Patents protect inventors, ward off competitors

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Let's say you've invented a new process or product. You think it could make you or your business a lot of money. You want to keep competitors from copying your idea. Should you patent your invention? If so, how, and what must you consider?

First, understand what kinds of inventions can and can't be patented. Inventions must be new, useful, and what the government calls non-obvious. Inventions often are technical or industrial processes or devices. Patents are different than copyrights, which protect literary, dramatic, musical or artistic works and software. Trademarks, another form of protection, cover words, logos and designs for companies or products.

A patent prevents others from making, using or selling your invention for up to 20 years. Patent holders can stop others from using their ideas, or can collect money in exchange for permitting such use.

"Generally, you should consider a patent only to prevent business competition for a marketable product," said Steve May, patent attorney at Pacific Northwest National Laboratory in Richland. May said that he discourages about half of those who come to him from getting patents, because the scope of their idea is too narrow to effectively prevent competition.

A patent search may reveal whether your idea, or parts of it, already have been claimed by someone else. Anyone can use the Web to do a preliminary search. See www.uspto.gov or www.patents.ibm.com.

According to a Wall Street Journal article last January, the hottest patent categories are software (17,500 patents granted in 1998), biotechnology and Internet-related electronic commerce. Last November, a Washington, D.C. court ruled that business methods could be patented, even those that don't involve computerization or other technologies.

If you have already publicly disclosed or sold your invention, you have only 12 months to apply for a U.S. patent. Be prepared to spend $5 to $10 thousand dollars or more and to wait at least two years for the final rights.

Many people hire a patent attorney to guide them through the process. The most critical part, according to May, is writing the scope of the invention--called the claims--to get the broadest possible ownership of all the parts of the idea.

What should you look for in a patent attorney? If your invention involves advanced sciences or computer technology, choose someone with expertise in these areas. Ask to see references. Ask for patents the attorney has submitted, to see how well they are written and how broad the claims are.

May has one caution: Don't use invention development companies. These are firms that promise to get you a patent and market your idea, according to May. "Many of these companies are disreputable, taking your money but delivering little in return," he said.

Some people envision a patent as a road to riches, by licensing the rights to a company, which then develops and sells a product based on the invention. But May said this is tougher than people think: "Only about 1 in 100 people find licensees for their inventions." But it does happen. IBM, for example, reaped more than $1 billion in licensing fees last year from 1,600 companies. Licensed inventions from staff at Pacific Northwest National Laboratory earned several hundred thousand dollars last year.

Small businesses use their patents not only to hold off competitors, but also to appeal to investors. A strong patent position can be the most valuable asset of a small technology-based company.

The Mid-Columbia area, with its engineers and scientists, has one of the highest percentages of patents per capita in the state. From 1975 to 1995, Richland had one patent recipient for every 44 people, ranking only slightly behind Redmond, home of Microsoft.