

Types of Patents

The U.S. Patent and Trademark Office (PTO) issues several different types of patent documents offering different kinds of protection and covering different types of subject matter.

A recently issued PTO patent document is one of six types, generally described below. See U.S. Code Title 35 - Patents, for a full description of patents and patent laws.

- * Utility Patent- Issued for the invention of a new and useful process, machine, manufacture, or composition of matter, or a new and useful improvement thereof, it generally permits its owner to exclude others from making, using, or selling the invention for a period of up to twenty years from the date of patent application filing ++, subject to the payment of maintenance fees. Approximately 90% of the patent documents issued by the PTO in recent years have been utility patents, also referred to as "patents for invention".

- * Design Patent- Issued for a new, original, and ornamental design for an article of manufacture, it permits its owner to exclude others from making, using, or selling the design for a period of fourteen years from the date of patent grant. Design patents are not subject to the payment of maintenance fees. Please note that the fourteen year term of a design patent is subject to change in the near future.

- * Plant Patent- Issued for a new and distinct, invented or discovered asexually reproduced plant including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, it permits its owner to exclude others from making, using, or selling the plant for a period of up to twenty years from the date of patent application filing ++. Plant patents are not subject to the payment of maintenance fees.

- * Reissue Patent- Issued to correct an error in an already issued utility, design, or plant patent, it does not affect the period of protection offered by the original patent. However, the scope of patent protection can change as a result of the reissue patent.

* Defensive Publication (DEF)- Issued instead of a regular utility, design, or plant patent, it offers limited protection, defensive in nature, to prevent others from patenting an invention, design, or plant. The Defensive Publication was replaced by the Statutory Invention Registration in 1985-86.

* Statutory Invention Registration (SIR)- This document replaced the Defensive Publication in 1985-86 and offered similar protection. Please note that the America Invents Act (AIA), which was signed into law on September 16, 2011, repeals provisions pertaining to statutory invention registrations and the issue of these documents will be discontinued.

++ Although, the length of utility and plant patent protection (patent term) was previously seventeen years from the date of patent grant, utility and plant patents filed after June 8, 1995 now have a patent term of up to twenty years from the date of filing of the earliest related patent application. Utility and plant patents which were applied for prior to June 8, 1995, and which were or will be in force after June 8, 1995, now have a patent term of seventeen years from the date of patent grant or twenty years from the date of filing of the earliest related patent application, whichever is longer. Utility patents are subject to the payment of periodic maintenance fees to keep the patent in force. Patent terms can be extended under some specific circumstances. See the U.S. Code Title 35 - Patents for a full description of patent laws.

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