

- If there are multiple inventors, each inventor must be named in the application.
- All inventor(s) named in the provisional application must have made a contribution either jointly or individually to the invention as disclosed in the application.
- The non-provisional application must have one inventor in common with the inventor(s) named in the provisional application to claim benefit of the provisional application filing date.
- A provisional application must be entitled to a filing date and include the basic filing fee in order for a non-provisional application to claim benefit of that provisional application.
- There is a surcharge for filing the basic filing fee or the cover sheet on a date later than filing the provisional application.
- Amendments are not permitted in provisional applications after filing, other than those to make the provisional application comply with applicable regulations.
- No information disclosure statement may be filed in a provisional application.

Features

- Provides simplified filing with a lower initial investment with 12 months to assess the invention's commercial potential before committing to the higher cost of filing and prosecuting a non-provisional application for patent;
- Establishes an official United States patent application filing date for the invention;
- Permits 12 month 's authorization to use "Patent Pending" notice in connection with the description of the invention;
- Begins the Paris Convention priority year;
- Enables immediate commercial promotion of the invention with greater security against having the invention stolen;
- Preserves application in confidence without publication in accordance with [35 U.S.C. 122\(b\)](#), effective November 29, 2000;
- Permits applicant(s) to obtain USPTO certified copies;
- Allows for the filing of multiple provisional applications for patent and for consolidating them in a single [§111\(a\)](#) non-provisional application for patent; and
- Provides for submission of additional inventor names by petition if omission occurred without deceptive intent (deletions are also possible by petition).

WARNINGS

A provisional application automatically becomes abandoned when its pendency expires 12 months after the provisional application filing date by operation of law. Applicants must file a non-provisional application claiming benefit of the earlier provisional application filing date in the USPTO before the provisional application pendency period expires in order to preserve any benefit from the provisional-application filing.

Beware that an applicant whose invention is "in use" or "on sale" (see [35 U.S.C. §102\(b\)](#)) in the United States during the 12 month provisional-application pendency period may lose more than the benefit of the provisional application filing date if the 12 month provisional-application pendency period expires before a corresponding non-provisional application is filed. Such an applicant may also lose the right to ever patent the invention (see [35 U.S.C. §102\(b\)](#)).

Effective November 29, 2000, a claim under [35 U.S.C. 119\(e\)](#) for the benefit of a prior provisional application must be filed during the pendency of the non-provisional application, and within four months of the non-provisional application filing date or within sixteen months of the provisional application filing date (whichever is later). See [37 CFR 1.78](#) as amended effective November 29, 2000.

Independent inventors should fully understand that a provisional application will not mature into a granted patent without further submissions by the inventor. Some invention promotion firms misuse the provisional application process leaving the inventor with no patent. [Back to Top](#)

Contacts

Direct questions regarding regulations or procedures to the Office of the Deputy Commissioner for Patent Examination Policy.

Telephone: 571-272-8800
Fax: 571-273-0125

Direct questions regarding legislative changes to the Office of Congressional Relations and the Office of International Relations.

Telephone: 571-272-9300
Fax: 571-273-0085

The [Inventors Assistance Center](#) (IAC) provides patent information and services to the public.