

Section 36 Questions

Have you kept an accurate record of the development of the product, since its conception, in a bound “inventors notebook”, signed by witnesses, just for your records?

No	1	2	3
Yes	9	10	

Have you completed a patent search on the invention?

No	1	2							
It is in process	2	3	4	5	6	7	8	9	
Yes	10								

Have you filed a Provisional Patent application with the US Patent Office less than one year ago?

No	1	2							
It is in process	3	4	5	6	7	8	9		
Yes	10								

Was the search done by an unlicensed individual or by a licensed patent attorney?

By an unlicensed individual	1	2							
By a licensed patent agent	3	4	5	6	7	8			
By a patent attorney	9	10							

Have you checked the references of the patent attorney you plan to use to be sure their skills match your product?

No	1	2							
Working on it	3	4	5	6	7	8			
Yes	9	10							

If the patent search has been completed, did the searcher find any similar products?

Yes, several existing or old ones		1	2		
Yes, one existing		3	4	5	
Yes, one questionable		6	7	8	9
No		10			

If any recent patents were found, have you contacted the patent holders to see if they will make you a licensee?

No		1	2		
Planning to		3	4	5	
Presently in negotiations		6	7	8	
Yes, and they will		9	10		

Have you applied for a utility patent already?

No, not planning to		1	2		
Considering it		3	4	5	6 7 8
Yes		9	10		

Have you applied for a design patent already?

No, not planning to		1	2		
Considering it		3	4	5	6 7 8
Yes		9	10		

Can the product be covered by both a utility and a design patent?

No, not by either		1	2		
No, only a design patent		3	4	5	
No, only a utility patent		6	7	8	
Yes, by both		9	10		

If a patent has been applied for, was the application filed by an unlicensed individual or a licensed patent attorney?

Unlicensed individual	1	2					
Licensed patent agent	3	4	5	6	7	8	
Licensed patent attorney	9	10					


Can you afford to enforce your patent in the event that someone infringes on it?

No		1	2			
Possibly		3	4	5		
Probably		6	7	8		
Yes		9	10			

Have you had your patent application reviewed by an independent third party, knowledgeable in both design and patent law, to see if it would be possible to circumvent or “write around” your patent?

Yes, it would be possible		1	2			
No, I have not		3	4	5		
Yes, it's possible but tough		6	7	8		
Yes, appears unlikely		9	10			

If you are planning on licensing or cross-licensing or cross-licensing your patent or trademark rights, did you include a clause which automatically terminates the licensing agreement if the licensee challenges the validity of your patent or trademark in any way?

Yes, and they won't agree		1	2			
No, I didn't		3	4	5		
Working on it		6	7	8		
Yes, and they agreed		9	10			

**Was the product sold or publicly disclosed to anyone before the actual filing date of the patent?
(If yes, foreign patent rights may not be available.)**

Yes, disclosed and sold		1	2
Yes, disclosed	3	4	5 6 7 8
No	9	10	

If patent has issued, how many years are left on it from present?

1 to 6 years	1	2	
7 to 10 years	3	4	5
11 to 14 years	6	7	8
15 to 17 years	9	10	

If patent has been issued for more than 4 years, have the maintenance fees been paid?

No		
Possibly	1	2
Probably	3	4 5 6 7 8
Yes	9	10

Is the patent for a new idea or an improvement to an existing product?

Improvement to existing product	1	2	3	4	5	6	7	8	9
New idea	10								

If the patent is for an improvement, will the patent holder of the original product buy the technology to add to their product or license you to use their prior technology?

Not sure	1	2	
Possibly	3	4	5
Probably	6	7	8
Yes	9	10	

Is the product or technology based on any trade secrets or proprietary information based on experience from previous employment?

Yes		1	2				
Partially		3	4	5	6	7	8
No		9	10				

Can the product be covered by a trademarkable name?

No		1	2				
Possibly		3	4	5			
Probably		6	7	8			
Yes		9	10				

Can the product be covered by a trademarkable log or design?

No		1	2				
Possibly		3	4	5			
Probably		6	7	8			
Yes		9	10				

Can the design of the product serve as a trademark? (As in the "Life-Saver" candy).

No		1	2				
Possibly		3	4	5			
Probably		6	7	8			
Yes		9	10				

Can the product be tied in with a service which can be covered by a service mark?

No	1	2		
Possibly	3	4	5	
Probably	6	7	8	
Yes	9	10		

If the product can be protected by a trademarkable name, have you already registered the trademark?

No	1	2				
Working on it	3	4	5	6	7	8
Yes	9	10				

If you have not registered the trademark, have you filed an "intent to use" document with the trademark office, less than six months ago?

No	1	2				
Working on it	3	4	5	6	7	8
Yes	9	10				

If the product will use an existing trademark which is over six years old, has the affidavit been filed stating that the mark is in use in commerce?

No		1	2	
Possibly	3	4	5	
Probably	6	7	8	
Yes	9	10		

If the product is at prototype stage, has it been properly inscribed with the term “patent pending”, * for trademark, and “circled-c” for copyright where applicable?

No		1	2
Yes	9	10	

If the product has been produced in quantity and distributed already, has it been properly inscribed with the term “patent pending”, * for trademark, and “circled-c” for copyright where applicable?

No		1	2
Yes	9	10	

Have you copyrighted all of your critical drawings, test results, safety documents, plans, instruction booklets etc.?

No		1	2			
Working on it	3	4	5	6	7	8
Yes	9	10				

Have you copyrighted your artwork, and packaging drawings etc.?

No	1	2				
Working on it	3	4	5	6	7	8
Yes	9	10				