
An Aid to Understanding Patents and Patent Procedures of the U.S. Department of the Interior



***Prepared by the
Office of the Solicitor
U.S. Department of the Interior
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FOREWORD

It is the purpose of this booklet to provide a clear understanding of the importance of patents in the Department of the Interior's activities and research programs, to foster an awareness of the Department's interest in inventive ideas, and to outline some of the common problems encountered with patents.

This booklet is intended to be used by the employees of the Department of the Interior as a guide or reference work. While the information which it contains may be of interest to others, it is primarily directed to the many engineers and scientists employed throughout the Department.

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I. GENERAL INFORMATION

A. Terminology

The terms invention disclosure, patent application, and patent are sometimes used incorrectly as if they were the same. An invention disclosure is simply an in-house document (DI form 1215) filled in by the inventor(s) describing the invention. It is filed with the office of the Solicitor and is assigned (by the Solicitor) a four digit number (e.g., MIN-3250) and creates no legal rights. A patent application is a document filed in the Patent and Trademark Office (PTO) by the Office of the Solicitor. It is assigned by the PTO a six digit serial number and filing date (e.g., S.N. 700, 701 filed June 29, 1976). It does create legal presumptions and rights (e.g. you can use "patent pending"). A patent is the grant which may or may not be issued by the PTO based on the patent application.

B. The Patent System

1) **Definition of a Patent** – According to the U.S. Patent Law, a patent is a grant to a patentee, his heirs or assigns, of "the right to exclude others from making, using, or selling the invention throughout the United States." —35 U.S.C. 154. One should note that a patent is not the right to make the invention, since such a right may be restricted by prior patent grants. If the patent application was filed before June 8, 1995, the term of a patent is seventeen years or twenty years from the filing date which ever is longer. If the patent application was filed after June 8, 1995, the term of a patent is twenty years from its original filing date.

2) **Authority to Issue Patents** — Article 1, Section 8, of the Constitution of the United States is the foundation of the current patent laws of the United States, and under it Congress has been given the power to:

"Promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries."

As used in this passage, the term "discoveries" has been construed to mean inventions.

Acting under the authority of this Constitutional grant of power, Congress has passed a considerable number of laws relating to patents. Laws relating to patents have been revised and recodified under the designation, "United States Code Title 35 – Patents" (hereinafter referred to as "35 U.S.C.").

3) **Types of Subject Matter that may be Patented** – Not all new developments are patentable. 35 U.S.C. 101 is the statute that specifies the classes of invention that may be patented, and states:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor..."

As these terms are not always used in their usual sense, a brief description of each may be of help:

(a) **Process** – A process is a series of steps or acts directed to the obtaining of a desired result. It may be a method for bringing about a useful chemical or physical result, e.g., a chemical process. This may be a method of making a product or a method of using a product.

(b) **Machine or Apparatus** – A machine has been defined as a combination of moving, mechanical parts adapted to receive motion and to apply it in the production of some mechanical result or results. It may also be viewed as a mechanical-electrical or electromechanical device for producing predetermined physical efforts by its own operations.

- (c) **Composition of Matter** – This is the product formed by the intermixture of two or more ingredients, which mixture has properties differing from those of the individual ingredients. It includes chemical compounds and mixtures where the identity of the various components is substantially lost. Microorganisms are also patentable.
- (d) **Articles of Manufacture** – This includes individual articles which do not operate of themselves, such as a machine e.g., a chair, ring, or table. Thus, the various elements of a machine considered separately, and all kinds of tools are considered articles of manufacture.
- (e) **Designs and Plants** – Under the provisions of 35 U.S.C. 161 and 171, it is also possible for a person who (1) "invents or discovers and asexually reproduces any distinct and new variety of plant ... , other than a tuber propagated plant" or who (2) "invents any new original and ornamental design for an article of manufacture," to obtain a patent therefore. A design would cover the ornamental appearance of an article such as a lady's compact.

Anything which does not fall within the above categories may not be patented. Some of the more common discoveries which may not be afforded patent protection include:

- i. Law of nature, e.g., Gravity, Osmosis
- ii. Scientific Theory, e.g., $E=MC^2$
- iii. Arrangement of Print Matter by Itself, e.g., a computer program by itself; but a computer program that carries out a new process along with a computer is patentable.

4) Copyrights and Trademarks and Trade Secrets – These areas are separate and distinct from the protection provided under the patent laws.

- (a) **Copyrights** – The copyright protects the writings of an author against copying by another and is extremely important to private publishers. However, pursuant to the Copyright Act, 17 U.S.C. 105 provides that "Copyright protection is not available ... for any work of the United States Government."
- (b) **Trademarks** – These relate to any word, name, symbol, or device used in trade with goods or a service to indicate the source or origin of the goods or service and to distinguish them from those of others. Thus a trademark is a name or symbol used to identify a product or service with the maker, supplier, or organization. The Department of the Interior currently has several registered service marks. Such marks serve to protect the use of Government symbols.
- (c) **Trade Secrets** – A trade secret can be coupled with a right to exclude others from making, using, or selling a process or method of manufacture so long as it is not openly disclosed. Unlike patents, copyrights, and trademarks, which are creatures of the statutory law, trade secrets are protected by the common law or court created law and their protection exists only as long as the secret is not openly disclosed by the owner.

5) **Essential Requirements of a Patentable Invention** – An inventor must comply with all the formalities set forth in the patent statutes and with the rules established by the Commissioner of Patents in order to obtain a patent. For an invention to be patented it is necessary that:

it relates to one of the classes of invention specified in the patent law;

it is novel;

it is unobvious;

it is useful; and

it has not been abandoned to the public by the inventor.

A brief mention of each of these requirements is in order. However, three of these areas deserve special attention.

(a) **Invention must be Novel (or new)** – You must be the first inventor anywhere in the world. Note that this is not the same thing as being the first person to file a patent application. Thus the invention must be new or novel. 35 U.S.C. 101.

(b) **Invention must be Unobvious** – The invention must not be obvious to a person of ordinary skill in the art to which the invention relates (35 U.S.C. 103). Usually it is considered obvious for one to (i) change the size, shape or color of an article; (ii) to substitute one material for another; (iii) to change the form or arrangement of parts; and (iv) to combine known materials yielding an expected result. TEST: Ask a person who is familiar with the art in which you are working, after you have explained your invention in detail whether:

He or she would have expected the results you achieved and whether they would have done it the same way. If the answer is no to both questions, submit an invention disclosure, Form DI-1215, to the Office of the Solicitor.

(c) **Invention must be Useful** – 35 U.S.C. 101 provides that every invention must possess some utility. The question of utility usually is found in chemical related inventions. If questioned, proof of the compound accomplishing its stated utility is necessary.

6) **Statutory Provisions Barring Issuance of a Patent** – Under certain specified circumstances as more fully set out in 35 U.S.C. 102, an inventor may be precluded from obtaining a patent on his or her invention. The general rule is that any of the following, done more than one year (i.e., 366 days) before the filing of a patent application, is a statutory bar to the granting of a patent in the United States:

i. patenting the invention in this or a foreign country by anyone;

ii. describing the invention in a printed publication by anyone;

iii. public use of the invention in this country; and

iv. sale in this country.

(a) **Statutory Bars to the Granting of a Patent in Foreign Countries** – The law varies from country to country and is usually more stringent than in the United States. In some countries there is no grace period, so that publication anywhere, even one day before the filing of a patent application, can act as a bar.

- (b) Experimental and Public Use of an Invention – Experimental use of the invention is an exception to the rule that public use in the U.S. more than one year before filing a patent application can act as a bar in obtaining a U.S. Patent. The big problem is in determining what is experimental use and what is public use. The answer depends on when the invention was actually perfected for its intended purpose. Assuming the invention was available to the public, once the invention is actually reduced to practice, experimentation ends and the one-year statutory period begins to run.

7) **Publication vs. Obtaining a Patent** – Most inventions from employees of this Department are made available to the public by way of publications. Although this is by far the faster and less expensive way to disseminate information about the invention, it does have certain drawbacks vs. obtaining a patent. Among these drawbacks of publication are:

1. The publication is **not** a statutory bar to obtaining a patent by others until it has been available to the public for more than one year. (That is, someone **else** may obtain a patent on the invention.)
2. it creates no rights that can be licensed;
3. it may not be as readily retrievable as would a patent, since the PTO has an extensive classification system;
4. it could not be used in litigation to sue others;
5. it has not been examined and independently judged (by the PTO) as being patentable; and
6. it does not afford the same recognition to the inventor as does a patent.

C. The Patent Application

1) **Parts of the Patent Application** – There are certain elements which the statutes require every application to contain. The inventor (usually done in conjunction with the Office of the Solicitor) must make application to the U.S. Patent and Trademark Office (PTO) for the grant of the patent. Such an application is made by filing in the PTO a request asking the Commissioner to grant a Patent. The application must also include a specification which discloses the best mode of practicing the invention along with one or more claims stating the rights the inventor wished to secure, and a declaration in compliance with PTO provisions. Generally the application may be accompanied by one or more drawings of the invention where the invention may be so illustrated. A filing fee must also accompany each application. In sum, an application would include:

- i. Specification
 - ii. Claims
 - iii. Declaration
 - iv. Drawings
 - v. Fee
- (a) **The Specification** – The preparation of an adequate description of an invention and the drafting of claims which cover the real contribution made by the inventor are the basis of the protection that will be afforded by the patent.

- (b) **The Claims** – The claims set forth the metes and bounds of the invention and are, in fact, the verbalization of the invention.
- (c) **The Drawings** – Show, as far as is practical, what is being claimed and, perhaps, an embodiment of the invention. Many chemical patent applications do not contain drawings, but use examples instead; most other applications do.

2) **Step by Step to a Patent** – Evolution from Idea to Patent – The actual process of obtaining patent protection is candidly set forth in the following illustration.

3) **Who May File a Patent Application** – With but few exceptions, the inventor(s) must make the application whether or not the invention is wholly or partially owned and assigned to another. An inventor may secure the aid of an attorney or agent, registered to practice before U.S. PTO, in filing his application. As an employee-inventor of the U.S. Government, each and every invention must be reported to the Solicitor's Office of the Department in accordance with the Departmental Regulations as more fully explained below.

II. DEPARTMENTAL PATENT REGULATIONS AND POLICIES

A. Why File for Patents?

1. **Government Viewpoint** – The Department of Interior is actively engaged in securing patent protection for inventions that evolve from R & D work of both employees, and to a much lesser extent, contractors. Major reasons for this are:

- (a) It protects the Government from being sued on the invention in the Claims Court, and it affords a filing date and interference rights.
- (b) It creates property that could be the subject of an exclusive or non-exclusive license.
- (c) It informs the public that inventions are being made with public funds.
- (d) It prevents one member of the public from gaining an unfair advantage over another member when Government funds are used and a Government employee was the true inventor.
- (e) It forms the basis for foreign filing of patent applications by the Government or the employee if he is granted these rights.
- (f) It provides for easy classification and retrieval of technical literature on specific inventions from the PTO files.
- (g) It provides an effective tool for the transfer and dissemination of useful technology throughout the scientific field.
- (h) It gives the Government the right to sue or counterclaim for infringement of the patent grant.

2) **Employee-Inventor Viewpoint** – Certainly, a question that all employees of the Department must ask when they discover a new invention is "what is in it for me?" With an increase in efforts to more fully recognize and reward the employee-inventor for his efforts, a number of incentives exist to encourage the filing of patent applications. For example:

- (a) Recognition of the individual contribution of the employee.
- (b) The employee receives a \$500 cash award when an application is filed and \$800 cash award when the patent is granted.
- (c) Employees may request a determination of rights and, if appropriate, obtain title to the invention.
- (d) Employees may request and obtain foreign patent rights.
- (e) Employees may be the exclusive licensee of their Government owned patents.
- (f) The employee may receive a minimum of 15% of the royalties collected by licensing of the patent.

B. Interior Department Patent Regulations – Employees of the Department of the Interior are governed by Patent Regulations of the Department [43 CFR 6(A)], and by Executive Orders 10096 and 10930. Any invention made by an employee of the Department shall be reported by such employee through his supervisor and the head of the bureau or office to the Solicitor, unless the invention obviously is unpatentable.

- 1) **Reporting of an Invention** – As noted, each invention should be reported to the Solicitor, and the Technology Transfer Officer of the bureau and basic form for the invention disclosure to be used is DI-1215. You should be very careful in filling out this in-house form with a high degree of particularity, much as a technical article would be written. Do not assume the patent attorneys are familiar with your area of expertise, as in all probability they are not. Usually, only inventions which have actually been reduced to practice should be reported, not just mere ideas or concepts. The **exception** is where merely following instructions will produce the invention. The idea stage is referred to as the conception of the invention. Descriptive graphs, test results, drawings, and photographs should be attached to the form if they exist. A description of how the device works also would be helpful, with reference numbers and explanations being keyed to these numbers. Unless a patent application is filed based on this disclosure, no protection is obtained.
- 2) **Rights to an Invention** – Generally, inventions made by Government employees in the course of their official duties belong to the Government. If an employee believes that he should obtain title, he should state so when he fills out Form DI-1215, "Report of Invention." The employee must then fill in and submit the Form DI-1218 entitled "Invention Rights Questionnaire." A determination of the employee's rights to the invention will then be made by the Technology Transfer Officer of the bureau involved. If the Government time, material, money, other services, or other employees, are used in making the invention, or if it is within the employee's assigned duties, then the invention is usually assignable to the Government. Should the Government have no interest in the invention, or if the Government contribution is minor, it may merely require a license, although it could take the entire assignment. The Government may, if it has sufficient interest, prepare and file a U.S. Patent application. In this case even if title is left with the employee, the Government always gets a license and the inventor-employee gets the commercial rights.
- 3) **Foreign Rights** – Even when the Government gets an assignment of all patent rights in the United States, an employee may, after his request is granted, get the right to file in foreign countries. Usually the Government does not file abroad because there is little benefit in doing so. If the Government makes an affirmative decision in writing not to file, the employee-inventor may file at his own expense. You must remember, however, that acts committed **before** a U.S. patent application is filed can act as a bar to filing in many foreign countries! **Be especially careful of prior publications** including information given out at seminars, requests for proposal, IFBs, etc.

C. Record of the Invention

1) **Keeping of Records and Notebooks** – It is vitally important that you as an inventor be able to provide the evidence needed to show the history of your invention. Such information is needed in order to enable the patent attorney to establish inventorship. Establishing inventorship is necessary when two patent applications, both claiming the same invention, are filed in the PTO and an "interference" results.

It is best to keep your notes in a permanently bound laboratory book in which each daily significant work sheet has been signed and dated by the inventor and a witness who is not an inventor. The witness must understand the invention. You may incorporate certain items by reference and certain routine matters need not be explained in detail, but should be broadly referenced. You may include "instant" pictures in the book. Pages should be numbered consecutively and dated in permanent ink with no erasures (errors should be crossed-out with dated initial nearby).

What your records are trying to show is the earliest date that the idea for the invention was conceived (date of conception) plus the date it was actually reduced to practice. Diligence in attempting to reduce an idea to practice is important; therefore, acts taken between the dates of conception and reduction to practice are important.

2) **Publication and Disclosure to the Public of the Invention** – The Department's policy requires that no publication of an invention should be made unless the Technology Transfer Officer is of the opinion that the interests of the Government will not be prejudiced by such action. Therefore, if you wish to publish information on an invention before an application for patent has been filed with the U.S. PTO, a request must be made to the Technology Transfer Officer. Very rarely is permission withheld. However, once a publication is made, the statutory time limit of one year begins to run. If foreign rights are important, one must check to see if such would be jeopardized by such a publication. Basically a publication consists of any printed work which is accessible to any part of the public. (See Question 16, page 22). Publications include contract reports, handouts at seminars, newspaper articles, and requests for bids/quotations, as well as government and contractor publications.

D. Licensing of Government Inventions – It is the Government's policy to make its patents available to the public. Presently exclusive or non-exclusive royalty bearing licenses may be granted to anyone who indicates an intention to use the invention. All patent licensing exclusive and non-exclusive is handled by the Technology Transfer Officer of the bureau that is involved.

E. Contractor Inventions – Technical personnel who are TPOs (Technical Project Officers) are sometimes requested to respond to patent related matters. These patent matters are governed by the contract provisions and their interpretation. Specific questions may be directed to the Solicitor's Office, Division of General Law, Branch of Procurement and Patents (FTS 208-6201).

Generally, Department's policy is to retain title to inventions developed with government funds except when small business or non-profit organizations are involved. In the case of small business and non-profit organizations they have the option of keeping title to the invention they developed.

III. COMMONLY ASKED QUESTIONS ABOUT PATENTS.

1. Q. What is the difference between a patent, trademark, and copyright?
 - A. A patent is the grant to an inventor of an exclusive right to exclude others from making, using, or selling an invention in the U.S. It is based on a filed patent application, and comes into legal existence when the patent is granted. A trademark is a symbol, name, or design that attached to a product or service, by its use. Registration in the PTO does not create the trademark, it only allows the owner certain benefits, like access to Federal Courts to sue. A copyright is an exclusive right to reproduce and sell a literary or artistic work. It is registered in the Library of Congress.
2. Q. What happens after a patent application is filed?
 - A. It is given a filing date and serial number by the PTO and then placed in a pending status awaiting an examination. Several months thereafter a report as to patentability or lack thereof is received from the PTO, after an examination of the application and a search of the prior art is made. If it meets the requirements for a patent, one is granted.
3. Q. What do the terms "patent pending" and "patent applied for" mean?
 - A. They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the PTO. The law imposes a fine on those who use these terms falsely to deceive the public.
4. Q. What happens when two inventors apply separately for a patent for the same invention?
 - A. An "interference" is declared and testimony may be submitted to the PTO to determine which inventor is entitled to the patent. Your attorney or agent in the Solicitor's Office can give you further information about this if it becomes necessary.
5. Q. What is the difference between a discovery and an invention?
 - A. They are synonymous in patent law.
6. Q. When is an invention patentable?
 - A. The patent statutes give the following conditions for patentability:
 - (a) the invention was not known or used by others in this country, or patented or described in a printed publication anywhere in the world before the invention was made by the applicant for a patent;
 - (b) the invention was not in public use or on sale in the United States, or patented or described in a printed publication anywhere in the world, more than one year prior to the date of the patent application in the United States;
 - (c) the invention was not abandoned by the applicant;
 - (d) a foreign patent was not obtained prior to the filing date of the United States patent application on a foreign patent application filed more than 12 months before the filing of the United States Patent application;
 - (e) the invention was not described in a United States patent filed before the invention was made by the applicant;
 - (f) the person claiming to be the inventor made the invention;
 - (g) the invention was not made earlier by another person who did not abandon, suppress, or conceal it; and

(h) the differences between the subject matter sought to be patented and the prior art are not 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.

7. Q. Who can obtain a patent?

A. Patent applications must generally be filed in the name of the true inventor, who must sign the application. If the inventor is unavailable, on the making of a proper showing, the owner of the invention may file. The inventor may assign the invention to another.

8. Q. Can an invention be made jointly?

A. Yes. Two or more persons can contribute their ideas to make a single unitary invention. All would be indicated as joint inventors.

9. Q. Should an invention be reported to the Solicitor's Office on Form DI-1215 if the inventor is not certain as to patentability?

A. When the inventor and those reviewing the invention are uncertain as to patentability, the invention **should** be reported for a determination by the Solicitor's Office.

10. Q. When should an invention not be reported?

A. When the inventor and the reviewers are fully convinced that the improvement over the known art is not new/novel, or it is obvious to a person of ordinary skill in the same art.

11. Q. How does the Solicitor's Office determine probable patentability?

A. The patent staff in the Solicitor's Office arranges for a preliminary search of patented art in the PTO and of the literature to determine novelty and to establish the difference between the invention and the prior art. A judgment is made whether the invention is obvious to one skilled in the art in view of these differences. If the differences appear obvious, no application is filed.

12. Q. Is a patent application filed for all inventions appearing patentable?

A. No. The invention must have sufficient importance to warrant the time, effort, and expense of patent prosecution. The government is required to pay the costs involved in using the services of an outside patent law firm or agent.

13. Q. Does the Solicitor's Office determine the patentability of the invention and prepare a patent application as soon as the invention is submitted?

A. Yes, depending on the importance assigned to the case by the Technology Transfer Officer of the bureau involved.

14. Q. Why is the Government interested in obtaining patents?

A. The most important reason is to enhance the use of Government technology by making the invention available to the public by either exclusive or non-exclusive licenses. In this way the invention is rapidly and more readily available.

Furthermore, the Government patent defends the general public against a claim of patent infringement if it is licensed from the Government. Other significant reasons are the desirability of obtaining recognition for employee-inventors by issuing patents in their names, and for obtaining recognition of the research program of an agency.

15. Q. What tangible benefits are there for an employee-inventor?

A. On the filing of a patent application each employee-inventor is entitled to a \$500 award and \$800 on the granting of the patent. Further, the inventor shares in any royalties received from licensing of the patent. Should an employee be able to bring his invention to the point of practical application (i.e., mass produce it) by himself or with the aid of others, he may be entitled to commercial rights to the invention by a non-exclusive or exclusive license.

He obtains professional recognition and enhancement by having his name appear on the patent as the inventor (i.e., it looks good on his/her resume).

16. Q. What is a publication?

A. Publication in its broadest sense means any public notification or dissemination of information. Among the methods of publication are (1) oral, as by public address, (2) visual, as by an exhibition or demonstration, and (3) printed, as by a journal article. Of these methods, printed publication is the most important in the determination of rights under United States patent law. However, other modes of publication are important under the patent laws of a number of foreign countries.

17. Q. What constitutes a printed publication?

A. Any printed work which is accessible to any part of the public in any country without injunction of secrecy is a "printed publication." Specifications in an IFB/RFB, handouts at seminars, newspaper articles, trade magazine disclosures, and scientific articles are all printed publications. Courts have held the following to be printed publications as well:

- a single typewritten copy of a thesis indexed in a university library;
- a suitable indexed microfilm copy of a report;
- a printed catalog put out in a very limited issue, but which was not confidential;
- preprints of articles distributed prior to a scientific meeting.

18. Q. What is "public use"?

A. Public use is the employment of the invention for a commercial or practical use (as distinct from experimental use), with no deliberate intention of concealment or effort to exclude the public. Even if the ordinary use of the device is veiled from public view (e.g., an internal combustion engine cylinder liner), non-experimental use of the device is still public use.

19. Q. What is "experimental use"?

A. Experimental use of an invention consists in operating the device or practicing the method for the purpose of determining whether the invention is complete or needs further improvement.

"Experimental use" must be distinguished from the use of the invention in experimentation. If the invention is used in its completed form to accomplish its intended purpose in the course of a research program, then there is no "experimental use." For example, the use of a microscope having a newly invented objective in microbiological research would not be experimental use as regards the microscope.

20. Q. Suppose an agency wishes to publish a description or make practical use of the invention soon after it is made. May it do this?
- A. Approval of the Technology Transfer Officer of the bureau involved must be obtained before printing any description of an invention or making any public use thereof.
21. Q. Is this permission sometimes withheld?
- A. Yes; if there is some compelling reason for doing so. Usually permission is granted and the Technology Transfer Officer makes an effort to file an application within the one-year grace period allowed after publication or public use. If foreign rights are important and can be lost by publication or public use before filing takes place, then this is one good reason for withholding approval.
22. Q. What is the preferred procedure as regards printed publication or public use?
- A. If possible, defer such publication or public use until a United States patent application is filed. Publication or use thereafter will not have any effect on obtaining a United States patent. If a patent application is filed in a foreign country within one year after the United States application is filed, the deferred publication or public use will not bar a foreign patent. This follows from an international convention to which most important countries are signatories.
23. Q. Would not a printed publication serve to protect the Government as well as a patent?
- A. Not entirely. The publication would create nothing to license and would have benefit only defensively. Even defensively, within the one year period after the date of each publication, a third party could file an application (which is usually kept confidential in the PTO) and affidavit alleging that he invented the invention before the publication. This could serve to remove the publication as prior art and a patent could then be issued to the third party.
24. Q. Is there any action which can be taken to cancel a patent issued to another when the Department believes the invention was first made by its employee-inventor?
- A. Only if the invention was secured fraudulently or if the Government has a pending patent application on the same invention and the patent is not more than a year old. In general, the only way the validity of a patent can be attacked is in connection with an infringement action brought by the patent owner, in a court or in a declaratory judgment suit brought by a person who is accused of infringement. These court actions are very expensive and time consuming for all persons involved and hence are not a practical alternative.
25. Q. If the Government publishes, and another party has a patent application pending, or files shortly after the publication and makes the necessary affidavits, the Government is not protected?
- A. Correct.

IV. CONCLUSION

Summarizing, some of the most important thoughts mentioned previously will bear repeating.

- *** First, keep a record of what you do and have such records witnessed and understood by fellow employees who are capable of understanding the records and who are not co-inventors.
- *** Second, refer new developments to the patent attorney in the Solicitor's Office or to your Technology Transfer Officer as soon as possible after the developments start.
- *** Third, submit all apparently novel ideas and developments to the Solicitor's Office or to the Technology Transfer Officer according to the proper procedure, regardless of whether or not it is thought that they will be used by the Department of the Interior.
- *** Fourth, supply the patent attorney with information as complete as possible about each development submitted.

APPENDIX I

I. Statutory Invention Registration

A. Defensive Publication

- 1) Defensive in nature
- 2) Prevent others securing patent protection

B. Contents

- 1) Document like patent application but no claims.
- 2) Need declaration and fees.

II. Provisional Application

A. Need a specification; adequate description; no claims.

B. Drawings

C. Name of Inventors

D. Fees

E. Good for twelve months.