

Internet Filing Speeds Patent Process

By Todd Davis, Oakland Business Review, May 26, 2005

Recent law changes and updated internet technology at the U.S. Patent and Trademark Office is speeding the patent application and research process for lawyers in Oakland County and nationwide.

Today, attorney John Nemazi logs on to the patent office's website from his office at the intellectual property law firm of Brooks Kushman in Southfield, where he can search through existing patents or file a new application online.

That stands in sharp contrast to decades ago, when Nemazi began practicing intellectual property law. Then filing a patent typically began with contracting one of the thousands of researchers near the nation's capital and asking them to comb through the patent offices' archives in Alexandria, Virginia.

The online system allows Nemazi to track pending applications for his clients, or their competitors, as they progress through the examination process.

"Once you get the hang of it, it's easy," Nemazi said. "The information is so much better than it was 20 years ago. We can monitor competitors for our clients anywhere in the world and get a copy of a new patent within days of the application."

Online research and patent application technology has been rolled out in the past five years, said Brigid Quinn of the U.S. Patent and Trademark Office. However, the office began scanning the files of the nearly 7 million patents on file in the mid-1990s.

Changes to laws governing the federally run patent office allow applications to be published online as they are being processed. The new law, which took effect about a year ago, opens the examination process for applicants and third parties to review them.

Intellectual law practitioners say the changes give their clients competitive advantages in the most fundamental tenant of patent law: those who file first win the protection of the patent.

"We can get a filing date and serial number almost immediately," said intellectual property attorney James Stevens, of the Troy-based IP law firm of Reising, Ethington, Barnes, Kisselle.

"In our business, the timing of the filing is often critical. It can make the difference in maintaining rights to the patent."

Still, despite its apparent advantages, online filing has been slow to catch on, Quinn said.

The patent office estimates that less than five percent of the 375,000 applications expected to be processed this year will be filed online.

Having access to the pending patent and trademark applications allows for others to review the basis of a pending claim instead of conducting another search and filing a written request for information from the patent office.

"That could take weeks, or longer," Nemazi said, which is critical in the competitive marketplace where decisions in investing in new technologies may be based on whether or not a competitor is developing a similar technology.

"You can see assignment records online, you don't have to go there," he said. "Things can happen a lot faster and you can advise your clients a lot faster."

As a result, fewer disputes are likely to occur later on as applicants may steer clear of conflicting technologies.

"You're not going to invest research and development dollars if you know someone else filed, a similar patent before," Quinn said. "It refines the information other people know so they can invest the research and development dollars into their own research."

At the other end of the spectrum, the changes in technology can also level the playing field for small entrepreneurs.

Individuals can research and file patent and trademark applications online, instead of relying on the uncertainty of the "poor man's patent" - mailing a letter containing a proposed patent idea to one's self to record the date with a postmark.

"It's a huge time saver for us, allowing us to provide better service and lower costs to our clients," said Jake Grove also an attorney with Reising, Ethington, Barnes, Kisselle. He added that the reduced costs from online filing make it easier for small businesses to patent their ideas.

"It's one of the better examples of your tax dollars at work."