

FTC FACTS for Consumers

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hink you have a great idea for a new product or service? You're not alone. Every year, tens of thousands of people try to develop their ideas and commercially market them.

Some people try to sell their idea or invention to a manufacturer that would market it and pay royalties. But finding a company to do that can be difficult. As an alternative, others use the services of an invention promotion firm. Indeed, some inventors pay thousands of dollars to firms that promise to evaluate, develop, patent, and market inventions...and then do little or nothing for their fees.

Unscrupulous promoters take advantage of an inventor's enthusiasm for a new product or service. They not only urge inventors to patent their ideas or invention, but they also make false and exaggerated claims about the market potential of the invention. The facts are:

- ✓ few inventions ever make it to the marketplace; and
- ✓ although a patent can provide valuable protection for a successful invention, getting a patent doesn't necessarily increase the chances of commercial success.

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There's great satisfaction in developing a new product or service and in getting a patent. But when it comes to determining market potential, inventors should proceed with caution as they try to avoid falling for the sweet-sounding promises of a fraudulent promotion firm.

Using Invention Promotion Firms



Advertisements for invention promotion firms are on television, radio and the Internet, and in newspapers and magazines. These ads target independent inventors with offers of free information on how to patent and market their inventions. Often, however, the only information you get is about the promoter.

If you respond to the ads — which may urge you to call a toll-free number — you may hear back from a salesperson who will ask for a sketch of the invention and information about you and your idea. As an inducement, a firm may offer to do a free preliminary review of your invention.

Some invention promotion firms may claim to know or have special access to manufacturers who are likely to be interested in licensing your invention. In addition, some firms may claim to represent manufacturers on the look-out for new product ideas. Ask for proof, such as contacts at manufacturers, before you sign a contract with any invention promotion firm that claims special relationships with manufacturers. If the promoter provides only one or two names, be careful: The contacts may be “shills” — people hired to give favorable testimonials.

After giving your invention a preliminary review, a firm might tell you it needs to do a market evaluation of your idea — for a fee that can be several hundred dollars. Many questionable firms don't do any genuine research or market evaluations. Sometimes the “research” is bogus, and the “positive” reports are mass-produced in an effort to sell clients on additional invention promotion and marketing services.

Fraudulent invention promotion firms don't offer an honest appraisal of the merit, technical feasibility, or market potential of an invention.

Some invention promotion firms also may offer a contract in which they agree to help you market and license your invention to manufacturers. Unscrupulous promoters may require you to pay a fee of several thousand dollars in advance, or to agree to make credit payments instead. Reputable licensing agents usually don't rely on large advance fees. Rather, they depend on royalties from the successful licensing of client inventions. How can they make money when so few inventions achieve commercial success? They're choosy about which ideas or inventions they pursue. If a firm is enthusiastic about the market potential of your idea — but wants to charge you a large fee in advance — take your business elsewhere.

Inventor Protections



If you're interested in working with an invention promotion firm, here's information that can help you avoid making a costly mistake.

✓ The American Inventors Protection Act of 1999 gives you certain rights when dealing with invention promoters. Before an invention promoter can enter into a contract with you, it must disclose the following information about its business practices during the past five years:

- how many inventions it has evaluated,
- how many of those inventions got positive or negative evaluations,
- its total number of customers,
- how many of those customers received a net profit from the promoter's services, and
- how many of those customers have licensed their inventions due to the promoter's services.

This information can help you determine how selective the promoter has been in deciding

which inventions it promotes and how successful the promoter has been.

- ✓ Many fraudulent invention promotion firms offer inventors two services in a two-step process: one involves a research report or market evaluation of your idea that can cost you hundreds of dollars. The other involves patenting or marketing and licensing services, which can cost you several thousand dollars. Early in your discussion with a promotion firm, ask for the total cost of its services, from the “research” about your invention through the marketing and licensing. Walk away if the salesperson hesitates to answer.
- ✓ Many fraudulent companies offer to provide invention assistance or marketing services in exchange for advance fees that can range from \$5,000 to \$10,000. Some even offer to finance the full amount to entice inventors into making a quick decision. Reputable licensing agents rarely rely on large up-front fees.
- ✓ Unscrupulous invention promotion firms tell **all** inventors that their ideas are among the relative few that have market potential. The truth is that most ideas don’t make any money.

Check References



- ✓ Ask the promoter to give you the names of many previous purchasers so that you can pick and choose who to call for references. Again, beware of shills.
- ✓ Fraudulent invention promotion firms may promise to register your idea with the U.S. Patent and Trademark Office’s (USPTO) Disclosure Document Program. Although many scam artists charge high fees to do this, you can do it for \$10 by filing your document with the USPTO directly. The disclosure is accepted as evidence of the date of concep-

tion of the invention, but it doesn’t offer patent protection.

- ✓ Unscrupulous firms often promise that they will exhibit your idea at trade shows, but don’t actually go to these trade shows, much less market your idea effectively. Check with previous clients and trade show sponsors about whether their ideas were exhibited.
- ✓ Many unscrupulous firms agree in their contracts to identify manufacturers by coding your idea with the U.S. Bureau of Standard Industrial Code (SIC). Lists of manufacturers that come from classifying your idea with the SIC usually are of limited value.

Tips Before Moving Forward



Contracting for the services of an invention promotion firm is no different from making many other major purchases. Apply some common sense.

- ✓ Question claims and assurances that your invention will make money. No one can guarantee your invention’s success.
- ✓ Investigate the company before you make any commitment. Call the USPTO at 1-866-767-3848, and the Better Business Bureau, the consumer protection agency, and the Attorney General in your state or city, and in the state or city where the company is headquartered. Under the American Inventors Protection Act of 1999, invention promoters must give you the names and addresses of all invention promotion companies they have been affiliated with over the past 10 years. Use this information to determine whether the company you’re considering doing business with has been subject to complaints or legal action.

If a promoter causes you financial injury by failing to make the required disclosures, by making any false or fraudulent statements or representations, or by omitting any fact, you

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have the right to sue the promoter and recover the amount of your injury plus costs and attorneys' fees.

In addition, while the USPTO has no civil authority to bring law enforcement actions against invention promoters, it will accept your complaint and post it online if you complete the form, **Complaint Regarding Invention Promoter**, at www.uspto.gov/web/forms/2048.pdf. The USPTO also will forward your complaint to the promoter, and publish its response online. To read complaints and responses, visit **Inventor Resources** at www.uspto.gov/web/offices/com/iip/index.htm.

- ✓ Make sure your contract contains all the terms you agreed to — verbal and written — before you sign. Often the contract says one thing but the salesperson says something quite different. If possible, ask an attorney to review the agreement.
- ✓ Remember that once a dishonest company has your money, you may never get it back. You may have to sue the company under the American Inventors Protection Act of 1999, which permits a customer to recover for injuries, costs, and legal fees if a promoter has failed to make disclosures, made any false or fraudulent statement or representation, or omitted any material fact, to a customer. You have the burden to show that the law has been violated.

For More Information



- **U.S. Patent and Trademark Office**
The USPTO offers information about patents and trademarks. Write: U.S. Patent and Trademark Office, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; call toll-free at 1-800-PTO-9199; or visit www.uspto.gov. For more information about the Disclosure Document Program, Provisional Applications or Non-provisional

Applications call 1-800-PTO-9199. In addition, every state has a Patent and Trademark Depository Library that maintains collections of current and previously-issued patents and Patent and Trademark reference materials. To order a copy of the American Inventors Protection Act, call 1-800-PTO-9199, or visit www.uspto.gov/web/offices/com/speeches/s1948gb1.pdf.

- **National Congress of Inventor Organizations**
NCIO offers free articles, information, resources, and an online magazine **America's Inventor Online**. To contact NCIO, call toll-free 1-877-807-4074, or visit www.inventionconvention.com/ncio.
- **United Inventors Association**
UIA offers free articles, information, resources, referrals to local support groups for inventors, and online copies of its newsletter. To contact UIA, call 1-585-359-9310, or visit www.uiausa.com or www.uiausa.org.
- **Federal Trade Commission**
The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. While the FTC generally does not intervene in individual disputes, the information you provide may indicate a pattern of violations requiring action by the Commission. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.