

What Does a Patent Cost?

Predicting patent costs is like predicting the outcome of a negotiation -- there are a lot of unknowns. What will the negotiating process (USPTO procedures) be? What will the final agreement (claims) look like? In the end will this be a deal worth doing (a patent worth having)? And the biggest unknown of all is: will you even reach an agreement (get a patent)?

But accountants, shareholders, clients, bosses, and spouses do not care about unknowns.

So let's get to the number: \$20,000.

Using middle range representation, textile and apparel companies probably spend \$20,000 to get a U.S. utility patent to protect a simple innovation. They might have spent less. They could easily have spent a lot more.

This number is built from four components: the fees paid by patent holders to the US Patent and Trademark Office, estimated representation fees required to prosecute the patent through the USPTO, search and drawing costs, and a fee increase adjustment. It does not include maintenance fees over the life of the patent.

I began with 223 patents that were issued in the period between August 20th, 2013 and October 7th, 2014. These patents were selected as a random sample of all patents issued in textile related classification codes. The USPTO fees paid for these patents were pulled from public records. For our purposes, the fees were adjusted to remove the impact of small entity discounts. In addition, the fees were analyzed to determine the USPTO procedures required to get a patent issued.

In addition to normal procedures, 40% of the patents required continued examinations, 5% of the patents required an appeal, and 25% of the patents faced restrictions that effectively required the invention to be split into two applications.

Representation fees were estimated from a sample of 10 firms that were found on the internet. Using the information available on these websites, representation fees were determined for each firm to perform the USPTO processes required by the sample patents. The median fee was selected for these processes.

A quick review of companies that do patent searches and patent drawings revealed that if the patent really is simple and straight forward, you can get a search and 3-5 drawings for \$1,300. This is the number that was used.

Finally, I added \$620 to reflect USPTO application fee increases from 2011, the year when many of the applications were filed.

When you add this all up, patents incurred estimated expenses of \$12,500 in representation fees, \$5,640 in USPTO fees, and \$1,300 in drawing and search fees for a total estimated cost of \$19,440.