

Steering Clear of Invention Scams

When I came up with the idea for the Ab Roller, I decided to stay involved in the project every step of the way and take my invention all the way to the marketplace. I was involved in the entire process: designing, prototyping, branding, packaging, manufacturing, and marketing. I had an infomercial produced and aired the product on live television via the QVC Home Shopping cable channel. I became familiar with every aspect of the business of invention from the creation of an idea to the marketing of the product. I also learned a lot about protecting my intellectual property rights. Not only do you have to protect your product with patents and trademarks but you also have to protect your product from all the scam companies out there that want to make money off your idea before you ever make a penny.

How to Tell if an Invention Promotion Company Is a Scam

While it's tempting to start the process by looking for a company to promote or license your idea, scam companies are as common as inventions themselves and have robbed inventors of millions of dollars of their hard-earned money. There are several different types of scam companies out there. A few of them are actually legitimate marketing companies who are legally trying to sell you patent and trademark services you do not need.

There are a few things about marketing and invention promotion companies that distinguish them from legitimate companies who truly want to work in your best interest. I will describe the frequently used tactics of these scam companies in nine scenarios. Not only will you be able to instantly recognize a scammer and save yourself a fortune, you may also help put those companies out of business for good.

Scam #1: We Do It All for You

Many scam companies offer to do everything for you from beginning to end. All you have to do is come up with an idea and present it to them. I wish I could offer a list of legitimate companies that will take an idea from conception to the marketplace, but unfortunately there is no one-stop shopping when it comes to inventions. Any company that offers to “do it all for

you” and requires that you do nothing but pay them money is a scam. Invention is hard work and you are in the driver’s seat when it comes to making decisions. However, there are some legitimate a la carte services that connect you with independent vendors who specialize in the different jobs you will need to perform along the way. For example, you may need to hire an expert to make a functioning prototype, or you may need to hire a qualified attorney to draft the patent application. You must shop around and compare prices for the services you need to complete the invention process.

Scam #2: Free Inventor’s Kit

Some scam companies will place professional and appealing ads on radio, on TV, and in magazines to hook you. Some of them offer a FREE inventor’s kit. First you call and receive in the mail a kit with a non-disclosure form and an offer to submit your invention for a free evaluation. Any company that asks you to submit your ideas without a signed contract or non-disclosure agreement should be avoided. Once you send in your idea, you will be contacted by a person from the scam company informing you that your idea is a good one and stating that you can probably get a patent. Not realizing that these companies tell every inventor that their idea is a good one that can be patented, you get all excited about the possibilities.

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That is until they explain to you that in order to make sure you are not infringing upon someone else's patent they must first perform a patent search, which will cost you between \$1,000 and \$3,000. Don't be fooled: most legitimate patent attorneys charge \$750 to \$1,000 for a patent search.

Scam #3: Upfront Fees

Scam companies charge upfront fees that range from \$5,000 to \$40,000. If a salesperson or company wants money up front before they will do business with you, it's a sure warning sign that they are not on the up and up. If you can't pay the upfront fee, they may offer financing to help you get started. Once they get money from you, they will continue to ask for more, perhaps for an invention evaluation, research, marketing services, or a patent report. In contrast, rather than ask for fees in advance, reputable licensing agents rely on royalties from the successful licensing of their clients' inventions. Therefore, they are very discriminating about the ideas or inventions they pursue.

Regarding the research and evaluations offered by fraudulent firms, many times the so-called research report is nothing more than a mass-produced computer generated generic report that looks legitimate to the untrained eye. Their marketing evaluation may not be an honest appraisal of the feasibility or market potentiality of your idea.

Scam #4: Nothing in Writing

Scam companies make a lot of verbal promises they can't and don't intend to keep. They may promise to do a patent search, but if they don't offer you a contract with a patentability opinion signed by a patent attorney or agent, you have nothing to stand on if they don't follow through. If a company will not show you copies of any documentation regarding your agreement with them, this should be a red flag. If a company is above board, they will provide answers to your questions in writing. To avoid being a victim of scam, DO NOT accept verbal promises. Before you pay any money or sign any document with a marketing and invention promotion company, get answers to your questions in writing and make sure the document is signed by a company official. By the same token, be very careful about what you sign with an invention promotion firm. Some will have you sign a "non-disclosure agreement" that may actually keep you from disclosing your idea even in seeking patent for your own product.

Scam #5: It's in the Mail

There are several ways that scam companies operate using mail. They may try to convince you that your idea will be safeguarded if you put your idea in writing and mail a copy to yourself and don't open it.

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They claim the postmark date will prove your date of invention, but this is not true.

Speaking of mail, for a fee of \$4,000 to \$9,000 these scam companies may offer to send a direct mail marketing piece to manufacturers. By the time you realize you are not getting a response from their efforts, you will know that they did not send the mailing and you have been scammed. By then, it may be too late to do anything about it.

Scam #6: No References

Fraudulent invention promotion companies may claim to know, represent, or have special access to manufacturers interested in licensing your invention. Try to get at least five references from past clients the company has serviced and contact them before signing any agreement. If a company refuses to provide references, check with the Better Business Bureau or your state's Attorney General's Office to see if the firm is registered. Also get a list of the manufacturers the firm works with and ask the manufacturers for references.

Scam #7: False Guarantees

Unscrupulous invention promotion companies will offer a "money-back guarantee" in the event they don't get a patent for you. There is no guarantee that

a useful patent can be obtained until the research is completed. You can be sure you won't get your money back. These companies assure all inventors that their ideas have excellent market potential. Additionally, the scammer may tell you that you should apply for a design patent. A design patent only covers the appearance of a manufactured item, not the invention itself. If the deal sounds too good to be true, it probably is!

Scam #8: No One's Home in the Office

Another tell-tale clue that the company is a scam is the fact that you can't reach the company or its salespeople by phone, and when you leave a message your calls are not returned. Initially, when they are trying to lure you in, they may talk to you in person, but once they get your money, you are not able to speak with a representative when you have a question or need further assistance. The scam company may not have an office. It may be operating from someone's basement.

Scam #9: Patent First, Ask Questions Later

If an invention promotion firm asks you to apply for a patent and use their attorney to draft the application, you should beware. They really don't care whether your invention will sell; they just want your money as soon as they can get it. With all the wolves out there, it is easy to fall prey to scam companies and

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unscrupulous patent attorneys who are more interested in taking your money before knowing if your product will even sell. Just ask a patent attorney if he will waive his fees if you agree to pay him double once you start making money with your invention. He will look at you like you're crazy! It is important to focus on inventions that will SELL, not just inventions that can be patented.

To protect yourself against scammers, ask the following questions and get the marketing or licensing company's response in writing.

1. In the past five years, how many inventions has this firm evaluated for commercial potential? How many were accepted? How many rejected? The acceptance rate is usually less than 5 percent for legitimate firms.
2. How many clients have received license agreements for their inventions as a direct result of working with this firm?
3. As a direct result in working with this firm, how many clients have made more from their invention than they paid in fees to the firm?
4. Has the firm operated under names other than its present one?
5. Has the firm done business in other states?
6. Ask the firm to provide names and addresses of the manufacturers they have been affiliated with in the past ten years.

7. How many clients has this firm worked with in the past five years?

8. Has the Federal Trade Commission, Better Business Bureau, Attorney General's Office, or any consumer protection agency ever investigated this firm? If so, for what reason and what were the results?

9. Is there an upfront fee? If so, how much and what does the fee provide? What is the total fee involved in getting a patent and licensing agreement for your invention? Will royalties need to be paid to the firm? If the search agent charges a fee considerably less than the average agent, this may be a ploy to lure in novice inventors. By the same token, if large fees are required up front or if they ask for a percentage of royalties, head for the door!

10. Who will select and pay the patent attorney to do the patent search, give an opinion on patentability, and prepare the patent application?

11. Ask for the names, addresses, and phone numbers of five clients in your local area that the firm has worked with. Get copies of all contracts and forms used.

12. Ask whether the firm provides a written marketing evaluation report (opinion of the potential success of your invention). The marketing evaluation report some firms offer is something you can do for yourself for half the price.

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Use common sense in evaluating the written answers from the promotion, marketing, or licensing company. Watch out for any company that refuses to offer proof of their marketing success, rejection rates, and relationships with manufacturers. Beware of those who will not give you details of its criteria for product evaluation or qualification.

If you are suspicious of a company, it's better not to deal with them. Be sure to report the company to the director at the Office of Independent Inventor Programs at the United States Patent and Trademark Office (write to Box 24, Washington, D.C. 20231; telephone 703-306-5568; or e-mail them at independentinventor@uspto.gov).

For specific companies you need to steer clear of, go to the Federal Trade Commission's Web site at <http://search.ftc.gov/> and type the word "invention" in the search window. This will give you public information in the form of press releases about invention scam companies.

Suppose you are already involved with a scam company. If an invention promotion firm has caused you financial loss by making false or fraudulent statements, or by omitting any required disclosure, you have the right to sue the company and recover your loss plus attorneys' fees. You should also know about the Federal Trade Commission and Project Mousetrap—a joined effort of law enforcement and federal regulators to battle invention fraud

(www.ftc.gov/opa/1997/07/mouse.htm). Contact the FTC and explain your situation. You may be able to get some of your money or rights back and keep other inventors from falling prey to the same scam company.

The US Patent and Trademark Office has no civil authority to bring case action against invention promotion firms, but it will accept and post your complaint online. You will need to complete the Complaint Regarding Invention Promoter Form, at www.uspto.gov/web/forms/2048.pdf. The Patent Office also has a public forum that lists complaints filed about invention promotion firms and the subsequent responses from the firms (www.uspto.gov/web/offices/com/iip/complaints.htm). Complaints about Advent Product Development; American Idea Management; American Inventors Corp.; Concept Network; Davison & Associates Inc.; International Product Design; International Product Design Inc; Invent-Tech; Invention Consultants, U.S.A; Invention Technology Co.; IP&R; National Invention Services, Inc.; New Product Advisory Group; New Product Consultants; New Product Consulting Corp.; New Products of America; and Patent Trademark Institute of America have been reported at the time of the writing of this book.

In October 2003, inventor Alan Scoggins found an ad on the Internet for Davison & Associates—an invention promotion company in Pittsburgh, Pennsylvania.

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The ad promised that the company would perform a research design and patent search, create presentation materials, make a production sample, file disclosure documentation, and obtain a production quote and executive summary. Scoggins contracted to have the company “do it all” for him, but after paying over \$15,000 to Davison and seeing no results, he got suspicious. When he reviewed the documents the company had sent him, he found that Davison’s agreement requesting a product review with another company had been backdated two years prior to his contract with Davison. Knowing that the request for product review had never been made, Scoggins filed a complaint with the Patent Office stating that Davison had misrepresented their services in exchange for his money. Unfortunately, this kind of complaint is common on the Patent Office Web site.

The National Congress of Inventor Organizations (www.inventionconvention.com/ncio) and the Bureau of Consumer Protection (www.ftc.gov/ftc/consumer.htm) are other resources to help you prevent and recover loss. National Inventor Fraud Center (NIFC) (www.inventorfraud.com) was founded by Michael S. Neustel, a registered patent attorney. His advice to those who have been scammed is to go through the following steps:

Try to speak to a representative of the company and verbally request a refund.

If your verbal request fails, send a written request directly to an officer of the invention promotion firm via certified mail (e.g., President, CEO).

If you are unable to receive a refund yourself, you may want to get a consumer law attorney to help you. You may also want to file a complaint with your State Attorney General (see www.inventorfraud.com/attorneygenerals.htm for contact information for all 50 states). Also contact the federal Trade Commission and the USPTO.

To avoid being a victim of scam, *learn as much as you can about the invention process and watch for the scam warning signs.* Stay in control of the process through each step on the way to the market. *Hold off on getting a patent until you are sure you have developed a product that can be sold for a profit.*