



What Is A “Bypass” Patent Application And How Is It Useful?

There are several different types of utility patent applications. The type of patent application that should be filed is contingent on the invention itself, the invention development process and what patents and patent applications have been already filed to protect the invention. One type of patent application that may be filed is a “bypass” patent application. This article discusses bypass patent applications.

A brief understanding of “patent copendency” and how claiming the benefit of an earlier filed patent application is necessary before discussing bypass applications. In patent law, the term “prior art” means disclosures or events that occur before a patent application is filed or the “filing date” of a patent application. Prior art can affect the ability for a patent applicant to obtain a patent on an invention. An issued patent on an invention owned by a patent applicant may be prior art and prevent the same patent applicant from obtaining a second patent covering different inventive features of a same or similar invention. Patent copendency means that there is a common time when both an earlier filed application and a second application is pending at the U.S. Patent & Trademark Office (USPTO). A patent application may be entitled to the benefit of the filing date of an earlier filed application if the second patent is copending with the first application (filed during the pendency of the earlier filed application), claims the benefit of the filing date of the earlier filed application and if both applications have the same inventor. In other words, business and inventors, need to carefully decide when to file a patent application and if that patent application should claim the benefit of an earlier filed application.

With that understanding a “bypass” application is a patent application claiming the benefit of a PCT application. To learn more about PCT applications and international patent strategies please click on the following link: <https://goo.gl/CcYBfW>. In short, a PCT application is an international patent application that allows a patent applicant in any signatory country of the Patent Cooperation Treaty, such as the United States, to reserve its patent rights in numerous countries

by filing a single application. Essentially, the bypass application is a continuation of the international application.

The bypass patent application does have several benefits. A bypass application may be helpful in the case where there is no US patent application still pending with the USPTO and the patent applicant needs to claim the benefit of an earlier filed application. In certain cases, a bypass application may also delay the deadline for filing a US application, which may be necessary for continued development of the invention and other budgetary or economic concerns. The bypass application may also be used to expand the matter included in the application, which cannot be done by entering the national stage with a PCT application.

The time of filing a patent application may be critical asset to a business's intellectual property portfolio. You should seek the advice of a registered patent attorney if you have questions about when to file and the type of patent application that should be filed to best protect your intellectual property. The patent attorneys at The Plus IP Firm frequently advise clients on patents and other intellectual property matters so that businesses may profit from their unique innovations and creations. To learn more about the author of this article, Derek Fahey, click [HERE](#).



Derek Fahey is a patent attorney at The Plus IP Firm. The Plus IP Firm concentrates its practice exclusively on intellectual property matter, with particular emphasis on patent, trademarks and copyrights.

"Professional, down to earth, focused, fast and incredibly helpful. I'm located in Austria, Europe and Derek and Jill were very helpful to help me register two copyrights in the US. So even if you're an international client I can definitely recommend The Plus IP Firm!." - Madhu, a loyal and satisfied client.