

Insights: Publications

Patenting Your COVID-19 Transmission Prevention Innovation

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As businesses across different industries get ready to reopen and get back to work in the midst of the COVID-19 pandemic, applying for patents may not be high on the reopening to-do list, but maybe it should be.

One hurdle in profitably reopening many businesses is physically adapting the places of business to reduce the transmission of COVID-19 in a way that allows “business as usual” to resume as much as possible under the “new normal”. However, not all industries have the same types of person-to-person contact and not all physical places of business are the same. Accordingly, a COVID-19 prevention measure that is ideal for one industry or place of business may not work for others. Therefore, businesses are going to seek to design solutions specific to their industry and places of business. For example, a restaurant may invent a barrier system that maximizes the number of patrons that can dine-in while also following new local ordinances, or an amusement park may develop a way to retrofit existing roller coasters without a total redesign. Further, a patron of a business, for example, a gym, may devise a new fitness equipment cleaning system.

These innovations may allow a business to stand out amongst its competitors in the industry and generate more revenue. However, without some sort of protection, others may replicate the innovations, thus taking away the competitive advantage of the innovator or not giving the rightfully earned compensation to the innovator. But, there is a solution and this is to file a patent application in order to begin the process to later be able to prevent others from stealing the innovations and being able to profit from the innovation by licensing the patent to competitors and collecting royalties.

Patents can be used to protect many different types of inventions related to the prevention of the transmission of COVID-19, especially in industries that typically don't seek patent protection where the space for innovation is not crowded. For example, patents may be sought for a new design of personal protective equipment specific to an industry or for a new system for optimizing physical space utilization, for example, in an office building. The key to filing an effective patent application is to:

- A) define the problem you are addressing; and
- B) explain how your innovation solves that problem.

One way to effectively connect A) to B) is to consult with a patent attorney to speed up the process and ensure that there are no holes in the description of the invention which may prevent a patent from being obtained or

allow competitors to easily avoid infringing your patent. As far as timing, there is no time like the present for filing a patent application because the first inventor to file their invention with the patent office has the rights to the invention, regardless of whether a second inventor independently came up with the same idea at an earlier date but did not file a patent application. There are many people trying to figure out solutions for reopening their businesses, so time is of the essence to be the first to file a patent application.

The fastest and least expensive way of beginning the patenting process, especially for those not familiar with the patenting process, is to file a provisional patent application with the United States Patent and Trademark Office. The provisional patent application can act as a placeholder that secures a filing date and gives the applicant one year to further develop their idea, conduct market research, find investors or business partners, and then file a Non-Provisional Application in order for the examination process to begin.