



## DIFFERENCES BETWEEN PROVISIONAL AND NON-PROVISIONAL PATENT APPLICATIONS

Many companies and individuals file a provisional patent application for an invention and then later convert the provisional patent application into a non-provisional patent application. This sheet sets forth the differences between the two forms of patent applications and provides guidance on how to decide between the two.

- **A provisional patent application:**
  - is less costly than a non-provisional patent application.
  - will not be examined at the U.S. Patent & Trademark Office (USPTO).
  - does not confer the right to prevent others from making, selling, and using your invention.
  - buys one year of time; the provisional patent application must be converted to a non-provisional patent application within one year or you lose the early filing date and possibly all patent rights in the invention.
  
- **A non-provisional patent application:**
  - is much more costly than a provisional patent application.
  - will be examined by a patent examiner at the USPTO.
  - if not precluded by prior art (that which has been done before) and if adequately explaining the invention, will mature into a patent that confers the right to prevent others from making, selling, and using your invention.
  
- **General basis for the difference in cost between a provisional patent application and a non-provisional patent application:**
  - A provisional patent application is merely a technical description of the invention. A non-provisional patent application should not only provide a technical description of the invention, but should do so in the context of relevant prior art. Thus, the prior art should be known and studied so that within the non-provisional patent application the invention is described with reference to how it advances or improves technology. The non-provisional patent application therefore requires the development and the application of a strategy for overcoming a patent examiner at the USPTO.
  
- **Situations in which filing a provisional application makes sense:**
  - when investment is needed to commercialize the invention;
  - if you have already disclosed the invention to another party;
  - a prior art search has not yet been conducted; and/or
  - additional technical development of the invention is desired.