

THIRD PARTY SUBMISSIONS --- A MEMBER OF THE PUBLIC MAY MAKE A SUBMISSION DURING A LIMITED PERIOD AFTER PUBLICATION OF A U.S. PATENT APPLICATION.

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A submission of patents and publications may be made by third parties for a pending U.S. patent application directly to the U.S. Patent and Trademark Office (USPTO) within two months from the date of publication of an application, or prior to the mailing of a notice of allowance, whichever is earlier. Such a submission must identify the pending application to which it is directed by the application number, include a listing and a copy of patents or publications submitted for consideration by the USPTO, provide an English language translation of all pertinent parts of any non-English language patent or publication, provide a certification that the third party has served the information being submitted upon the patent applicant and include the required fee.

In making the submission, third parties are prohibited from submitting more than ten total references (patents or publications), any explanation or comments in relation to the patents or publications, or any other additional information. However, the third party may submit redacted versions of a patent or publication containing only the most relevant portions of the patent or publication.

Subsequent to making the submission, the involvement of a third party ends. The USPTO will determine whether the submission is limited to patents and publications and may remove any explanations or documents other than patents and publications from the submission before the submission is placed in the file of the application and forwarded to the examiner.

Practice Tip: Although a Third Party Submission can only occur during a very narrow window of time, at a cost of \$180 to file, it may be a relatively cost-effective tool for bringing information relevant to a pending published application to the attention of an examiner. It is also noted that some third parties have mailed patents and publications directly to the patent applicant or patent applicant's U.S. attorney, particularly when the two month deadline has lapsed from the application publication date, requesting that such patents and publications be submitted by the patent applicant under the duty to disclose information material to patentability under 37C.F.R. §1.56. For further information, please contact us.