

## Re: bowen labs receives patent

**Source:** <http://sci.tech-archive.net/Archive/sci.med.diseases.lyme/2005-01/0529.html>

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**Date:** 01/11/05

Date: 11 Jan 2005 06:45:08 -0800

zipzip wrote:

> *the awaiting patent from bowen on the q-rib test was approved by the us*

> *patent office*

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<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/nethtml/srchnum.htm&>

>

> *a patent only means they have the rights to the test, not that is*

> *approved for diagnosis by any state or federal agencies.*

> *but interesting news all the same.*

Yes a patent only means that the inventor has gone through a process intended to establish the uniqueness of their invention. The patent office doesn't even really certify that (or there'd be no disputes in patent litigation, or many fewer). The patent does not establish that the invention works (many inventions are patented that never work), or that it is safe or effective, and in this case does not establish the validity of the test itself.

And personally I think the test has about zero validity.

Patent FAQ's > About Patents

General FAQ's regarding the background of the patent system.

0.1 What is a patent?

A patent for an invention is the grant of a property right to the inventor, issued by the Patent and Trademark Office. The term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees. US patent grants are effective only within the US, US territories, and US possessions. Under the 2000 AIPA rules, patent terms may be adjusted. Refer to the 20 Year Patent Term Adjustment FAQs for more information.

A patent allows one to prohibit others from making, using, selling, offering for sale or importing the invention into the United States for a period of up to twenty years from the date of filing the application.

0.2 What technology is protectable under a patent?

The invention must be new, useful, and non-obvious. Typically inventions are aesthetic designs, functional items, functional methods, or asexually reproduced plants.

0.3 How long is a patent valid?

Patents issuing prior to June 8, 1995 can last up to 17 years from the date of issuance. Patents resulting from applications that were pending on June 8, 1995 can last up to the longer of: 17 years from the date of issuance or 20 years from the date of filing. Patents resulting from applications filed after June 8, 1995 can last up to 20 years from the date of filing. Under the 2000 AIPA rules, patent terms may be adjusted. Refer to the 20 Year Patent Term Adjustment FAQs for more information.

0.4 What competition does a patent prevent?

Patents provide the right to exclude others from making, using, selling, offering for sale or importing the invention described in the claims. This is perhaps the most powerful monopoly legally obtainable for products. See the 18 month pre-grant publication FAQs for information relating to infringement that occurs after your patent application is published.

0.5 What is the geographic scope of a patent?

A patent is national in scope. A United States Patent protects the inventor's product or technology in the United States. Patents can also be obtained separately in most foreign countries.

0.6 Can one infringe a patent without having knowledge of the patent?

Yes. Infringement occurs when one practices the invention described in the claims. Knowledge, or lack thereof, is generally irrelevant to issues of liability. Independent development is not a defense. Knowledge of the patent by the infringer, however, can be relevant to damages. Many companies do new product clearance searches to avoid law suits. Under the new 18 month publication rules, inventors can receive a statutory royalty payment for infringement if infringement occurs between the publication date and patent issuance. See the 18 month pre-grant publication FAQs.

0.7 Can I keep some information about my invention a secret?

There is a requirement that the invention be completely disclosed. Failure to disclose will invalidate the resulting patent. One cannot maintain information important to the patent as trade secret if the information was known as of the filing date. There are significant changes in the treatment of pending patent applications that inventors must become familiar with, namely the publishing in the public domain of most all patent applications 18 months after the claimed priority

date. See the 18 month pre-grant publication FAQs.

0.8 What rights does a patent provide?

The right to prohibit (see previous question) does not automatically include the right for the inventor to make, use, sell, import and/or offer the invention for sale. Anyone is free, however, to engage in such activities unless there is a law prohibiting it. The prohibitory laws of greatest concern include FDA regulations, firearm and explosives regulations, and patent laws whereby one's invention improves on another's patented invention.

0.9 What do the terms "patent pending" and "patent applied for" mean?

They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the Patent and Trademark Office. The law imposes a fine on those who use these terms falsely to deceive the public.

0.10 Why does the law recognize patents?

Patents were designed to reward persons for particular benefits provided to the government and the people with a monopoly. Originally, the "benefits" was loosely defined and the monopoly was not well connected to the benefit provided. In time the "benefit" to be offered became more narrowly defined to require a teaching about something unknown. The monopoly offered as a reward also became more closely related to the benefit. The inventor received a limited monopoly on the subject matter of the teaching (i.e., the invention as described in the claims). The impact of these events still permeate patent law today.

0.11 How was the duration of a patent determined?

Utility patents, prior to Gatt, lasted 17 years from date of issuance. The master-apprentice relationship was a seven year relationship. Custom had it that when an apprentice learned something from his master that was not otherwise known in the trade (i.e., an invention) the apprentice would not practice it for two apprentice periods following the end of his apprenticeship. The master could have developed the invention at the start or at the end of the apprenticeship, making the average time in the middle. Adding half the existing apprenticeship period with the two subsequent apprenticeship periods ( $3\frac{1}{2} + 7 + 7$ ) gave  $17\frac{1}{2}$  years of a monopoly for the inventor. For convenience sake, the half year was dropped, giving a 17 year monopoly. Design and plant patents lasted 14 years from the date of issuance ( $7+7$ ). Gatt changed the durations which are now based upon a compromise of time periods from the contracting governments.

0.12 How important was patent law during the formation of the United States of America?

The significance of patent laws was recognized by the drafters of the United States Constitution. Article I, Section 8, Clause 8 states: The Congress shall have power ...To promote the progress of science [patent] and useful arts [copyright], by securing for limited times to authors and inventors the exclusive right to their respective writings

and discoveries. Promulgation power for most federal law, including trademark law, is not separately set forth in the Constitution like patent and copyright law, but rather is promulgated under the interstate commerce clause. Today, many people would cite the United States patent laws as the reason why the United States is a world leader in technology. The European Patent Office (EPO) and Japanese Patent Office have similar strong patent systems.

0.13 Did the United States Patent Office believe that all inventions would be uncovered?

Originally, it was believed that there was less than a thousand inventions that could ever be discovered. The number fluctuated somewhat and eventually was abandoned. One interesting result of the belief that we still enjoy today is found in the Library of Congress. The patent office originally required the submission of a working miniature model. Each of these models were to be donated to the Library of Congress, where they can still be found today. The reasoning behind such requirement is so that the Library of Congress would hold an example of every invention. This practice of submitting miniature models was discontinued as the estimated number of total inventions continued to increase and as space decreased.

0.14 How much does a patent Cost?

The 'cost' of a patent can be divided into two parts, generally: (1) Patent application / filing and prosecution costs, and (2) US Patent Office filing / issuance and maintenance fees.

(1) The preparation of a patent, and the prosecution of a patent after application (responding to the Patent Office Office Actions) can be performed by the inventor, although the Patent Cafe recommends the use of a qualified patent professional – Patent Attorney or Patent Agent. The total costs vary according to the complexity of a patent and the fee schedule of the patent professional, but the inventor should assume that the total Professional costs up to and including issuance will be in the \$3,000 – 8,000 range. Patents can be filed for about \$2,100, but this is only the application. Don't be fooled into thinking that this is the total cost of the patent.

(2) Patent Office Fees below are for small entities (Independent Inventors and Companies with less than 500 employees) and are in addition to the Professional Preparation Fees in (1) above). See the USPTO for other fees.

Patent Application (Filing) Fees (to submit your patent application) for Small Entities

Basic Patent filing fee – Utility \$355.00

Design Patent filing fee \$160.00

Plant Patent filing fee \$245.00

Provisional Patent Application filing fee \$75.00

Patent Issuance Fees (paid after Patent Office approves patent)

Utility Patent issue fee \$620.00

Design Patent issue fee \$220.00

Plant Patent issue fee \$300.00

Patent Maintenance Fees (to keep your patent in force)

Due at 3.5 years after issuance of patent \$425.00

Due at 7.5 years after issuance of patent \$975.00

Due at 11.5 years after issuance of patent \$1,495.00

0.15 How can I tell if the Patent Attorney / Agent I'm talking to is legitimate / honest?

Check the US Patent Office's current registry to see if the patent attorney or patent agent is listed: Roster of Patent Agents and Attorneys Remember, there is a difference between 'legitimate' and 'good'. Ask the provider for references of other inventor clients, as well as for copies of patents they have filed in your field (for instance, certain patent attorneys specialize in Chemical Patents, Software Patents, etc. – so find the one with technical expertise in your patent technology)

0.16 I have an IDEA; what should I do next?

Before an inventor begins spending money on the patent process, they must first verify the marketability or feasibility of the invention.

Way too often inventors go down the road of inventing 'just knowing their invention will sell' – but not having the desire to see whether it won't sell. So the recommended steps to proceeding with the invention process are: (1) begin an inventor's journal and record in writing everything having to do with the invention, (2) complete some good market research and verify the marketability, and (3) begin the patent process. For a good step-by-step reference, see the Inventor's Starting Point.