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Neustel-Zimmer Approach To Successful Inventing

2000 TEN article by Michael S. Neustel, 701-281-8822, a registered patent attorney with offices in Fargo, North Dakota, and founder of the [National Inventor Fraud Center](#).

The Neustel-Zimmer Approach should only be utilized by inventors that intend to *license or sell* their invention to an existing company. This Approach is not designed for inventors that desire to manufacture their inventions. Michael S. Neustel, a Registered Patent Attorney, and Edward Zimmer, a marketing expert, developed the Approach. You can visit their respective web sites at www.patent-ideas.com. and www.tenonline.org.

The Neustel-Zimmer Approach attempts to maximize potential returns to an inventor intending to license their invention while minimizing the potential risks. While this Approach does not guarantee success for all inventors, if followed properly it can significantly reduce the financial risks most inventors incur. Remember... less than 2% of inventions ever make money. Make sure your invention will likely be one of those 2% before spending thousands of dollars on patents, prototypes, and other services.

Step #1: Preliminary Invention Evaluation

The first step in the Neustel-Zimmer Approach is to make an "objective" assessment of your invention. If you are honest with yourself and your invention at this step, you can possibly avoid spending money on over 50% of your inventions that have limited value. It is assumed that you have been maintaining detailed records of your invention as you develop it. You should conduct two types of research during this step: (1) market research, and (2) patent research. After conducting your research, you should take an objective "marketability test" to determine if you should proceed to Step #2.

A. Market Research

Market research comprises searching for similar products that are currently on the market or that have been attempted to be marketed. You should conduct your market research in (i) catalogs, (ii) the Internet, (iii) stores, and (iv) magazines. You should also research companies that make products similar to your invention to determine if they manufacture products that would directly compete with your invention or if they have a better product than your invention. Make sure to check everything since a good percentage of inventions can be eliminated simply by doing some solid market research.

B. Patent Research

Patent research comprises searching for patents that are issued for inventions similar to yours. You can search for issued patents on the Internet or at your local U.S. Patent Depository. There are several free search engines on the Internet, but we suggest utilizing the [IBM Patent Server](#) which you can utilize for free. You should enter various keywords for your invention and print out all relevant patents. Another excellent location to search is your local U.S. Patent Depository which has very helpful patent librarians to assist you in your patent search. The USPTO has a complete list of [Patent Depositories](#) that you can utilize.

C. Marketability Test

If a very similar product is not located during the market and patent research, you should then take an objective marketability test for your invention. A good preliminary marketability test is the [Wal-Mart Innovation Network \(WIN\)](#). For a fee of \$175, WIN will evaluate your invention based upon certain factors. You can contact WIN at 417-836-5751.

After you are finished conducting your market research, patent research and marketability tests, you have to make a choice: (i) proceed to Step #2, (ii) stop proceeding with the invention, or (iii) place the invention on "reserve" while you consider other inventions. Remember, less than 50% of inventions should pass Step #1 if done correctly.

Step #2: Patentability Search & Opinion

If your invention survives Step #1, you should have a professional patentability search conducted at the United States Patent & Trademark Office (USPTO). You should also have your Patent Attorney give you a patentability opinion based upon the patent search results. You should expect to spend between \$400 to \$800 for a good patentability search and legal opinion.

After you receive the patentability opinion and search results, you have to make a choice: (i) proceed to Step #3, (ii) stop proceeding with the invention, or (iii) place the invention on "reserve" while you consider other inventions.

Step #3: "Self-Draft" A Provisional Patent Application

If your invention survives Step #2, the next step is to draft your own Provisional Patent Application (a.k.a. "PPA"). The PPA is not a true patent application since it only lasts for one-year and it is not examined by the USPTO. However, the PPA provides a suitable format for inventors to draft their own patent application and receive up to one-year of "patent pending"

while they determine if their invention is potentially licensable. It is highly recommended to utilize reputable commercial materials that explain how to draft a patent application.

It is recommended that you hire your Patent Attorney to review your self-drafted PPA before mailing to the USPTO. When drafting your PPA, make sure to describe your invention in detail regarding structure, functionality and use. Make sure to include as many detailed hand sketches and pictures (if prototype is made) as possible to clearly describe the components and operation of the invention.

35 U.S.C. §112, first paragraph states that the PPA "shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention." Failure to satisfy 35 U.S.C. §112, first paragraph can possibly result in lost patent rights. You should consult with your Patent Attorney if you have any questions about the legal requirements of the PPA.

Step #4: "Licensing" Research

After filing your self-drafted PPA with the USPTO, you should then begin your "licensing" research. It is recommended that you hire a licensing agent who specializes with your type of product (toy licensing agents, etc.). If you are unable to locate a licensing agent who specializes with your type of product, you can either utilize a general licensing agent or attempt to conduct the research yourself. Your fees for the licensing agent should be less than \$1,000 for all services rendered.

During the licensing research you should first make a list of 5-20 companies that manufacture products similar to your invention and that may be potentially interested in licensing or buying your patent rights. You should then try to contact these companies by telephone or mail. Without describing your invention, you should tell the company that you have an invention which solves a specific problem or does a special function. You should inform them that you have "patent pending" on this unique product. You should then ask the company if they would potentially be "interested" in licensing or purchasing the patent rights to your invention. If they request more information about your invention, this is a good indication that your invention is potentially licensable. If the companies state that they already have a product that adequately solves the problem or that does the special function, this is an indication that your invention is not potentially licensable.

After the 5-20 companies have been contacted, your licensing agent should make an objective assessment and recommendation as to the potential of licensing or selling your invention. You then have to make a choice: (i) proceed to Step #5, (ii) stop proceeding with the invention, or (iii) place the

invention on "reserve" while you consider other inventions.

Step #5: Hire A Patent Attorney To Draft Your Patent Application

If you feel that your invention is potentially licensable after conducting your licensing research in Step #4, you should then hire the Patent Attorney to draft a complete patent application for your invention. Expect to spend between \$3,000 to \$5,000 for a quality patent application from your Patent Attorney.

Step #6: License The Patent Rights

After your Patent Attorney drafts and files the complete patent application for your invention, you then should have your licensing expert arrange to disclose your invention to potential licensees. You should attempt to have Confidentiality Agreements signed with these companies prior to disclosing your invention to them. Don't be surprised if many companies will not sign your Confidentiality Agreement.

Step #7: Final Review

You should "reevaluate" your position with regards to your invention every six-months while completing Step #6. As an inventor, you need to objectively determine when you should terminate all actions in promoting a specific invention. You should base your decision upon the reactions you receive from the companies when presented with a full disclosure of your invention. Remember, your time is worth something so don't spend it attempting to market an invention that no one wants.

Approximately every six-months you should consider either (1) manufacturing the invention, or (2) terminating all efforts for the invention. If you have not received a positive reaction from industry regarding your invention, you are strongly encouraged to consider the latter choice to avoid creating further hardship for yourself. Do not spend valuable time pursuing a fruitless dream.

Final Comments

We hope that you find the Neustel-Zimmer Approach beneficial to you during the invention process. The road to success with your inventions requires hard work, dedication, and most significantly "honesty" about your invention. We hope that our Approach allows you to quickly identify the 98% of inventions that are not licensable. Lastly, we hope that you are able to choose the 2% of your inventions that are potentially licensable so that you proceed further with them and become a successful inventor!

Ed Zimmer note: This approach, although carrying my name, was authored by Michael Neustel. It resulted from an extended discussion on the [InventNet](#) forum in which I was arguing for more consideration of *marketability* earlier in the invention

process.

The breakthrough came when Michael realized that the *legal* risk inherent in inventors' self-drafting their own provisional application paled in comparison with the *market* risk they faced, i.e., will the invention license at all.

It's generally accepted that the success rate of novice (i.e., inexperienced) inventors -- who follow their invention all the way through to patent -- is less than 2%. My observation says that it's a factor of 10 less than that -- 1 in 500 currently make more money from their invention than they spent.

If more inventors would *objectively* follow these steps -- and if more patent attorneys would encourage them to -- I believe we could make a major dent in those statistics (whatever they *really* are).

I'm not content that the *marketability* question -- i.e., *will it license?* -- is receiving its proper weighting even under this approach. But at least this is an approach that patent attorneys can accept, and it *will* result in fewer non-licensable patents.

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