

PATENT LAW YOU CAN USE™

Reading a Patent - Part I  
The Cover Page

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### Reading a Patent - Part I The Cover Page

Abstract - A patent is a legal document that provides certain rights to the owner of a patent. It contains information of interest to many different individuals, including patentees, competitors, potential licensees, and judges. In this and the next article, I discuss how to read a patent. This article describes the information that is found on the patent cover page. This article should be read together with Figure 1, which is the cover page of U.S. Patent No. 5,478,814. My next article discusses the substance of the patent itself, including the specification and the claims.

A patent is a complex document made up of several parts, including a specification that describes the invention and how to make and use it, claims that specify what is protected by the patent, and drawings if needed to understand the invention. Each patent has a cover sheet that contains important information about the patent. Information on the cover sheet is of interest to many different

individuals, including the patentee, potential licensees, competitors, and attorneys and judges.

For those unfamiliar with patents, the cover sheet may seem difficult to understand or even incomprehensible. Even for those who have worked with patents, the significance of some of the items on the cover sheet is not always fully understood.

A patent cover sheet is shown in Figure 1. You will notice that each item on the cover sheet has next to it a number inside a bracket, for example [22] next to the filing date. By international agreement, these numbers are used by all countries on their patent cover sheets to inform the reader what the individual items of information signify. For example, a person who cannot read Japanese would have a very difficult time determining which of the several dates found on a Japanese patent cover page refers to the filing date of the application. The bracketed number [22] next to a date indicates that this date is the filing date. This system assures that certain information about the patent will be available to everyone, even without the ability to read the language of the patent.

Some items, such as the Title, Inventor, and Patent Number, are found on the cover sheet of all U.S. patents. Other items, such as Assignee, Foreign

Application Priority Data, or Attorney, may be absent if they are not pertinent to the particular patent.

The most prominent portion of the cover sheet is the section at the top of the page containing information found on all U.S. patents. The first line on the left side are the words "United States Patent" followed by [19]. Under this is the last name of the first named inventor of the patented invention. In the upper right corner, there is a bar code that contains information about the patent number.

Below the bar code is [11] Patent Number. The number for a utility patent has seven digits, for example 5,478,814. A design patent number has 6 digits preceded by a capital "D", such as D123,456. A reissue patent (a patent that has been corrected by the issuance of a new patent) has a five digit number with the letters "RE.", such as RE.12,345. A reexamination certificate (a patent that had been reexamined because of newly discovered prior art) has a seven digit number preceded by "B1" (or "B2" or "B3", to designate if this was the first, second, or third reexamination), for example B1 5,123,456.

Below the Patent Number is [45] Date of Patent. This is the date that the patent issued and the date from which the patent is in force until it expires.

Before June 8, 1995, all patents expired 17 years from the issue date, assuming that periodic patent maintenance fees were paid. Since then, determining the

expiration date of a patent has become more complex. The filing date of the application and the existence of any parent applications now must be considered in order to determine when a patent will expire. In addition, an asterisk (\*) sometimes appears before the issue date. This indicates that the term of the patent has been shortened and that the patent will expire on a date that cannot be determined solely by information found on the cover sheet of this patent.

Below the thin black line that separates the above information from the rest of the cover sheet, the information is arranged in two columns, which are arranged as newspaper type columns. The first item is [54] TITLE OF THE INVENTION, a name selected by the patentee to describe the invention.

Following this is [75] Inventors. The names and hometowns of all inventors of the patented invention are listed. In the United States, patent applications are filed in the name of the inventors. In other countries, the owner of an invention may file a patent application in his or her own name, even if he or she is not the inventor.

Next is [73] Assignee. This is the name of the person or entity to which the ownership of the invention has been assigned, most commonly the company that the inventor works for. In order to have an assignee listed on a patent cover page, the assignment from the inventor to the assignee must be recorded with the

Patent Office. If the patent has not been assigned or if the assignment has not been recorded, the Assignee field will be absent.

Occasionally, there will next be a [\*] Notice. If an asterisk appears before the Date of Patent, this indicates that the patent will expire before its natural expiration date. The patent in Figure 1 will expire no later than the date on which Patent No. 4,945,084 expires.

The next item is [21] Appl. No. This is the serial number assigned by the Patent Office to the application that eventually issued as this patent. Patent application numbers are 8 digit numbers beginning with 08 or 09, followed by a slash, and then 6 numbers, for example 08/034,151. On the patent cover sheet, the two digits to the left of the slash are omitted. If the first digits to the right of the slash are zero, they are also omitted. Therefore, the application number 08/034,151 appears on the cover sheet as 34,151.

Following this is [22] Filed. This is the date that the application was filed in the U.S. Patent Office. This date is used to determine the expiration and priority dates of the patent, unless the patent is related to a previously filed parent application. Generally, for applications filed after June 8, 1995, the patent will expire 20 years from the filing date. For applications filed before June 8, 1995 and still pending on that date, the patent expires either 17 years from the

issue date or 20 years from the filing date, whichever is later. Therefore, assuming that the patent shown in Figure 1 has no parent application, the expiration date would be March 22, 2013.

The next section on the cover page is Related U.S. Application Data.

There is [63] a short paragraph that lists the parent applications of the patent and the outcomes of those applications. The patent in Figure 1 has a first parent application that was filed on July 8, 1987 and that eventually issued as U.S. Pat. No. 4,945,084. A second parent application was filed based on the first parent application on February 27, 1990, eventually issuing as U.S. Pat. No. 5,196,405. The present patent was filed as a continuation application of the second parent application on March 22, 1993, eventually issuing as the patent of Figure 1. In this instance, the priority date of the patent is July 8, 1987. Therefore, any publications having a date less than one year before this date, on or after July 8, 1986, cannot be used to invalidate the patent. The patent is calculated to expire on December 26, 2012, which is 17 years from the issue date of Dec. 26, 1995, because this is later than July 8, 2007, which is 20 years from the filing date of the earliest parent application, July 8, 1987.

Actually, the issue of expiration date of the patent in Figure 1 is a bit more complex because there was a terminal disclaimer filed, as indicated by the [\*] next

to the [65] Date of the Patent. In this case, the patent term has been disclaimed beyond the expiration of U.S. Patent No. 4,945,084. I've found this patent and determined that it will expire on July 31, 2007. Therefore, the actual expiration date of the patent in Figure 1 is July 31, 2007.

As an alternative to filing a patent directly in the U.S. Patent Office, an applicant may file an international patent application in accordance with the Patent Cooperation Treaty, known as PCT. The PCT will be described in greater detail in a future column. After a processing period in the PCT receiving office that may last for up to 30 months, the patent application then enters into the national phase in the U.S. Patent Office, hopefully to issue eventually as a U.S. patent. The patent cover page, in this case, will not list the U.S. Filing date and Related U.S. Application Data. In their place will be data concerning the PCT application. The cover sheet will list the filing date of the PCT application [22], the PCT application number [86], the date the PCT application was entered into the U.S. Patent Office and became a prior art reference that could be applied against other U.S. patent applications, the date the PCT application was published, and the publication number [87].

If the application was filed in a foreign country before the filing date in the U. S. Patent Office or in the PCT, the cover page will list [30] Foreign

Application Priority Data, showing the date filed, the country in which it was filed, and the application number in that country.

The next three items are [51] Int. Cl., [52] U.S. Cl., and [58] Field of Search. These are the International and U.S. classifications that are related to the field of the invention and the fields that the Examiner searched in examining the patent application. Information regarding the classification system can be found in the Manual of Classification, a publication of the U.S. Patent Office. The classification information is useful when searching for relevant prior art, such as to try to invalidate a patent or to help in drafting a patent application in a field similar to this patent.

The next item is [56] References Cited. This is a listing of all of the publications that were considered by the Examiner in deciding whether to grant the patent. First are U.S. Patents, for which the patent number, issue date, inventor, and U.S. classification are listed. Next are Foreign Patent Documents, which may include patents and published patent applications. Finally, Other Publications, typically scientific articles, are listed. The listing of cited references is very important because there is a strong legal presumption that the patent cannot be invalidated based upon what is disclosed in the cited references.

Next, the Patent Examiners are listed, followed by the name of the patent attorney and/or the patent law firm that prosecuted the application.

The next item is [57] Abstract. This is a short description of the invention and is similar to the abstract of a scientific article. It permits searching of the subject matter of the patent.

Following the Abstract is a single line that indicates the number of claims in the patent and how many Drawing Sheets it contains.

The final item on the cover page is a Figure of the patent as representative of the invention. This Figure is also published in the Official Gazette (OG), a weekly government publication that provides information concerning patents and the U.S. Patent Office.

In the next installment, I will discuss how to read the substance of a patent, including the specification, claims, and drawings. These sections are important to understand an invention and what is covered by a patent. They are also important in determining the extent to which a patent may be a prior art reference against another patent application and whether a patented invention is infringed.