking document, reflecting your enthusiasm, but it should set out realistic goals. A business plan need not be boring or complicated. For a simple business idea, it could be between three and five pages. A more complicated plan might need 20 pages, with charts, graphs and detailed financial projections.

***Most of the advice you need to write a good business plan is about gathering and organizing the relevant information.*** But even if you have this part right, it won't help you achieve your goal if it's poorly-written or unclear.

If you don't do a lot of business writing, it may well be worth your while to hire a technical writer to help you polish your work. There are also some good business software programs that walk you through the process. This will help, of course, but the ideas must be ***complete, accurate and concise*** for the business plan to support your work.

## Set Realistic Goals

A business plan must help you achieve a realistic goal. For an established business, it explains how you must bring together all the company's assets, including its talent, to reach your goals.

You must set quantifiable goals. Ask yourself: how will I know when I've reached the mark?

This can be expressed in such things as:

- 20% increase in sales
- opening 12 new stores
- applying for 6 more patents
- increasing revenue by 3% per quarter
- decreasing the number of past-due accounts by 15%

## Write Down Your Main Aim(s)

Although business plans share many similar elements, they differ depending on their aim. A business plan designed for a start-up company doesn't resemble one created for a business that has been around for several years. But all successful business plans have to demonstrate that you know where you're going.

The more specific your aim is, the easier it is for you to include relevant information when you write your business plan. For example, if your business plan is to interest venture capital, it has to convince a potential backer your business proposal is a profitable investment. You must therefore:

- Attract the backer's interest with the main idea.
- Stress the strengths of the business idea in the market compared to the competition.
- Assess the risks of the business and potential problems.
- Explain the development and growth potential of the business.

## **Do your homework**

You absolutely, positively need to know what the market is like. Who else is selling similar products? What kinds of customers are they trying to attract? Where do they sell it? How do they advertise it?

What one or two or three things make your product different? How does it compare in price, quality, ease of use, emotional appeal?

## **What Format should I use?**

A fairly typical business plan would include these general topics:

### **Cover sheet**

- Company Logo and Business Name
- Title
- Address
- Principal Officers
- Contract Details

### **Summary**

- Description of the business
- Overview of the market

### **Vision**

### **Market Analysis**

- Current Market
- Trends
- Analysis of consumers

### **Competitive Analysis**

- Industry
- Opportunity
- Threats and Risk

### **Your Business Strategy**

### **Description of Products and Services**

### **Sales and Marketing Plan**

### **Operations**

- Management Team
- Facilities

### **Attachments**

- Articles, brochures
- Copies of contracts, franchise agreements, leases, letters of intent, patents
- Financial charts and breakdowns
- Personal financial statement
- Tax return

If the business plan is being developed to create interest by investors, it should also include:

## Financial Position and Forecast

- Historical Performance
- Existing Finance and loan applications
- Capital equipment and stock
- Balance sheet Break-even analysis
- Business Income projections
  - One-year, three-year and five-year summaries
  - Detail by quarters, second and third years
  - Assumptions used.
- Business Profit-and-Loss Statement
  - One-year, three-year and five-year summaries
- Business Cash-flow summary
  - Current position
  - One-year, three-year and five-year summary projections
  - Detail by month, first year
  - Detail by quarters, second and third years
  - Assumptions used
- Business Funding Needs
  - Current funds available
  - One-year, three-year and five-year summary projections
  - Other sources of finance
  - Assumptions used

## How Important is each Section?

Obviously, every section counts.

Still, the ones you should be most meticulous with are the cover page and the summary.

The cover page introduces you and your products. It's the first thing they see out of the envelope, and the one thing that's still in view when it's sitting on the desk unread. Make it visually appealing, make it count!

The summary is the most important section. Every potential investor or decision-maker will go straight to this section and many may not read beyond the summary. Your summary must clearly explain your aim and include essential facts such as the main aims, business ideas, key financial and marketing facts, profit projections and capital requirements. **Keep your summary short--to a maximum of 300 words, but include all the details that a busy investor needs to know.**

Think of the executive summary as the only part of the business plan most readers will study. Even if they go through the whole plan, what you want them to remember is the information in the executive summary. Include exciting words, statistics that grab their attention, in a **crisp, grammatically-correct, professional voice.**

Imagine you met a potential investor who was about to go into a meeting. How would you explain and sell your business idea in 45 seconds? Keep this idea in mind and it will help you concentrate on the most effective summary.

When you have drafted your first 200-300 words, you can decide what other information you need in the executive summary. For example, you might to explain what your company has achieved so far, how you are raising other finance and the role of the management team. However, go through your executive summary critically. Be certain you have covered the most important points of your business plan. Do not dilute the summary with background information or general statements.

## Business Idea

Here you must describe your business idea, the product or service you will sell and its markets. Set out the competitive advantage the business idea offers. Make sure you detail:

- The benefits you offer your customers.
- The unique features of your product or service.
- How you will attract and keep customers.
- How you can meet this demand at a profit.

- How you will beat your competitors.

The business idea should be concise to keep your readers' attention.

## Business Plan Description

You'll need a good business description that places your business within the industry. You'll need to look at the trends in the industry and your company's size, products or services and the main market. If you are writing this description for potential investors, don't assume they know as much as you. If you are writing the description for your own working business plan, don't skimp thinking this is a waste of time. Writing your business assumptions down on paper helps you clarify and think about some of the basic information underlying your business plan.

## Market Analysis

It's essential you understand the industry, your target market and competitors. **In addition, you need to be able to describe it in terms that a layperson can understand.** The market analysis is a clear picture of your strategy to sell at a profit. It looks at the conditions and trends in the industry, reviews the market for your product or service, and describes the competition. Then you have to show your business plan to develop your share of the market. You'll have to specifically describe your customers, how you are going to spend your advertising budget, and use your sales force to meet demand.

Be realistic! Are your sales going to be that high? Are your costs going to be that low? Think conservatively - it will make you and your business look more realistic and will impress the reader with your honesty.

In drawing together your market analysis, think about your customers and what makes your product attractive to them. Here you can expand on such information as:

- The benefits you offer your customers.
- How you can offer a better price, quality or service than your competitors.
- How you are going to expand sales while controlling costs.
- Your proposed advertising and marketing budgets.

## Financial Position and Forecasts

Your financial forecasts are critical. They must be realistic and plausible, highlight the most important financial points and show the potential and pitfalls. Usually, you should put worst-case, expected-case and best-case forecasts. Whenever possible, back up current financial positions and forecasts with marketing data. For example, sales growth figures for the past three years are more powerful in backing up your forecasts than assumed growth based on a hoped-for market share.

Make sure you concentrate on the three most important financial breakdowns.

- Cash-flow Projection and Break-even Point
- Profit and Loss Statement
- Balance Sheet

Don't forget to give historical as well as current and projected data. Include any current debts, funding sources, start-up costs for a new business, return on investment and so on. Include all the information the reader needs to understand your business, its history and its prospects.

If you find putting this information together difficult, get professional advice from your accountant.

## Funding Needs

If you've designed your business plan to raise money, state specifically how much you need and summarize how you plan to use the money. Include information on existing finances, alternative sources of finance, collateral, guarantors, and contracts and so on. If you are an existing business, list your main customers, expected contracts, past sales performance and so on.

## Management Team

A competent team at the top of the company can mean the difference between success and failure. In both new ventures and established companies, don't forget to look at the strengths and weaknesses of your management team and others contributing to the business idea.

Describe the team that will run your business and any important new positions you need to fill. List the talents and experience they bring, where you need to improve personnel and how any changes will help meet the business's objectives.

Finally, make sure the board; advisers, such as accountants and advertising agency; workforce and industry-specific backup is there to support the aims of management.

## **Business Plan Attachments**

You can attach information that's not central to your business plan but is useful. This lets you avoid going into too much detail in the body of your plan. Information could include: articles, charts, contracts, detailed financial information, patents, product information, price lists, brochures, newsletters and technical drawings. However, do not expect your readers to study attachments -- they want most relevant information in the body of the business plan.

## **Letter of Confidentiality**

Whenever you send a business plan to prospective businesses, financial institutions, or staff there is often an issue of confidentiality. There are several common ways of dealing with this:

- Get your recipients to sign a confidentiality agreement
- Insert a paragraph at the beginning of the plan that binds the reader to secrecy
- Try to not include sensitive information

The last option is not always practical since prospective investors - especially banks - will want to see key financial information. Sometimes it may be possible to openly hold back this confidential information and let your prospective investors know they will have access to it later once trust or preliminary agreements have been reached.

## **Writing tips**

- **"Write Tight"**

Keep the business plan short. Whatever the length, your main aim is to include only the relevant facts. You're asking someone to take the time to read it, so please don't burden him or her with non-essential information! If there's something you aren't sure about you can always include it as an attachment.

- **Use Facts and Numbers**

In each section, back up your plan with solid statistics. Even if you are a new business, you can quote figures for the industry or your competitors. These real figures carry more weight than adjectives: "a 20% increase" means something "a lot more people are" is relatively meaningless.

- **Keep to the Essential Specific Information**

***Your readers want the key, specific information to understand your business plan.*** Imagine your reader going over your plan with a yellow marker. Typically, the reader would only highlight the essential information. Write keeping to the key information you expect the reader to highlight and you will avoid straying into general or irrelevant information.

For example, suppose you are raising capital to fund a multi-million dollar marketing campaign. You have to think about and decide on the details before you start searching for investments. You need to include, at the very least:

1. Cost of advertising in a specific publication
2. Circulation of newspapers and magazines where ads will be placed (numbers and profiles of readers)
3. Timetable for placing advertisements.
4. Expected sales generated from each publication.
5. Approximate ROV (Return on Investment)

- **Use a Clear Writing Style and Good Presentation**

No one will bother with your plan if it's hard work to read or work through because it's poorly written or badly presented.

***Write your business plan in plain English!***

Make sure you avoid technical jargon, abbreviations and acronyms. Explain any unusual words if you have to use them. Use short sentences, active verbs and a conversational style. Keep your adjectives under control.

Avoid generalizations. Use specific, numeric facts when possible. Use bullets and lists. Cut wordy phrases. Avoid platitudes.

Use your spell-checker and watch out for grammatical and punctuation slips. Get at least two other people to read the document before you send it out.

## ***ATTRACTING EQUITY INVESTORS***

**Chances are you have developed the business plan to reach investors.** As I've explained, the business plan is critical for your success because it gives you a structure to do research and set goals. But, just as important, it is the single most important tool for gaining access to investors.

### **Things to think about....**

People don't invest in small companies to lend a helping hand. They invest to make money. And they expect to make a lot of money. If they expected to make just a 10% or even 15% return on their investment they would invest in largely less risky major public companies.

The reality is that they invest in small companies because they expect to get huge returns on their investments. Often these returns do not materialize. Even if the company is successful in the eyes of the founders it may not meet the expectations of outside investors. You have to make them believe that yours is a rock-solid, pure-gold idea, and that you are worthy of their trust. You have to know what their expectations are; you have to be able to tell them, honestly, that you can meet the challenge.

If you can't offer them that assurance, think twice about the project.

### **Before you talk to an investor, talk you your lawyer.**

A disappointed outside investors will often look for someone--that's YOU - to sue if the business doesn't meet their expectations. This is just one reason you need to consult with a highly experienced business lawyer before you to try to seek equity capital. There are also a lot of laws restricting how equity money can be raised from the public. And you need to be careful to structure any equity deal in your best interest--including all of the fine print.

### **Venture capitalists**

Venture capitalist firms get a lot of attention in the financial press and they look at a lot of deals. But chances are that you are not going to get a nickel from them.

Venture capitalists finance a very small percentage of new businesses. And most firms have fairly specific criteria for what type of situation they are interested in. Venture capitalists are typically looking for a company that has a realistic possibility of becoming a very large business within 5-7 years, large enough for a major public offering or for sale to a Fortune 500 size company. This would allow them to cash out their investment which they hope will have multiplied in value.

Contrary to popular belief many venture capital deals are not for high tech companies, and many are for second or third round financing. Because venture capitalists are approached with many potential deals everyday, you should try very hard to get a personal referral to get your plan carefully considered.

### **Banking on Friends and Relatives**

I know that you hate to ask relatives for money. I think everyone does. But when you need money for a business you just have to swallow your pride.

Approach your relatives very much like you'd approach any other outside investor. Explain not how they can help you out--but how they can make money. Have a written agreement--and have your attorney read it. A written agreement with relatives will not only help avoid legal problems but will also help avoid potentially bitter family relations. Even with your parents, siblings or spouse keep your business relationship formal.

### **Employee investors**

One of the most common sources of equity money is potential employees, especially people you either worked with in the past or you have personally known in the same industry. By offering equity to potential employees you not only get an equity investment but you also get (presumably) a talented and committed employee. Usually employees who have invested in a company are willing to take a significantly below market salary - but, of course, they will expect that you, the principal founder, do likewise.

Raising equity from potential employees has obvious pluses, but it also can raise a bunch of serious issues. What happens if the employee's work proves less than satisfactory? What happens if the employee decides to join or start a competing company? These are all issues that need to be addressed with a good business attorney before you even approach a potential employee-investor.

There's another group of people to include in this list of people who might want to invest: your own consultants. Your attorney, your import advisor, your accountants and your designers will know when you have a great product and a great plan. Some may even approach your first. Keep all of them in mind when you're looking for financial partners.

## **Getting Equity Money**

**More often than not, Venture Capitalists turn down requests.** They often aren't impressed by the management team. Ideally they want to see someone in the group who has already participated in a highly successful start-up. They want to see that people with solid and relevant experience are already committed for the key positions.

They are most likely to reject proposals that are still at the idea stage. The later the development stage the firm is in, the greater the chances for funding.

Venture capitalists aren't satisfied with a business that has only moderate profit potential. They are looking for companies that will not only be profitable but have the possibility of quickly developing into a huge business, returning to investors a large multiple on their initial investment.

If your business plan is not well thought out or well presented, venture capitalists aren't going to have confidence in your ability to run the business."

## **How much equity will I give up?**

This primarily depends on what development stage your firm is at and how much money you are seeking compared to how much capital you have already raised. If your firm is up and running and showing profitable sales, and you are looking for additional capital to finance your expansion, you will probably need to give up only a small portion of equity.

On the other hand, if your firm is only at the idea stage and the outside investors are going to contribute over 90 percent of the funding, then you will probably have to give up at least half, if not more, of the equity.

## **What attracts investors?**

Everyone is hoping to get a better-than-average return. They look for bright ideas. They look for tight planning and realistic goals.

But, more than anything else, they look for people. They want to see that the company asking for money has top talent, scrupulous attention to detail, great reputations, and a proven track record for hard, productive work.

If you're looking for equity money from venture capitalists or other outside investors, you improve your chances of success if you get someone on your team who is either known to the investor or recognized as an outstanding player in that field.

It'd be nice to hire one of these top names as part of your management team. If you can't manage this, you should consider getting one or more people on your Board of Directors who have connections to potential investors.

With or without these "rain-makers", you can include as attachments to your plan any positive media clippings you can find... items from trade publications about members of your management team, or early positive publicity about your product. Even just a glowing hometown newspaper report on the inventor and the product can make a difference.

You need to sell yourself and your team with as much enthusiasm and as much creativity as you plan to use to sell your product.

## Presenting Your Business Plan

Congratulations! You've gotten an appointment with a major investor.

Make sure that the written plan contains the most important information you are going to use. Place data in tables, and use charts to show the key information you want to stress. Make sure everything you present (words, tables, charts, photographs and so on) is easy to understand at a glance. Use plenty of white space, with generous margins. Bind the business plan with a strong and attractive cover. Proofread it one last time, and you're good to go!

## Manufacturing: Finding What You Need, When You Need It, Where You Need It...

Once your business is well-established and you have the funds you need to get into high gear, there's one major problem left to solve.

How are you going to produce the item?

***If this is your first venture, and you're not financially secure enough to take risks and spend time creating your own production and marketing process, I'd strongly urge you to pursue licensing (next chapter) rather than overseeing manufacturing the product yourself.***

But if you are in a position to take charge of production, you still need to think about how you will control

- Quality of the manufactured goods
- Cost per unit so you'll see a reasonable profit margin
- Adequate inventory (make as much as you can sell, but not more)

You'd be surprised at how many small consumer products had their beginnings in home workshops: back-scrubbers being assembled in someone's kitchen, doggie sweaters being hand-knit by neighbors, holiday cookies stored in garages...!

Some products lend themselves well to on-the-spot manufacture and assembly.

A friend of my uncle's, a guy who's made flyfishing his lifelong obsession, makes and sells his well-known patented lures in his two-stall garage. He tells me he makes between twenty and fifty a week, depending on how many orders he has and how much time he feels like spending on them. He's teaching two young fellows in the neighborhood how to make them, and he claims that as soon as they are up to speed he'll retire (no one believes him).

Of course, it's taken him awhile to get his suppliers nailed down. He needs specialty wire that's available from a florist supply wholesaler, pre-fabricated 'bugs' that he's had custom-made in a plastics plant in South America, and feathers that he gets in bulk from a chicken processing plant that make a stop at a cleaning/sorting shed.

Home-based business is an American tradition.

Mrs. Fields, as you probably heard, started out by selling the cookies she baked in her own oven at home. I am certain she doesn't do that anymore!

If you're making potholders, paperweights, cat hats or tie-dyed shoelaces, you might be able to make your first runs of product at home. Plan ahead to what kinds of mass-assembly you'll need when you reach a point that you and your kids can't make an adequate supply of your product, working weekends in the basement.

If business is brisk enough that your home-based manufacturing can't keep up, you need to build, rent or hire a factory.

Especially if the product is heavy or bulky, if it takes complex machinery that isn't available or can't be installed in a garage or workshop, or if the manufacture requires specialized skills an ordinary worker might not have, then you've got to find a manufacturing plant.

In this area, there's always good news and bad news.

U.S. Manufacturing is in a decline. Because of a variety of factors - ranging from dollar exchange rates to government policy (like NAFTA) to growing industrial options in less-developed countries - there are significantly

fewer consumer products being made in the U.S.

There are, in small towns and big cities all across the country, factories of all sizes that are either shut down, at risk of closing, or operating at just a fraction of their potential capacity.

If you want to start production close to home, the local Chamber of Commerce, Manufacturer's Association, even the phone book, can provide you with leads.

If you have something bigger in mind - knowing full well that your ability to work with and visit a plant is more difficult at a distance - there are some fairly straightforward ways to locate the right factory to make your product.

- Locate someone with experience in your industry through Small Business Administration, Retired Executives or Trade Association. Ask him or her for recommendations.
- Check in the reference section of the local library or online for the Thomas Register ([www.thomasregister.com](http://www.thomasregister.com)) or Big Book ([www.bigbook.com](http://www.bigbook.com))
- Read trade publications. Pay close attention to articles about the industry leaders; check ads by manufacturers who might be a good fit.
- Attend trade shows. Make note of manufacturers of products that are similar in size and materials. (Be creative on this one, by the way. Did you know that many artificial Christmas tree limbs are made in factories that were set up to make toilet bowl brushes?)
- Take a notebook with you to stores that might be good outlets for your product. Manufacturer names and addresses are printed on most packages.
- If overseas manufacturing seems to be a good choice, contact embassies and foreign nation trade associations for factories they can vouch for.

#### **When you begin negotiations with a manufacturer, there are some absolute musts:**

1. Get References! Before you even set up a face-to-face meeting, ask for names and contact information of patent-holders and licensees they have current or previous contracts with.
2. If at all possible, have a working prototype with you. It is acceptable to use a different material (e.g. make a model out of clay even if the final product is steel). If it has moveable parts, your model should demonstrate how that motion is achieved.
3. If you can't bring a working model, have diagrams available, with at least six elevations and, if appropriate, an exploded view from several angles, with arrows noting direction and length of motion for non-fixed parts.
4. Get all price quotes in writing in English, using U.S. dollars.
5. Discuss secondary suppliers. If, for example, you need a specific type of plastic or an unusual thickness of aluminum for your product, do they have assurances that these components will be available when needed?
6. Be specific in EVERY contract about the quality of materials using industry standard measures.
7. Get written commitments about schedules for production and shipping. Are there penalties for delays?
8. What is the length of the contract? Under what circumstances can it be cancelled?
9. Establish a timeline for production based on your sales projections. Sweet little stuffed animals that sing love songs are perfect for Valentine's Day. Do a backwards calendar. If you want them in the stores for February 14 they need to be on the shelves no later than January 1, which means the end of major outlet orders have to be completed by July 1. How many will you need in March to distribute at trade shows? How many units per day will be made, and how often will they be shipped?

#### **Protect your rights!**

***At the very beginning, ask them to sign a non-disclosure agreement (see appendix), even if you have a patent. This is, unfortunately, a necessary protection - especially in foreign countries that are not as vigorous in defending inventor rights as more industrialized countries might be.***

It's always helpful to have several people with you at this stage. Your attorney is a good choice. So is the inventor,

if you are representing someone else's design or product. Having someone else to consult with - and to discuss the meeting after its over, and to make sure all the questions were asked and the answers were clear - can make the trip much more valuable.

Of course, you should never, never, never sign the final contract without a careful reading by your attorney. But, on the other hand, your attorney probably doesn't know the details of your product like you do, and cannot address the details of things like quality of materials that should be part of your expertise.

## **And Just a Few Words About Trade Secrets**

Sometimes a secret needs to remain a secret.

Most of the famous ones are recipes, like the formula for Coca-Cola or the "11 herbs and spices" in Kentucky Fried Chicken.

I smile every time I see the ad featuring a man who owns a factory that makes family-recipe baked beans. The only one, beside the owner, who knows the recipe is the family dog. That dog, of course, can talk and write - and is offering to sell the recipe for a hefty sum!

If your product's value - the basis for actual and potential commercial success - is a secret recipe or secret process, you can't very well patent it. The Patent Office, and everyone who looks at their records, would have the information.

If this applies to your product, you can work around it to some degree.

Patent the process, trademark the name, and copyright the description.

Include VERY SPECIFIC non-disclosure language for every manufacturer you contract with, every supplier you have an agreement with, and anyone else who might be able to put two and two together. All it takes is for one person to find out that 400 dollars of nutmeg were delivered to the hot dog plant that produces nine million hot dog a year, and the secret is out!

Off the record, a food industry told me that there are 'secret recipes' that consist of salt, pepper and onion powder - no more, no less. Claiming it as secret adds to the mystique... makes it seem like you've got some exotic or unusual combination that makes you stand above the competition.

In any event, your decision to classify a recipe, material or process as secret can work to your advantage. Although you can't patent it, you can protect it to some extent with the help of an attorney.

Write out the recipe in full. Describe the material in complete detail. Condense the secret process to a brief but identifiable description.

Sign and date the document you have prepared. Have it witnessed by at least two others who have no financial interest in the product. If the recipe or description runs several pages, make sure that every page is signed, dated and witnessed. Have the paper notarized, and ask your attorney to keep it, sealed, in his vault.

The world is full of code-crackers. Somewhere, somehow, there could be a chemist who discovers the ingredient that makes your toothpaste glow in the dark. Accept the fact that this person might successfully apply for a patent, and you'd be up a creek.

Secrets have their place. Just make sure you're certain about when, how, and why you want to keep the details all to yourself.

## **Marketing Basics**

Let's recap your success so far.

*You've got a patent.*

*You have the financing and business structure you need to be successful*

*You have a trustworthy manufacturer who can deliver your product the way you want it: the quality, the cost, and the schedule.*

Now the final step: getting the product from the warehouse to the store, and from there into the hands of

thousands (maybe millions?) of happy customers.

## What is "Marketing"?

Contrary to popular opinion, marketing is not advertising. It's not sales, and it's not merchandising. It's all these things, and much, much more.

***In a nutshell, marketing is all the things that you do to get and keep a customer.*** In the case of your new business venture, "customers" and the stores that will sell your product as well as the people who will buy and use it.

- **It begins with producing what the customer wants**

If you know that people are fed up with a specific product that costs too much, contains too many carbohydrates, doesn't come in the most useful size or takes too long to dry, you've got a ready-made market

- **It includes memorable advertising**

This isn't a guarantee. Everyone fell in love with the sock-puppet dog introduced during the Super Bowl a few years ago. In spite of the dog's best efforts, the company went down the tubes.

But professional public relations consultants tell me, loud and clear, that "branding" is absolutely essential. Your name should have a distinctive look (we all recognize the typeface and visual look of major brands like Coca-Cola, General Electric and Campbell's' Soup; we instantly recognize the Nike 'swoosh' and the logos of virtually all high-quality clothing) and you capitalize on that look each and every time.

Mottos ("the best that you can be") jingles ("two all-beef patties") and spokespeople (including Tony Tiger and Burger King) add to the likelihood that your product will fix itself in the consumer's consciousness.

- **It takes into account (literally) the whole package**

Big businesses spend eye-popping amounts of money on graphic designers, focus groups and fine-tuning. It's rumored that Maurice Kanbar, creator of Skyy Vodka, just about made his whole crew nuts trying to get the perfect colors for his bottle and label. I don't know if anyone could measure exactly how much bigger his final consumer market is because of his unwillingness to compromise. But I firmly believe that his principle was correct: *you can afford to be picky*. In fact, I'd go as far as saying you *can't* afford *not* to be picky!

## It has to address consumer preferences, prejudices and current loyalties

Your gelatin dessert may taste better, be more nutritious, maybe even easier to make than the trademarked, leading brand Jell-O, but you have to have a real earthquake of a pitch in order to drag away all those loyal customers. Some of it psychological (planting the idea that, for example, your gelatin is for people who are sexier, more health-conscious, busier than Jell-O buyers). Or it can be competitive because of lower price, or more targeted packaging (if you're not sure what this means, spend some time in the cereal aisle of the grocery store). Maybe you'll have to lure them away with cents-off coupons or free samples. In any market where there are established products, you know that building a customer base means luring away the other guy's clients.

Think. Coke and Pepsi. Hertz and Avis. Your brand and.... whom?

- **It is built on facts**

It's foolish to think you can skip steps, and rush into manufacturing something when you only have a vague idea of who the target consumer might be.

Never mind the fact that your Mom says that coffee pot you designed is the prettiest one she ever saw.

Never mind that everyone who has tried your spaghetti sauce has asked for the recipe.

Marketing research - the more focused the better - is an invaluable tool to prevent you from making costly mistakes. There are, as you know, several very large chains of stores, like Tuesday Morning and Big Lots, that specialize in 'overstocks'.... Don't take a risk that your dream will wind up on a discounted shelf in a strip-mall store next year.

Everything from the size of the item to the color of the package to the cost of the product should be evaluated as thoroughly as possible. If you can at all afford it, include a market researcher as part of your start-up budget.

- **It has to be an open-minded, flexible plan**

I spoke at a workshop on business development, and just happened to be sitting at the head table with a guy who invented several things that, frankly, I wouldn't own if they were free. He is, however, immensely successful.

We started talking about the keynote speaker's (rather dry) presentation on marketing plans. Out of curiosity, I asked my lunch partner what kind of marketing plan he started with.

What he said didn't surprise me. He made prototypes in his garage, then had a small quantity made at a nearby factory. Then he spent a year on the road, he said, stopping at every Wal-Mart, Kmart, drugstore and souvenir shop he could find.

He got absolutely no orders.

He also took out a tiny ad in a mid-sized newspaper. It cost him about \$200. He sold \$30 worth of products.

He took it to a trade show. He lost another \$800 there, not including his time.

Disgusted and ready to give up, he had a bad night and wound up watching middle-of-the-night TV.

Eureka!

After a few phone calls, he located a home shopping show that would allow him to come on the air and show off his product. He was a mild hit, and sold out most of his stock. He borrowed some money, made some more gadgets, and took the plunge - he got the 3:30 - 4 am slot on a mid-sized TV station. With the help of a student crew, he pulled it off (it was pretty bad, he laughs) and he was one his way to fame and fortune.

Creating an "infomercial" may not be the best bet for you and your business. But if he had only ONE plan - to sell it to the Wal-Mart buyer in Metropolis - he'd have never succeeded.

- **It is based on 'the big picture'**

Suppose you have a product that you think might have worldwide appeal. Selling it only through a select number of independent stores is leaving out a huge chunk of the market.

If you are doing well in stores, don't stop there. Explore the possibility of using the Internet, or publishing a catalogue, as an additional way to reach potential customers.

- **The goal is rapid, widespread distribution**

Don't fool yourself into believing that you can make a comfortable living from the orders you'll get at a trade show.

A network of sales and distribution is a make-or-break part of your plan.

No matter what your product, if it's just a little regional thing with only a few outlets, you can bet that someone else will take your idea, make a couple little changes, and have it in every store. All at breath-taking speed.

Your sales/distribution workforce is the heart that pumps the blood.

As soon as you can - even if you have to borrow money to do it - hire well-established account execs who can spread out and promote your product as widely as possible. Make sure the salary and commission structure motivates them to do well, and *always* make yourself available to them when they call.

- **Finally, Marketing is, most of all, about building relationships**

No matter how wonderful your product is, if you or your sales staff don't have the people skills to connect solidly with other people, you will never reach your potential success.

**If you have any knowledge or experience in marketing, you know that there is both an art and a science of making a sale.**

There are, fortunately, a number of excellent textbooks on salesmanship, and if you're new to the game (or even an old pro who'd like to brush up his skills) here are a dozen of them that I highly recommend:

1. Keep It Simple, Stupid: Secrets of Face-To-Face Selling by William J. Montgomery

2. Short Cycle Selling: Beating Your Competitors in the Sales Race by Jim Kasper
3. Stop Telling. Start Selling: How to Use Customer-Focused Dialogue to Close Sales by Linda Richardson
4. The Sales Bible: The Ultimate Sales Resource by Jeffrey Gitomer
5. Winning Every Time: Secrets to Sales Success by Marvin C. Himel
6. The Little Red Book of Selling: 12.5 Principles of Sales Greatness by Jeffrey Gitomer
7. Salesmanship In A Nutshell by E. G. Oliver
8. Secrets of Question Based Selling: How the Most Powerful Tool in Business Can Double Your Sales Results by Thomas A. Freese
9. High Performance Selling: Advice, Tactics, and Tools: The Complete Guide to Sales Success by Terry Beck
10. Sales Management: Concepts and Cases by Ralph L. Day, et al
11. The Tipping Point: How Little Things Can Make a Big Difference by Malcolm Gladwell
12. The 25 Sales Habits of Highly Successful Salespeople by Stephan Schiffman

To the best of my knowledge, all of these books are still in print or still available through bookstores or online sellers, including Amazon.com. You will probably find most of them in your local community or college library as well.

## **Licensing and Royalties: The Fast, Investment-Free, Worry-Free (almost!) Choice**

I have been assuming that this book will appeal primarily to risk-takers who have at least some experience in creating and managing businesses.

For some of you, you're just looking for some suggestions about how to identify marketable inventions, and maybe get some new ideas about manufacturing and marketing. I admire entrepreneurs like that. It takes a special kind of courage to keep re-inventing your business.

Maybe you want to Do It Yourself because it's a small, inexpensive thing that just about sells itself as an advertising premium. Or maybe your product has a very narrow, specific end-market, like an innovate surgical tool or a material that resists cracking at temperatures below -50F. You may well be better off managing the whole project yourself.

So, to you risk-takers out there - I hope the book has helped.

However, for others, it may be that you (or someone you know) have a whiz-bang of an idea, and you really just want to take the money and run....

**If you don't have the time, patience, interest or resources to do build a business around an idea, you will do well to license your product and move on.**

You are, after all, surrounded by products that have come to you by way of a licensing agreement.

Disney does not make all those Mickey Mouse items. But the Disney Corporation gets a small bit of every (legal and legitimate) Mickey Mouse shirt, Donald Duck whistle and Goofy hat sold.

Manufacturers pay - and often pay quite well - for the "license" to sell things that are patented and trademarked by others.

*Sometimes it's because the logo, design or mechanism is so unique that they don't have much choice.*

*But sometimes it's because the market is so broad, and the opportunities to come up with really innovative ideas are so widespread, that the manufacturers don't need to dream up most of the things they sell and distribute.*

Take board games, for example.

There are a half-dozen manufacturers, like Parker Brothers and Milton Bradley, who dominate the market. Their games rule the airwaves and shelves at Christmastime; they're the ones who have the means to produce and ship a thousand items at a moments notice.

If you develop a board game, and your market research tells you that it'll succeed, why would you want to sell the rights to it right off the bat?

1. Manufacturing and distributing is the ultimate Murphy's Law game. It never, ever goes as smoothly as you planned.
2. Seeing a profit from even the most innovative invention can take a long, long time. Even Thomas Edison, for as creative as he was, wasn't a wealthy man when he died.
3. Every product is a risk. Selling the rights to manufacturer reduces the risk to almost zero.
4. In a cutthroat market, it takes a big business with plenty of legal consultants to identify and stop product rip-offs and patent violations. Good luck doing it on your own....
5. If you are a natural-born dreamer, licensing and royalties can provide you with a comfortable living so you can pay your bills while you dream away.

But, on the other hand

1. If you find the business of doing business an essential part of life, you may be happier following through on your own whether it makes economic sense or not.
2. When you own the manufacturing process and the distribution network, the product won't die of neglect unless you choose to let it happen.
3. The profits take longer to come in, but they will likely be much greater if you hold on to ownership and production.
4. You likely will have more faith in your creation than an outside manufacturer will. You might be willing to put in the extra effort than someone else wouldn't.
5. You will have no idea, until perhaps years later, whether you got the best deal possible. Manufacturers and distributors are in it for a handsome profit, so they'll be guessing low. You have to be fairly secure to accept an offer and not look back.

## **How and Where to Negotiate Royalties and Licenses**

At the risk of sounding like an idiot.... the easiest way to get a company interested in your product is to have an established relationship with that producer. If you've already sold a board game to Milton Bradley or sold the patent for a first-aid product to Johnson and Johnson, they might be thrilled to death to meet with you and talk about your latest creation.

Getting in the door the first time is no picnic.

Like getting money from venture capitalists by writing a first-class business plan, your best tool is a well-thought out, well-researched analysis of your product and potential licensees.

If you were the boss, which letter would you respond to?

Of course, most of the time the company president is NOT the place to start. Most large companies have product development departments, marketing executives, or Vice Presidents in charge of new stuff.

You should choose a manufacturer to approach with every bit as much care as you'd use in checking out the daughter's new boyfriend.

- Are you better off with a large company (with a huge advertising budget and a phenomenal distribution system) or a small company that can give you personal attention and perhaps be more eager than the big guy?
- How much do you know about their integrity and business practices? (Check it out, at the very least, by

Googling the company name and reading recent news reports concerning their activities.)

- How good a fit is it, in terms of everything from what their products are made of (don't try selling stainless steel containers to a place that only makes plasticware) to where their products are sold (if your customers will be looking for it at the drug store, don't have it manufactured by a company that sells all its stuff at Lowe's or Macy's). Saves you time and disappointment, and saves them effort.

Get out the *Thomas Directory*, get into the Yellow Pages online, or grab the phone book. Start with the manufacturer you think is the best shot for buying rights to make your product. Ask for the first and last name (would you spell that, please?) and complete address for the person in charge of licensing new designs.

Enlist the help of anyone who might help prop the door open for you. Business directories list who's on their boards. Search for anyone that might be open to a call from you: did you go to the same college? Are you members of the board of the same environmental activist group? Were you born in the same city? Call your more influential friends. Do they know anyone in management in an appropriate corporation?

You may have to make a dozen or more cold calls before you get just one person to invite you to do a presentation. But once you have a chance to make your pitch, you've got to be prepared.

### **Get ready for your meeting like you've never gotten ready before....!**

What you need:

- Appropriate Business Clothing! (It doesn't need to be a nine-hundred dollar suit, but it should fit well and be scrupulously clean). My Aunt Rita used to say they give jobs to only to people who dress like they don't need the job.
- **Complete** information about your product, including
  - A high-quality prototype, or better still, a working model
  - Drawings, diagrams
  - Market surveys
  - Analysis of competing products, if any
  - Estimated manufacturing costs, based on
  - Complete information about preferred materials
- Copies of correspondence from the Patent Office
- A WRITTEN PROPOSAL (an abbreviated version of the Business Plan we've discussed early, that consists of:
  - A Title page that includes your product name, your name, your full contact information and the date of your presentation
  - A one-paragraph summary of the product, with an emphasis on why it is unique
  - Patent/trademark/copyright information
  - A precise, knowledgeable, well-researched explanation of why you think XYZ Company is the best licensee for the product
  - A well-researched Marketing Plan that demonstrates your knowledge of the potential consumer base, the makers of similar products, and potential tie-ins with the products your target manufacturer already distributes
- Letters of support and/or correspondence from professionals who endorse your idea, and from your key investors if you have some.

You might be turned down. Leave graciously and make sure the door is open to you for the next product.

You might get an offer for an "option agreement", where you get money upfront that will buy them time to think about it. If a deal is struck, that up-front money is applied to royalties. If they decide to pass, you keep the money as payment for your patience.

***And you might get a smile and a handshake. You just made a deal!***

**And, Eventually....** after a long, thrilling, painful, exciting, discouraging, wild ride of a business journey, YOU'VE ARRIVED!

You have an offer that sounds good. Should you take the first proposal, or hold out?

Well, it IS called "negotiating". There are strategic requests to be investigated before you sew up the deal.

1. Determine if the deal is exclusive (only one manufacturer will ever sell the product) or non-exclusive (you can license it to other places as well).
2. Who owns the molds, and what happens to them if the contract ends?
3. What are the SPECIFIC terms of advances, royalties and guarantees? Are they set in concrete?
4. Are you covered under the licensee's indemnification insurance?
5. What are the Foreign Rights?
6. Do you have a right to audit, that is, can you see for yourself that you're getting the royalties for every item they make and sell?
7. What circumstances nullify the agreement? How would extraordinary circumstances, like your death, or the company's bankruptcy affect the contract?

The list, literally, could go on and on!

Almost every company has a fill-in-the-blank contract they'll offer you. That actually is to your advantage, rather than paying your attorney (and second-guessing the final offer) to draw up your own.

The most effective way to protect your rights is to ask the company to draw up a contract, and then have it read in fine detail by your own attorney.

This is it. The day you've been waiting for and working for, ever since you had that little glimmer of an idea.

**Congratulations! Didn't I tell you you could do it?**

## **SAMPLE Basic Non-disclosure Agreement**

**YOUR NAME agrees to consult with OTHER PERSON'S NAME regarding SPECIFIC NAME OF PRODUCT**

**OTHER PERSON AGREES TO HOLD IN COMPLETE CONFIDENCE all discussions, trade secrets, recipes, client lists, purveyors and the like which may be learned during the relationship with YOUR NAME.**

By signing this agreement, each signator affirms that they have the authority to make such agreements on behalf of their companies, contactors, agents, assignees and designees of the contents of the agreement.

Signature: \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

# ***Business Plan***

***SiTNPretty, Inc.™***



***BUSINESS PLAN: SiTNPretty, Inc.™***

## **1. SUMMARY**

### **BUSINESS CONCEPT**

The children's "heirloom-quality" furniture industry has expanded by 24% in the past six years and growth is expected to continue at a strong pace for the foreseeable future. This trend offers excellent opportunities for new companies to enter this market. We intend to address the needs of customers in this market who seek higher quality, higher priced child-sized furniture by importing, selling and distributing child furniture in the US and Canada. We will provide highest quality products, with a special emphasis on marketing through higher end independent retailers.

### **CURRENT SITUATION**

We are a new business, incorporated in 2005 in the State of Florida. We hold seven design patents (1654SM8422 , 1654SM8429, 1654SM8434, 1654SM8443, 1654SM8452, 1654SM8453, 1654SM8481) regarding unique designs of children's furniture, and two utility patents (336JZ85591 and 342JZ45022) for processes improving the aligning and fitting of unassembled furniture seats and drawers.

The principal owner is Tom Mitchell, whose title is President and who has many years of experience in both the furniture industry and child-oriented consumer products. Other key personnel include Bill Mitchell, his brother, who has experience in customer service, bookkeeping and office management, and Lola Mitchell, his sister, who has owned her own advertising firm since 1989.

We are seeking additional equity capital to compliment our own equity investment and seeking to arrange a bank line for inventory and receivables financing. We have firm commitments to distribute several highly sought after overseas manufacturers and have verbal commitments from independent retailers primarily along the West Coast to stock our products. We hope to ship our first products within six months of finalizing financing arrangements.

## **KEY SUCCESS FACTORS**

The success of our business will be largely a result of superior products, superior service, extra attention to detail throughout our operation, personnel and our high level of experience in the industry. We focus on customers who see child furnishings as an appropriate investment in comfort and family lifestyle.

This venture will be set apart from the competition in that we are going to sell only high end, uniquely designed, durable child furniture, and will sell to only to higher end outlets. This will allow us to give absolutely top service. The limited product selection will assure the highest quality as well as decreasing the demands from a more "mass market" approach.

## **FINANCIAL SITUATIONS AND NEEDS**

In order to effectively launch the business, we project a total need for \$200,000 in equity financing. Principal uses of the funds will be to finance operations until cash flow becomes positive and to create a stronger balance sheet in order to help secure additional bank lending to finance inventory and receivables. To date we have raised \$112,000 from founders, Tom, Bill and Lola Mitchell, and two partners who are not actively involved with day-to-day management. We project that the company will be profitable within eighteen months, and that within three years new investment could be cashed out.

## **2. VISION**

### **VISION STATEMENT**

Our vision of what our company will become is focused on relationships with key retailers, working closely with each one we serve with

- a product assortment appropriate for their customer base
- appropriate stocking levels
- assurance of high quality and on-time delivery
- assistance in pricing and display assortments
- soliciting their input into refinement of product and development of new product.

We will constantly seek out and work with the manufacturers we represent to deliver the most innovative and exciting products possible to the retailers we serve.

## **3. MARKET ANALYSIS**

### **THE OVERALL MARKET**

Sales of child furniture reached \$21.9 million dollars in the United States, and \$16.9 million dollars in Europe, in 2004. Eight percent of items, overall, was marketed as "heirloom-quality" product.

### **CHANGES IN THE MARKET**

While the overall market for child-sized and child-themed furniture has increased 8% in the past three years, there

has been a 17% increase in child furnishings that are in the highest 20% in cost. Parents and others have created a strong market for furniture that is not only durable and child-safe, but also a higher-quality and more esthetical appeal than in the past.

## **MARKET FORECASTS**

Independent specialty retailers, both furniture stores and "for kids" stores, report difficulty in maintaining a stock of high-quality furnishing that consumers are now demanding. There is now a four to six month wait for one popular line of child-sized rocking chairs, and even longer waits for some models of toddler beds. Competitive merchandise found in stores that sell a wide assortment of other items are unlikely to stock quality child furnishings. The cost of manufacture and the profit margin of heirloom-quality furniture make them impractical as mass-market goods.

## **TARGET MARKET AND CUSTOMERS**

Our target market focus is independent and small chain merchants that are committed to selling higher end furnishings and children's products. These accounts offer the best growth potential and will benefit the most by the help we can bring to them in selecting and displaying our higher end merchandise.

They also have the customer base in place that includes parents who are seeking best-quality furnishing for their home, including child furnishings.

## **CUSTOMER NEEDS**

The basic need of target retail customers is to differentiate their store from mass-market stores and give customers a reason for shopping their store and paying significant premiums for their products instead of getting a low-end product at a discount department store. These stores value an opportunity to offer products not sold at mass-market accounts. They also appreciate dealing with an importer who is committed to specialty stores exclusively, not mass-market accounts.

## **CUSTOMER BUYING DECISIONS**

The buying decision is almost always made at an in-person sales presentation. The personal touch appears to be essential for moving buyers to action for this product because these high end retailers are very demanding about the product quality being stocked in their stores. They insist upon seeing finished products, not just mock-ups or catalog pages. Some purchases are made at trade shows, but only a small percentage.

Our company has researched options for advertising and commercial public relations; our research indicates that buyers are persuaded by the message of beauty, durability, and heirloom potential of better quality child furnishings.

# **4. COMPETITIVE ANALYSIS**

## **INDUSTRY OVERVIEW**

Across the US and Canada there are many firms that distribute child furnishings, but higher-quality, handcrafted items are only small part of their overall distribution business. Most items have been developed for the consumer who is seeking an inexpensive item that can be disposed of when the child is grown - products commonly found in discount and department stores and in mass merchandising catalogues

There are several distribution firms that offer the "heirloom quality" of furniture we will be supplying, but few of their pieces are specific to the size, tastes and needs of the child.

## **CHANGES IN THE INDUSTRY**

The big change in the industry over the last few years has been the growing market for higher end child furniture in upscale specialty accounts.

Manufacturer and distributors have tended to focus most of their efforts on selling lower end products to mass-

market accounts. Although the overall potential for revenue is much greater in this type of outlet, it overlooks the significant demand for child furniture of the same quality and style of other furniture in a home.

## **OPPORTUNITIES**

While the competition is well established in, and gives a lot of focus to, current major markets for this product, they are much less aggressively pursuing the higher end, higher-quality market. This market offers outstanding potential because of the trend for significant growth, yet the competition is not strong.

Our patented designs, based on traditional styles (Chippendale, Louis XIV and Empire) are innovative departures from items currently available. Most child furniture available is inexpensive, high-impact, brightly-colored plastic; higher-end styles are almost universally American Country, French Provincial and Rustic.

Furthermore, this market differs from the other markets in the many important ways. While the high-end market may not be the largest, it appears a very solid opportunity for a newer competitor.

## **THREATS AND RISKS**

Because we are a small firm, we do not anticipate a meaningful or prompt reaction to our market entrance from our larger and more established competitors. We think a strong reaction from existing distribution firms is unlikely because the primary competitors derive only a very small percentage of their business from furnishings crafted for children's use, since their primary operation is manufacture and distribution of adult furnishings and their child furniture lines lack the "period" styling of our offerings.

We have developed contingency plans for dealing with the possibility of new competition in this opening market, including the pursuit of other design patents for at least four other traditional furniture styles. We intend as much as possible to focus on products that our current competitors are not providing.

## **5. STRATEGY**

### **KEY COMPETITIVE CAPABILITIES**

We are better positioned than our main competitors to take advantage of the increasing demands of upscale independent specialty stores to sharply differentiate their selection from those of mass merchants. Because we are going to focus exclusively on manufacturing and importing higher end child furniture to independent specialty stores we will be much better able to serve consumer needs.

Tom Mitchell's extensive experience in the furniture import business and his solid knowledge of the potential markets, and especially his personal contacts at independent retailers and high-end franchise stores, give us a strong competitive advantage.

Bill Mitchell's background in running offices and handling customer service issues will give us a strong service advantage.

Lola Mitchell's long experience in advertising and marketing gives us access to her knowledge of advertising vehicles, campaign timing, and regional market strategies.

### **KEY COMPETITIVE DISADVANTAGE AND RESPONSES**

As a new business competing against established firms, we will need to increase visibility with high-end retailers and their potential customers. We believe that our superior products, available exclusively in upscale stores, will build a positive brand identity and overcome consumer tendencies to buy lower-quality merchandise for children even while preferring better quality for other furnishings overall.

Additionally, we plan on hiring experienced commission reps with ties to both furniture and 'kids only' outlets. We have already had preliminary discussions with several highly successful reps who have shown interest in working with us.

Our most obvious weakness is that we need significant additional funding to move forward. After the targeted funding is in place we are optimistic that strong sales will provide ample financing for the foreseeable future.

## **STRATEGY**

We will be focusing all of our effort and energy on quickly developing and maintaining strong relationships with retailers as we target regional advertising to their areas. We know that most of the firms serving this niche now also serve much larger markets and give only secondary attention to the upscale. With our total focus to these outlets, our reps can stay in personal touch with customers in this niche, can report to us whatever refinements or expansions this product line might benefit from, and provide quality assurance and placement support as appropriate.

We will offer highly personalized service in the marketplace, going out of our way to make sure that our customers know that they are key partners in our company. Sales reps and in-house employees who deal with customers will be carefully trained and will be given wide latitude for insuring that customers are always satisfied.

## **6. PRODUCTS AND SERVICES**

### **PRODUCT/SERVICE DESCRIPTION**

Our commitment is to designing and selecting products that will increase quality, beauty, durability and appeal of child-oriented furnishings. We give special attention to ease of assembly and overall attractiveness.

We are manufacturing and representing only top-of-the-line merchandise. A complete draft copy of our first catalog detailing our initial product lines and products is available upon request.

An important component of our business is not just our products but also our service to retailers and their customers. This includes

- Written warranties on all products
- Full returnability in case of any defect
- Stocking of all major products offered in regional warehouses
- Detailed advice on inventory planning and sales forecasting for individual stores
- Custom designing and building displays to suit the needs of our customers
- Coordination of advertising with manufacturers and with merchants

### **POSITIONING OF PRODUCTS/SERVICES**

We will work with stores through merchandise selection and display options to significantly increase the sales and profitability of their business. In general furniture stores, we will help them develop an attractive "child center" in which they can display quality merchandize for children. In "for kids" stores, we will assist with design and construction of separate areas in which our quality furniture line can be displayed. By doing this we expect to develop a strong loyalty among our customers.

## **7. SALES AND MARKETING**

### **MARKETING STRATEGY**

Our basic marketing strategy is to work with our retailers on a one-to-one basis to develop unique marketing programs for them. We want to develop close working relationships with our customers, and we want to establish accounts in a personable way through emphasizing in-person sales calls to build accounts.

We will closely integrate all of our marketing and sales efforts to project a consistent image of our company and a consistent positioning of our products or services. We will build this image around our name "SittinPretty", and will emphasize that durability and attractiveness in children's furniture are not mutually exclusive.

We will attend some trade shows and produce a color catalog to promote our marketing initiatives, but will rely

mostly on our independent sales representatives.

## **SALES TACTICS**

Our primary sales method is face-to-face selling by independent reps. A particularly important aspect of our sales process is that we will fly all of our independent reps to our Florida office to extensively train them in how product line, in building displays, and in building a satisfied customer base.

We will insist that our independent reps represent only non-competing, non-furniture lines. We will stay in close phone contact with our reps, with quarterly sales meetings and regional conferences. Their commissions will be calculated on a ledger basis, and they will earn commission on all sales in their exclusive territories even if the account phoned the order in directly to our main office.

## **ADVERTISING**

We will have a healthy advertising budget because we see a need to attract business on two levels. We will be advertising in trade publications designed to reach buyers and owners of upscale independent stores. The objective of our trade advertising will be to introduce our product line and to remind them in the strong marketing trend toward higher quality and heirloom quality furnishings for children. All ads will be full-color 1/4 and 1/8 page size prominently featuring our logo and photographs of children and their families using our featured furniture.

We will also work with our retailers to obtain co-op advertising funds for their own local advertising. We will work closely with their own ad agencies to develop plans for special merchandise, short-term pricing changes, and effective advertising layouts and copy that our retailers could use.

## **PUBLICITY**

We will send news releases to trade magazine to try to get product or company feature coverage in front of the eyes of retailers. We will produce generic press releases about changing trends in child furnishings that our retailers can use to try to obtain publicity coverage for their stores in local publications. We will initiate an online newsletter for retailers in which we will highlight our products, but also will include display ideas and success stories of stores who increased their sales.

## **TRADE SHOW PARTICIPATION**

We will have displays at six national conventions each year. Two of them will get the most emphasis: the Home Furnishings Show in Orlando each February, and the Decorator and Builder Fantasia in Las Vegas in November.

Other shows where we will have a smaller but still prominent presence is the American Alliance of Furniture importers show in Pittsburgh in August, the Home Show of Denver in March, and the For Home/In Home Expo in Atlanta in May. We will emphasize not just our products but also the custom-built displays that we are producing for retailers.

We will also provide limited funds for display space for our independent reps at regional trade shows that they attend.

# **8. OPERATIONS**

## **KEY PERSONNEL**

The Company will be managed by the three founding partners whose individual areas of expertise meet most of the business needs. Tom Mitchell will serve as the President of the Company, and will be responsible for Product Selection and Manufacturing Relations. Bill Mitchell will be the Vice President, in charge of Administration; he is responsible for customer service, accounting, shipping and the general administration of the business.

Lola Mitchell will be Vice President of Sales and Marketing, and will provide expertise in Promotions, Marketing and Consumer Development.

Tom Mitchell was, for many years, the chief buyer for Hoity Furniture, a chain of sixteen upscale franchise operations. He also served for nine years on the Consumer Product Safety Council's Subcommittee on Juvenile

Furniture Safety, and is a partner, with his wife Gracie, in the successful WeLuvBabies boutiques in South Florida and in Portland, Oregon.

## **ORGANIZATIONAL STRUCTURE**

The three founders are co-equal partners who can make all decision by a simple majority. The independent commissioned reps will report to Tom Mitchell, support staff at the office and warehouse will report to Bill. Lola will work, to some extent, independent of her brothers, but will consult them with all commercial decisions.

All three are expected to go on buying trips to manufacturing plants (mostly in Asia and South America) but be in frequent contact by computer or phone.

## **PRODUCT/SERVICE DELIVERY**

In order to deliver high quality, personalized service we will carefully select all employees. This is especially true of sales reps and customer service representatives who deal directly with customers. We are reviewing references from both past employers and from retailers whom these sales reps have served.

Each new employee will be provided with an orientation that instructs them on our vision and our way of delivering quality service to each customer. We will offer immediate support by phone from our office, but also give employees enough latitude so that they can respond immediately to almost all customer requests or complaints, including granting prompt credit for damaged merchandise or offering discounts on delayed goods.

## **CUSTOMER SERVICE/SUPPORT**

We believe that providing our customers with what they want, when and how they want it, is the key to repeat business. We train our employees to deliver excellent service, and we give them the flexibility to respond creatively to client requests. In addition, we will continually monitor our clients' level of satisfaction with our service through Likert surveys and other convenient feedback opportunities.

We will begin with two customer service representatives in the office, available by phone and online to answer questions about our products and services. As our business grows we intend to hire additional customer service people one at a time and pay a premium over market labor rates to attract and retain quality help.

Shipping choices can be problematic, since our products are fairly large and irregularly sized. We have investigated the cost of using airfreight for shipments of most products, and freight ships for larger pieces. We have consulted with Eustice and Lowe Import Specialists, and have asked them to make recommendations based on costs, time delays, and efficient use of inventories in our warehouses.

The relatively high cost of rapid shipping may put us at a small competitive disadvantage, but larger quantities, and customer satisfaction and short on-order times, seem to balance this issue out well.

## **FACILITIES**

We own three warehouse facilities, with a combined area of 122,000 square feet of space. Our Texas facility (78,000) is in full use, with a tenant (who occupies 40%) on lease that expires in July 2007. We have a building close to the metropolitan Orlando Airport that has 29,000 square feet of space (24,400 square feet warehouse and 4,600 square foot office space.) and a 15,000 square foot facility near San Diego.

These buildings are located in industrial areas, although our office space in Orlando is a mixed-use district that is a comfortable setting for receiving visitors and potential customers and suppliers. We do not see a need, currently, for a space that can serve as a showroom at this time, although the floor plan of the Orlando facility allows it to be rebuilt to serve that purpose if we believe it improves our business to do so.