

Repeat After Me: Patent Applications are NOT Patents!



Look! [Jeff Bezos](#) is at it again! He patented [landing a rocket on a barge](#), which people have been talking about doing for fifty years! And the patent office let [this guy](#) patent [time travel](#), which is impossible! And [Cingular](#) patented [emoticons](#)! See how silly the patent office is for allowing these evil corporations to patent things that are so obviously old technologies! The patent system *must* be broken!

Except none of those are actual patents.

None of those applications have been allowed yet; some of them haven't even been *examined*. Unlike many other intellectual property rights, patent rights do not arise when an inventor first creates his invention. Rather, patent rights are granted by the government. Without a government grant, those patent applications are simply really expensive, (sometimes) hard-to-read bird cage lining. The government does not give an inventor patent rights until the inventor sends in a patent application, pays a fee or three, and completes an involved review and negotiation process. Without patent rights, an inventor has virtually no ability to stop others from utilizing the technologies described in their application.

If this seems harsh to you, consider that tomorrow anyone with \$530 and a dream could file a patent application for the automobile. If they were given rights immediately after filing, our would-be Henry Ford might be able to instantly cause interstate travel as we know it to come to a screeching halt! Granting the [powerful rights](#) that accompany a patent only after careful review prevents this sort of calamity from occurring.

The review and negotiation process involves two principal characters: a government employee called a patent examiner, and the inventor. Patent examiners are individuals who review patents applications for the USPTO and make recommendations about which applications should be approved. They have technical backgrounds and specialize in very narrow areas of technology (e.g. GPS systems, or ...), therefore they usually have a very deep understanding of their area. Patent examiners only review patent applications that fall into their specialization.

After the USPTO receives the inventor's patent application, the patent examiner reviews the application on a technical and form basis, and compares the described innovation to technology already known at the time of application or invention. The examiner might approve the application, but usually the examiner rejects the application at least once, but the inventor (and his patent agent or attorney) has an opportunity to respond to the rejection. In 50-70% of cases, the USPTO ultimately issues a patent to the inventor,

based on their original application. Many people view this process as a sort of negotiation which takes places over many months or years.

The average time it takes for this process to results in a brand new US patent from the day the inventor sends in his application is about 33 months. For more information about how the patent office is performing, check out their [performance dashboard](#).

Patent applications are generally published 18 months after they are submitted. You can find these published patent applications, as well as every patent granted by the United States, on the UPSTO's [website](#). You can also find them on sites like [Google Patents](#), but the USPTO's site is the most up to date.

Remember, patent applications are simply what an inventor is asking the government to grant patent rights on. The application is not necessarily what the government will ultimately grant to the inventor.

Happy creating!