



Patent, intellectual property and publication discussions and understandings:

It is important for inventors, innovators and entrepreneurs to understand how to obtain a patent and protect one's ideas. Yet the topic is frequently complex and abstract and replete with nuance that oftentimes makes it challenging to understand and apply. With that in mind, the Believe in Ohio program makes available a number of informational videos and discussions for teachers, students and parents to review when considering the merits of seeking patent and intellectual property protection. We encourage you to make use of these resources.

Basic rules for filing a provisional patent application from the US Patent & Trademark Office (USPTO):

Inventors seeking protection for their ideas should consider filing a provisional patent application. The requirements for filing a provisional patent application are set forth in 35 U.S.C. 111(b) and 37 CFR 1.53(c). A non-provisional application must be filed within twelve months of the filing date of a provisional application in order for the inventor to claim the benefit of the provisional application under 35 U.S.C. 119(e)(3).

For more information on how to file a provisional patent application, please check the USPTO web site at <http://www.uspto.gov/patents/resources/types/provapp.jsp>

For information about the overall patent filing process, check out the USPTO website at: process: <http://www.uspto.gov/patents-getting-started/patent-process-overview>

Believe in Ohio informational videos:

Patents & Intellectual Property 101 – Video Part 1 – "IP² = profits"

In this first of three videos, Intellectual Property Attorney, Ms. Cindy Murphy discusses how many of Ohio's largest companies built their businesses by applying their patents in a video lecture titled "IP² = profits" (15 minutes)

Click here to view the

video: <http://www.ohioinnovates.org/sites/2015course/regionalsites/commoncourse2015/tracke/e04.html>

Patents & Intellectual Property 101 –Video Part 2 – "The invention of the ice cream cone

In this second of three videos, Intellectual Property Attorney, Ms. Cindy Murphy uses the example of the invention of the ice cream cone to indicate what may or may not be patentable. (22 minutes)

Click her to view the video:

- <http://www.ohioinnovates.org/sites/2015course/regionalsites/commoncourse2015/tracke/e05.html>

Patents & Intellectual Property 101 – Video Part 3 – The America Invents Act and its implications for entrepreneurs

In 2011 the US Congress passed legislation that fundamentally changed the country's patent laws. Ms. Murphy explains how the new law works and the many benefits it provides to small inventors and entrepreneurs. (10 minutes)

<http://www.ohioinnovates.org/sites/2015course/regionalsites/commoncourse2015/tracke/e06.html>



How to get a patent from a Research Scientist Perspective (A video by Senior Research Scientist Dr. Bilal Bomani)

Senior Research Scientist, Dr. Bilal Bomani offers his comments and discusses his experiences of obtaining a patent from the perspective of a Research Scientist. Students considering filing for a patent will benefit from viewing this video. (13 minutes)

Click her to view the video: <https://youtu.be/H99B61D5gwg>

In this section, Believe in Ohio Co-Director, Mr. John Klipfell, offers some personal comments that teachers, students and parents may find helpful in understanding the patent process and Believe in Ohio's policies about patents and intellectual property disclosures:

I am occasionally asked by teachers and students to explain the reasoning behind Believe in Ohio's policy towards students obtaining patents and otherwise protecting their ideas. While I encourage you to read the entirety of the policy as included in Believe in Ohio's "Roadmap to Future Jobs and Prosperity" Instruction Booklet on page 12 (and reproduced at the end of this page), essentially Believe in Ohio policy is twofold: 1) to encourage parents to obtain legal advice from a patent attorney if they think that their student's idea is potentially patentable, and 2) to make clear that no one connected with the Believe in Ohio program has any duty to protect the confidentiality of any students' ideas once they are shared with them.

Allow me to offer some comments from my personal and business experience with regard to these issues.

1. First of all, understand that I am not an attorney and I am not and cannot offer legal advice, which is why we encourage parents to seek actual legal advice from an attorney if they think that their student's idea is potentially patentable. That being said, over my personal and business career I have had significant experience writing, defending and trying to enforce patent claims, as well as defending our interests when others have accused us of infringing on their patent rights.
2. Obtaining a quality patent can be a good thing which can provide protection for one's ideas. That being said, in my view, several things are necessary for one to have a quality patent that actually protects one's ideas:
 - One's patent claims need to be significant in nature and broad enough that others can't easily find a way to work around one's patented ideas. (Sometimes, patent claims that are granted are so narrow that the patent may have relatively little value.)
 - One's patent needs to be well researched (to find out about other existing patent claims) and well written if it is to stand up in court. (Which speaks to the wisdom of one trying to write and file their own patent, as opposed to seeking help from a competent patent attorney.)
 - Once one actually receives a patent, it may have little value, unless you, as owner of the patent, is financially and legally able and willing to defend your patent rights in court if you think someone is infringing on your rights. (Defending one's patent rights can also be costly, especially if a company with deep pockets is the entity you allege is infringing your rights.)
3. It has been my experience, that while many people think that their idea is unique and is patentable, many, if not most times, after one does a comprehensive search of existing patents and unpatented



ideas already in common use, they will find that their idea is not in fact unique with comparison with what patent attorney's call the "prior art". (So just because you think that you have a patentable idea, doesn't mean that you in fact have a patentable idea.)

4. In 2011, the US Congress passed legislation (called the "America Invents Act") that made many changes in US patent law, including changing the basis on which patents are awarded from a "First to invent" approach to a "First to file, First to disclose" approach. Notwithstanding my comments above, the American Invents Act includes a number of provisions that are favorable to the small business person or entrepreneur that can make it somewhat easier and less costly to obtain a patent. To find out more about the American Invents Acts and patents in general, we encourage teachers, students and parents to view the Believe in Ohio videos noted above.

5. While again stressing that I am not a patent attorney, it has been my observation that many people file what is called a "Provisional Patent Application" to help secure their rights. After filing a "Provisional Patent Application" one then has one year to file a regular "Non-Provisional Patent Application". I have seen a number of parents file a "Provisional Patent Application" on behalf of their student inventor. If one really thinks that they have a patentable idea, I encourage them to talk with a patent attorney about the possibilities of filing a "Provisional Patent Application".

6. It has been my observation that minor children under the age of 18, cannot file a patent application on their own, but rather have to have one of their parents file the patent application on their behalf. While I have seen situations where parents and students have gotten around this problem by setting up a Limited Liability Company (LLC), again I would urge parents and students to talk with a patent attorney who can provide appropriate legal advice.

7. During my career on several occasions I have found myself threatened with litigation as a result of allegations that I have violated a "confidentiality agreement" or some other similar agreement. Additionally, companies that I have worked for have been sued on a number of occasions by people who accuse the company of stealing their idea. In my experience these allegations have usually been unfounded, but sometimes have been made as a legal tactic to gain some advantage or to shake a company down for money. Once an allegation of impropriety has been made, it is often costly to defend against it. For that reason, I generally recommend to everyone that they think twice before signing a confidentiality agreement as it might come back to bite them. It is with this in mind that Believe in Ohio's policy was written and clearly articulates that "teachers, mentors, judges, and any other people in any way connected with the Believe in Ohio program, The Ohio Academy of Science, Entrepreneurial Engagement Ohio, the Ohio Board of Regents or any other person involved with the Believe in Ohio program in any capacity are under no duty whatsoever to maintain the confidentiality of any concepts, ideas, or research included in any plan submitted for review and judging". Simply stated, there would be no way that we could get mentors, judges and others to volunteer to give their time in support of the Believe in Ohio program if they had to worry about the possibly of being sued if they said the wrong thing.

I hope that you have found my comments above to be helpful in understanding Believe in Ohio's policies with regard to students and parents wishing to protect their Plan ideas.

John Klipfell
Believe in Ohio Co-Director



The following is Believe in Ohio's policy with regard to patents and intellectual property:

(As noted on page 12 of Believe in Ohio's "Roadmap to Future Jobs and Prosperity" Instruction Booklet.)

Patent, intellectual property and publication understandings

Once a student(s) submits a plan for grading/judging locally, they are making a public disclosure of their ideas, concepts, research, etc. and therefore they retain no proprietary interest in those ideas, concepts, research findings or results, etc. unless they have made an appropriate patent or intellectual property filing to protect their interests prior to submitting their plan for review. (Any student/parent interested in protecting their intellectual property rights should consult an attorney for appropriate advice.)

Notwithstanding the above, it should be clearly understood by all Believe in Ohio participants that all teachers, mentors, judges, and any other people in any way connected with the Believe in Ohio program, The Ohio Academy of Science, Entrepreneurial Engagement Ohio, the Ohio Board of Regents or any other person involved with the Believe in Ohio program in any capacity are under no duty whatsoever to maintain the confidentiality of any concepts, ideas, or research included in any plan submitted for review and judging.

Additionally, the student acknowledges that any plan that they submit may be published or publicized, in whole or in part, along with their name by the Believe in Ohio Program, The Ohio Academy of Science and related organizations, particularly if their plan is chosen as an awardee in the Believe in Ohio plan competitions.