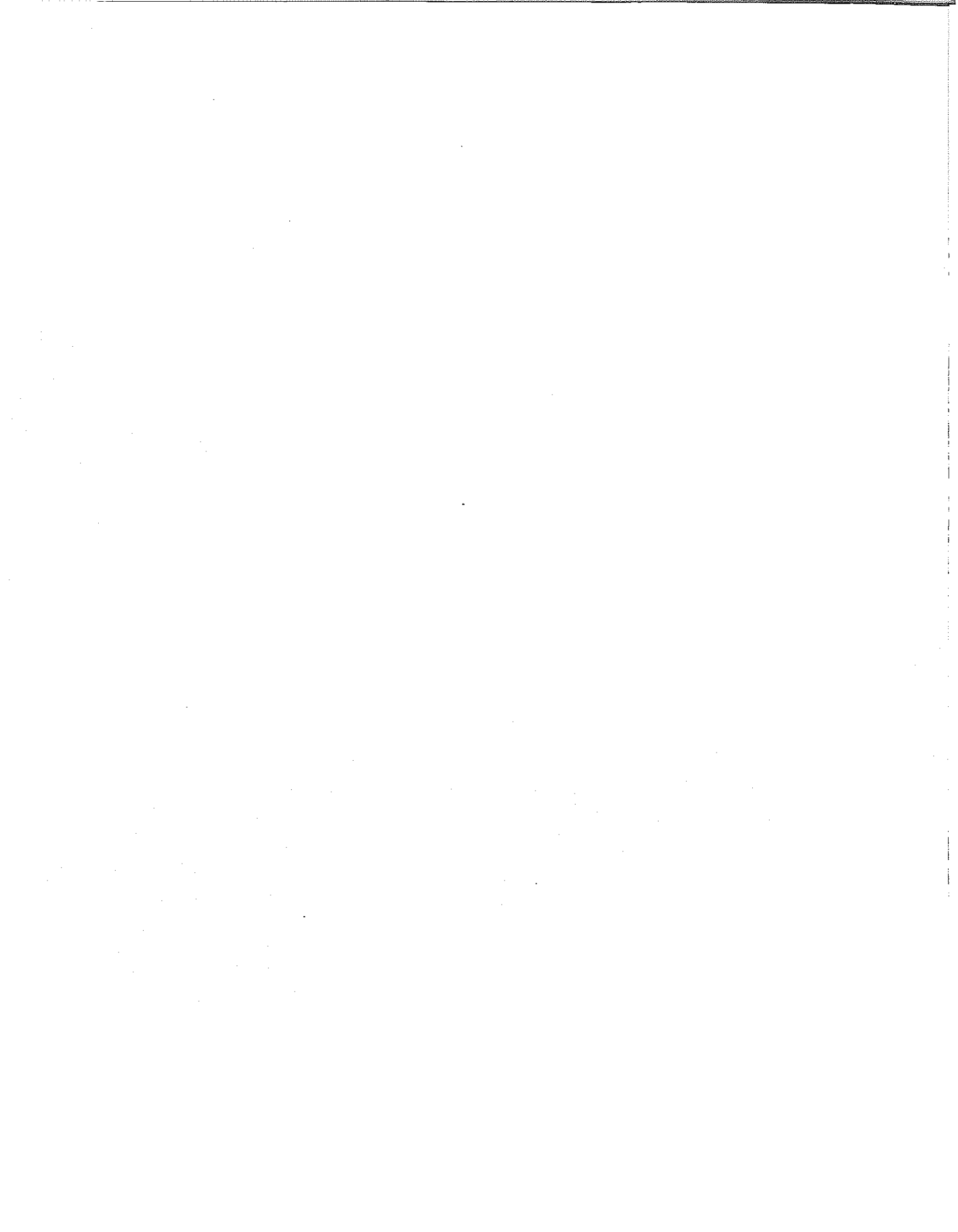


**NEUSTEL LAW OFFICES**  
A PROFESSIONAL CORPORATION

2534 South University Drive, Suite No. 4  
Fargo, North Dakota 58103  
(800) 281-7009 or (701) 281-8822  
Website: [www.neustel.com](http://www.neustel.com)  
E-mail: [info@neustel.com](mailto:info@neustel.com)

Patents, Trademarks & Copyrights

**NEUSTEL LAW OFFICES**  
A PROFESSIONAL CORPORATION



# GENERAL INFORMATION

Neustel Law Offices, Ltd. was established by Michael S. Neustel with the goal of providing quality intellectual property legal services at an affordable cost to businesses and inventors. Michael Neustel is a patent attorney registered to practice in front of the United States Patent & Trademark Office (USPTO). Michael Neustel received his Bachelor of Science degree in Electrical Engineering from North Dakota State University and his law degree from the University of South Dakota School of Law.

Today, Neustel Law Offices serves domestic and international clients in many phases of intellectual property law, including consultation on patentability, patenting, licensing, infringement, trade secrets, trademarks and copyrights. We draft patent applications involving mechanical, electrical, process, business method, e-commerce and composition inventions.

Michael Neustel has presented intellectual property seminars for various organizations such as the North Dakota State Bar Association, the National Inventors Summit, and the Minnesota Inventors Congress. He has been interviewed by well-known publications such as *The Wall Street Journal*, *Forbes ASAP*, *Newsweek*, *Newsday*, and *The New York Times* regarding inventor fraud issues. Michael Neustel has been a featured writer for the national inventor magazine – *Inventors' Digest*. He is also the founder of the National Inventor Fraud Center, Inc. which provides information about invention marketing companies.

We understand that most inventors are concerned about the confidentiality of their inventions. For this reason, all employees of Neustel Law Offices are required to sign our Employee Confidentiality Agreement. In addition, we typically provide each potential client an executed Confidential Disclosure Agreement to assure our clients that all information provided will be held in the strictest of confidence.

It is a goal of Neustel Law Offices to educate and empower clients so that they can make important decisions themselves. Because of this goal, Neustel Law Offices provides this informative brochure full of useful information along with a free initial consultation, after receipt of invention information and upon request.

**Background**

**Experience**

**Educating  
the Public**

**Confidentiality  
Guaranteed**

**Free  
Consultation**

# INTELLECTUAL PROPERTY

## Definitions

Intellectual property is usually an individual's and company's most valuable, yet most neglected, asset. There are four basic types of intellectual property protection: patents, trade secrets, trademarks, and copyrights.

Patents protect functional and ornamental designs of products. Trade secrets conceal anything used in the course of business to give a competitive advantage. Trademarks identify the source of goods or services. Copyrights provide the exclusive right to copy literary and artistic expressions.

## Example

An easy way to visualize the four basic types of intellectual property is to think of your personal computer. Utility patent protection would apply to the functional features of the electronic circuitry. Design patent protection would apply to the ornamental features of the computer. Trade secret protection would apply to the manufacturing process that allows the manufacturer to produce the computer at 85% of the nearest competitor's cost. Trademark protection would apply to the name of the computer. Copyright protection would apply to the software on the hard drive.

You must be able to distinguish each type of intellectual property protection in order to prevent misappropriation of your intellectual property assets. After reviewing this information, you should be able to recognize the value and benefit of each type of intellectual property as applicable to your individual needs.

# PATENTING YOUR INVENTION

A patent is a right, granted by the United States to an inventor, to *exclude* others from making, using, selling, or importing an invention throughout the United States without the inventor's consent. There are currently over 7 million United States patents that have been issued to inventors. There are two types of patents issued by the United States Patent & Trademark Office (USPTO): utility and design.

A utility patent protects the *function* of an invention. Utility patents are granted for any new, useful and non-obvious process, machine, manufactured article, composition of matter, or any new and useful improvements to any of these types of inventions. The term of a utility patent is 20 years from the date of filing.

A design patent protects the overall *appearance* of an invention and is granted for any new, original and ornamental design for an article of manufacture. The term of a design patent is 14 years from the date of issuance. A design patent should only be chosen if the appearance of the invention is important.

Before seeking patent protection, you should first determine whether your invention is potentially marketable. If your invention is not marketable, you do not need to seek patent protection. Neustel Law Offices does not provide marketability advice.

You cannot receive a patent for perpetual motion devices, abstract ideas, laws of nature, naturally occurring substances, or printed matter. It should be noted that a *prototype is not needed* when seeking patent protection. It is generally recommended that you seek a patent attorney's opinion if you have any questions regarding whether your invention is patentable.

Also, an inventor cannot receive a United States patent for an invention *publicly disclosed* more than 12 months before the date of filing. Public disclosure includes any sale, offer for sale, public display, exhibit at a trade show, or printing in a publication, with a few exceptions. If you believe you may have a possible public disclosure, inform your patent attorney immediately.

## Definition

## Utility Patent

## Design Patent

## Should You Patent?

## What is Not Patentable

## Public Disclosure

**Benefits of Patenting**

Patenting your invention allows you to prevent others from making, using or selling your invention throughout the United States without your consent. A patent is one of the few assets that can increase in value over time. A patent may also increase the value of your business because it is considered a valuable asset by banks and potential purchasers of your business.

There are many ways to financially benefit from a patent. Your patent may be sold outright. You may also license your patent to one or more parties for a percentage of the sale price. You may also be the exclusive manufacturer of your invention. Whether you are a business or an independent inventor, a patent is a valuable asset and is needed to protect you from individuals who could benefit from your hard work.

**Detailed Record Keeping**

Next to actually filing a patent application, detailed record keeping is the most important thing you can do to protect your invention. Proper record keeping is important because it is proof of the conception date (i.e., the date of invention). It should be noted that mailing yourself a sealed letter with your invention documents enclosed is not an accepted method of proving your invention's conception date for the USPTO.

**Bound Notebook**

All inventors should maintain a bound notebook for recording their inventions. Entries in the bound notebook should contain a clear and complete explanation of the manner and process of making and using the invention. All computations, sketches, diagrams and test results should be entered into the notebook throughout the process. Notebook entries should also describe all testing performed, any particular equipment used, and the results of the testing, both good and bad. Additionally, all persons involved in the work, and their specific role, should be identified in the notebook entries. Every entry in the bound notebook should be signed and dated by the participants, indicating the particular project with which the entry is associated. If possible, the entry should be signed and dated by a witness or Notary Public.

**Patent Search**

Though not required before filing a patent application, the first step in the patent process is typically to have a preliminary patentability search conducted. Neustel Law Offices has in-house patent professionals who perform searches of granted United States patents and published United States patent applications.

After the patent search is completed, Neustel Law Offices will compare the relevant located patents to your invention. We will then provide you with an opinion as to whether there is a chance of receiving patent protection. The patentability opinion by Neustel Law Offices will be sent to you, along with copies of the relevant patents.

## **Patentability Opinion**

After the patent search and opinion, a patent application is typically filed with the USPTO. A patent application usually includes an abstract, a specification, at least one claim, a declaration, and usually at least one drawing.

## **Patent Application**

The most important section of the patent application is the claims section, which describes the scope of coverage that the inventor is attempting to receive from the United States government. Adequate patent coverage ensures that potential infringers will be prevented from making, using, selling or importing your invention even if they make a slight modification.

## **Claims**

We also have associates in foreign countries if you need to file for foreign patent protection. Neustel Law Offices files international patent applications (i.e. Patent Cooperation Treaty or PCT) upon request. You must file an international patent application within one year of your U.S. filing date to receive a priority date. A priority date will allow you to claim your U.S. Patent as a priority filing when filing for patents in other countries.

## **International Protection**

After filing the patent application with the USPTO, an Office Action from the USPTO will usually be received within 12 to 24 months. Typically, the USPTO will reject some or all of the claims of the patent application. This depends upon whether the USPTO Examiner believes it would have been obvious to create your invention in view of prior art located by the Examiner.

## **Office Action**

After receipt of an Office Action, it is then necessary to argue that your invention is patentable based upon the differences between your invention and the prior art cited by the Examiner. Legal arguments, decided case law, and structural differences may be used to refute the Examiner's position. In some cases, a telephone interview with the Examiner may be arranged to find agreement on any issues of dispute.

## **Response**

# PROFITING FROM YOUR IDEA

## **Venturing**

There are two ways to convert an invention into profits: venturing and licensing. Venturing is forming a business to manufacture and market a product. For individual inventors, the more practical method of making money from your invention is to license the patent rights to a company.

## **Licensing**

Licensing your patent rights occurs when you permit a manufacturer to commercialize your invention in return for royalties or other suitable arrangements. Licensing benefits an inventor who lacks the resources or interest to manufacture and market the idea. Licensing also benefits the manufacturer by reducing the need for costly research and development departments while obtaining novel ideas. Michael Neustel assists inventors with the licensing of their patent rights, and he may be able to assist you in the licensing of your patent rights.

## **Locating Manufacturers**

If you decide to license your invention to a manufacturer, we have a list of databases that contain information about manufacturers throughout the United States who are potentially seeking new products. By utilizing these computer databases, you can create a list of manufacturers that may potentially be interested in licensing or purchasing your patent rights. These databases are linked on our website ([www.neustel.com](http://www.neustel.com)).

## **Invention Marketing Companies**

We estimate that millions of dollars are lost to invention marketing companies each year. You will want to be careful with many invention marketing companies since they are sometimes interested only in the up-front fees they charge, not in the success of your invention.

## **Opportunity to be Successful**

An old Chinese proverb says, "Men who say it cannot be done should not interrupt those doing it." Every inventor experiences difficulty in developing their inventions. However, to profit from your invention you must overcome these difficulties. Albert Einstein once said, "In the middle of difficulty lies opportunity." We help provide the opportunities which can make your invention successful. We understand that it takes courage to develop your invention, and we are here to work with you.

# TRADEMARKS

A trademark or service mark can be a word, phrase, logo, design or combination of these that identifies the source of particular goods or services. Under United States common law, a mark is considered a trademark once it is in actual use.

Anyone who claims rights to a mark should use the symbols TM (trademark for goods) or SM (service mark for services) to alert the public to their claim of an unregistered mark. You do not need to have a trademark application filed or a registered trademark to use these symbols. The registration symbol ® may only be used when the mark is actually federally registered with the USPTO.

Selecting a registrable mark prior to introducing a new product or service will save time and money when you attempt to register your rights. Trademarks are typically classified into four basic categories: generic, descriptive, suggestive, and arbitrary. Generic trademarks are not registrable since they describe an entire class of goods such as the word "spoon." Arbitrary marks are the best choice when selecting a trademark since they have absolutely no meaning associated with the owner's product or service, such as the word "Excalibur."

A trademark search should be completed to determine whether your proposed trademark is eligible for use and federal registration. For words or logos, a search should be conducted of federal records maintained by the USPTO. A State trademark and Common Law search may also be completed since rights to a trademark typically rest with the first to use the trademark in commerce. Federal Registration of a trademark provides constructive notice that the mark is in use and that the owner is entitled to use the mark throughout the United States for the goods and/or services described in the registration.

Federal Registration of a trademark can last indefinitely if properly renewed. There are two types of applications: "use-based" or "intent-to-use." A use-based application is utilized when the applicant is *already using* the mark in interstate commerce. An intent-to-use application is used when the applicant has *not used* the mark in interstate commerce but intends to use the mark and wants to reserve it for future use.

**Definition**

**Notices**

**Selecting a  
Trademark**

**Trademark  
Search**

**Federal  
Registration**

# COPYRIGHTS

## Definition

A copyright centers fundamentally upon the original expression of an idea whether literary, artistic, commercial or otherwise as long as it is recorded upon a tangible medium. A copyright protects works which are literary, musical, dramatic, choreographic, graphic, audiovisual, architectural and sound recordings. The author of the work has exclusive rights upon recording or documenting it in a tangible medium. The Copyright Act grants copyright owners exclusive rights in five categories: reproduction, adaptation, public distribution, public performance and public display.

## Scope of Protection

Copyright protects only the form of *expression*, not the underlying idea since concepts, ideas, and thoughts are free to all. Copyright protection lasts for the author's lifetime plus 70 years after the author's death. However, if the copyright is a "work made for hire," the copyright lasts for 95 years from the date of publication or 120 years from the date of creation, whichever comes first.

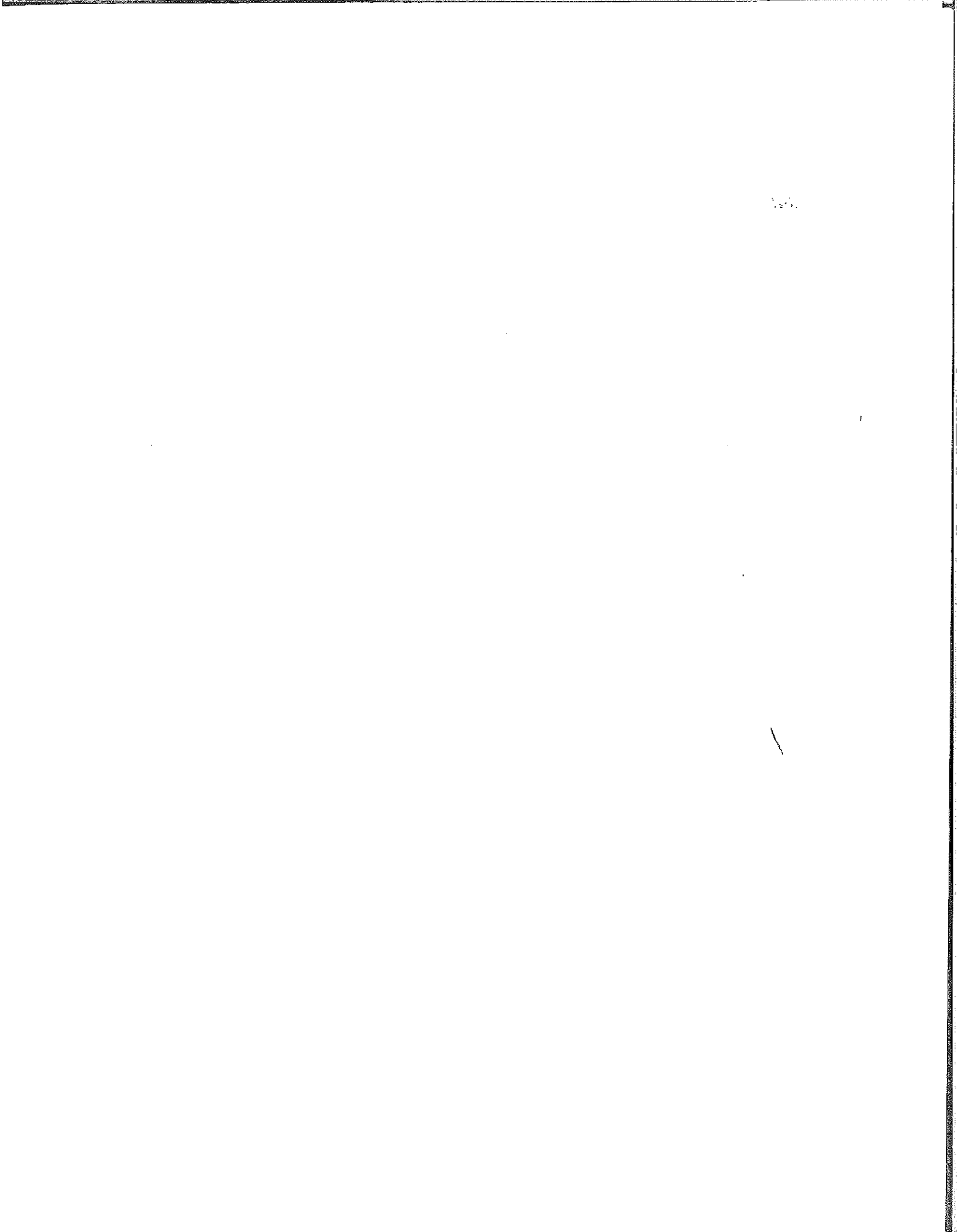
## Copyright Notice

It is no longer necessary to place a copyright notice on a distributed work to enjoy federal copyright protection. However, it is recommended to use a copyright notice on all works; otherwise, an alleged infringer may claim "innocent infringement" as a defense. The copyright owner may affix the statutory copyright notice to all publicly distributed copies of a work in a manner that provides reasonable notice. A copyright notice consists of three elements: (i) the word "Copyright," "Copr." or "©;" (ii) the year of first publication; and (iii) the name of the owner of the copyright, for example:

Copyright 2007 Excalibur, Inc.  
All Rights Reserved.

## Benefits of Registration

Registering a copyright has many benefits and is required before bringing an infringement lawsuit. If the copyright is registered within three months of the work's first publication or before an infringing act, the owner may be entitled to statutory damages and attorney fees in an infringement suit which are not available to unregistered copyrights. Finally, federal registration is *prima facie* evidence of the validity of the copyright if registered within five years of the first publication.





# INVENTION RECORDING DOCUMENT

**\*\* CONFIDENTIAL INFORMATION \*\***

Please print your responses clearly, and feel free to attach supplemental pages, drawings, or pictures where necessary. Please call us at (800) 281-7009 if you have any questions. After completing, mail to: Neustel Law Offices LTD, 2534 South University Drive Suite 4, Fargo, North Dakota 58103 (Fax Number: 701-237-0544).

INVENTOR			CO-INVENTOR (If applicable)		
_____ (Mr./Ms.) (First)	_____ (Middle Initial)	_____ (Last)	_____ (Mr./Ms.) (First)	_____ (Middle Initial)	_____ (Last)
_____ (Address1)			_____ (Address1)		
_____ (Address2)			_____ (Address2)		
_____ (City)	_____ (State)	_____ (Zip)	_____ (City)	_____ (State)	_____ (Zip)
( ) _____ Telephone: (Evening)	( ) _____ (Daytime)		( ) _____ Telephone: (Evening)	( ) _____ (Daytime)	
_____ (E-mail Address)			_____ (E-mail Address)		

Additional Inventors (if "Yes" please provide names and addresses)? [ ] Yes [ ] No

I (We) did conceive the invention described within this Invention Recording Document on \_\_\_\_\_ (i.e. "Date of Invention"), and have named said invention: \_\_\_\_\_ (Title of Invention).

Signature of Inventor: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Co-Inventor (if applicable): \_\_\_\_\_ Date: \_\_\_\_\_

## NOTARIZATION

(Optional)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, a notary public within and for said County and State, personally appeared the individual(s) stated above, to me known to be the individual(s) described in and who executed the foregoing instrument.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## ILLUSTRATION

Please provide a simple hand sketch of your idea. Label all significant components and functions to help us understand your idea. You may also include additional drawings, photographs, or flowcharts.



# DATA SHEET FOR U.S. REGISTRATION OF TRADEMARK

Mark: \_\_\_\_\_

Please provide the following information for application to register the above-identified trademark:

1. Full legal name of applicant: \_\_\_\_\_
2. State of incorporation: \_\_\_\_\_
  - a. If not a corporation, then the nature of business entity (e.g., partnership, sole proprietor, and d/b/a or T/A name): \_\_\_\_\_  
\_\_\_\_\_
3. Principal place of business address: \_\_\_\_\_  
\_\_\_\_\_
4. All type of goods and/or services for which mark is actually used (or for which you have a bona fide intent to use the mark) as of this date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. If above mark had been actually used (or is intended to be used) in any combined or composite form (e.g., with a design), advise of each such composite mark and send copy.
  - a. Copy enclosed? Yes \_\_\_\_ No \_\_\_\_
6. If the mark has been actually used, state first date of use of above mark by applicant (or any predecessor) on or in connection with each of the products identified above:
  - a. In commerce of **any kind** (intrastate, interstate, or foreign):  
(Date): \_\_\_\_\_
  - b. In **interstate** (i.e. across a state line) or foreign commerce:  
(Date): \_\_\_\_\_
7. Advise how the above mark is actually used on or in connection with the goods and/or services in commerce (or is intended to be used on or in connection with the goods and/or services). In other words, is the mark applied to (check all that apply):

<input type="checkbox"/> the goods themselves	<input type="checkbox"/> displays associated with the goods/services
<input type="checkbox"/> containers for the goods	<input type="checkbox"/> advertisements of the goods/services
<input type="checkbox"/> labels or tags affixed to the goods	<input type="checkbox"/> promotional material associated with the goods/services

Other: \_\_\_\_\_

If the mark has actually been used in commerce, send at least one (black & white) specimen showing above mark as it is actually currently used on or in connection with the above-stated goods/services in interstate and/or foreign commerce. Note: (a) These specimens may be duplicates of an actually used label, tag, container, or associated display less than 8" x 10" when folded flat; (b) If the mark is applied in such a way that it is not convenient to simply supply such a specimen, then supply an 8" x 10" or smaller photograph of all the products or containers clearly showing the mark.

**Request Form**  
*Neustel Law Offices, LTD*  
[www.neustel.com](http://www.neustel.com)

1<sup>st</sup> Inventor Name: \_\_\_\_\_

Invention Title: \_\_\_\_\_

*Please find enclosed my completed Invention Recording Document. I request the following from Neustel Law Offices, LTD (check one or more options):*

**Call from a U.S. Registered Patent Attorney.** I request a free consultation with a U.S. Registered Patent Attorney to discuss my invention and options.

**Patent Application Flat-Fee Quote.** I request a flat-fee quote for preparing and filing a United States utility patent application for my invention as disclosed in the Invention Recording Document.

**Patent Search & Patentability Opinion.** I would like to proceed with a patent search of United States granted patents and published applications. I would also like to have a U.S. Registered Patent Attorney review the located patents and provide me with a patentability opinion. The type of service requested is selected below along with payment information (select one):

**Regular - \$400** (Typically 10-15 Days)

**Rush - \$700** (Typically Two Business Days)

I have enclosed a check payable to "Neustel Law Offices, LTD" in the amount of \$\_\_\_\_\_ (Enter Amount) or authorize Neustel Law Offices, LTD to charge this amount to the following credit card:

**Card Type:**  AmEx  VISA  MasterCard  Discover/Novus

**Card Number:** \_\_\_\_\_ **Exp. Date:** \_\_\_\_\_

**Name on Card:** \_\_\_\_\_

Signature: \_\_\_\_\_

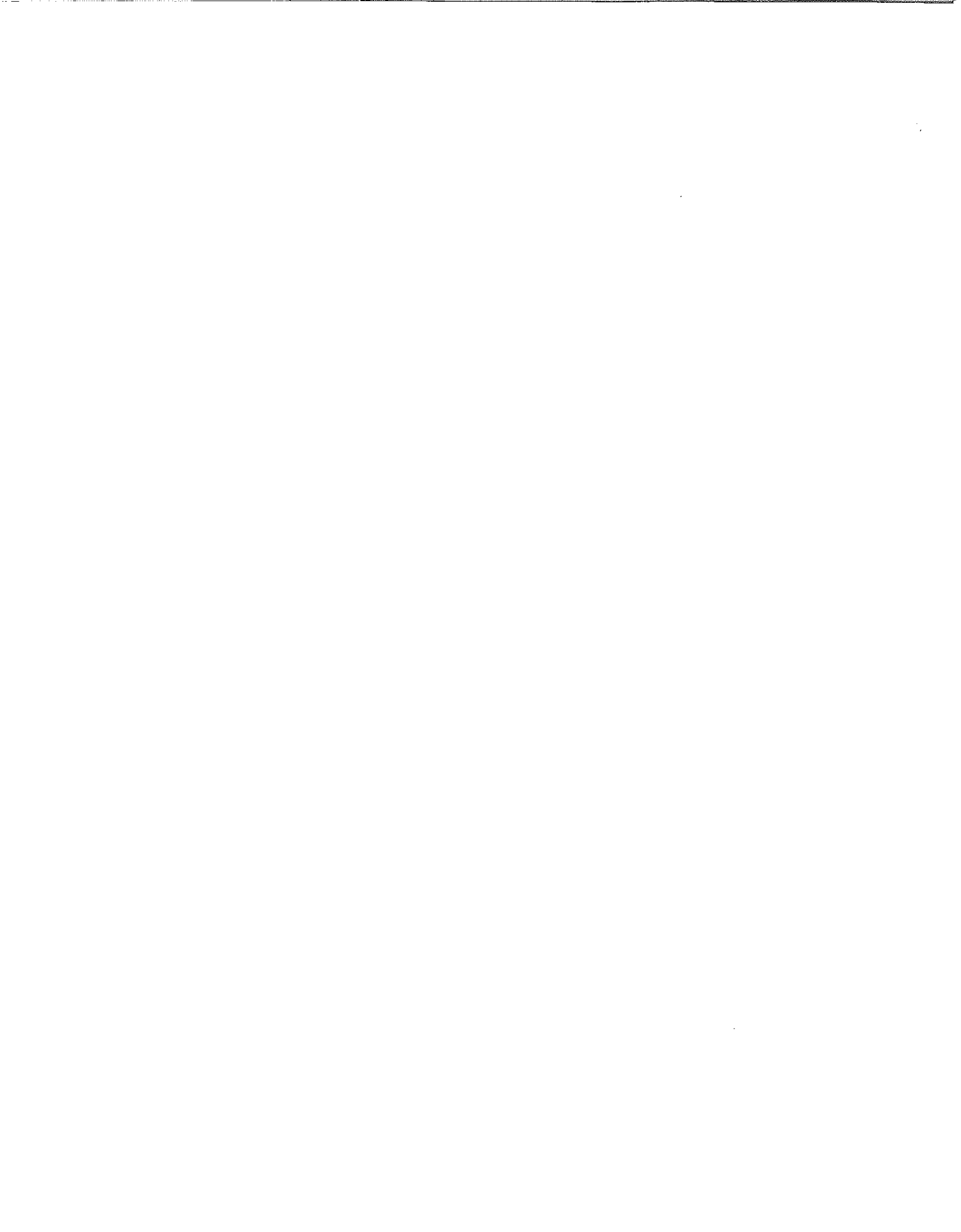
Date: \_\_\_\_\_

**Transmittal Instructions**

*Via Fax*  
Fax this signed form with a cover sheet to:  
Fax: 701-237-0544

*Via E-mail*  
E-mail a scanned version of this signed form to:  
[retainer@neustel.com](mailto:retainer@neustel.com)

*U.S. Mail, Fed Ex or UPS*  
Mail the signed form to:  
Neustel Law Offices, LTD  
2534 S. University Dr., Suite 4  
Fargo, North Dakota 58103



**NEUSTEL LAW OFFICES, LTD.**  
*2010 Fee Schedule\**

**I. PATENT FEES.**

**U.S. Patentability Search & Opinions**

- |   |       |
|---|-------|
| - Regular (Typically 10-15 Business Days) | \$400 |
| - Rush (Typically Two Business Days)      | \$700 |

**U.S. Patent Applications**

*We typically prepare and file patent applications for a flat-fee. The price of a patent application varies depending upon complexity of the invention. We can provide you with a flat-fee quote to prepare your patent application after receiving your invention information.*

Flat-Fee Quote  
Provided

**II. TRADEMARK FEES.**

**Trademark Searches (Includes Copies of Located Trademarks)**

- |  |         |
|--|---------|
| - U.S. Federal Registrability Search & Opinion (Word Mark) per class   | \$900   |
| - U.S. Federal Registrability Search & Opinion (Design Mark) per class | \$1,500 |

**Trademark Applications**

- |                                      |       |
|--------------------------------------|-------|
| - U.S. Federal Trademark Application | \$700 |
|--------------------------------------|-------|

---

\* The fees above are subject to change without notice (see <http://www.neustel.com/fees.htm> for updates and additional fee information) and do not include USPTO government filing fees, subsequent prosecution fees, issue fees, maintenance fees, office service fees or enforcement fees. Retainers are required before performing services. We charge interest at 7.0% per annum for accounts past due for more than 30 days. We report all correspondence via e-mail, unless postal, fax or courier are expressly requested in writing (additional fees may apply). Neustel Law Offices, LTD does not accept liability for failure to implement instructions received within 5 business days of a deadline. We recommend sending all instructions via e-mail or fax not less than one (1) month prior to any deadline, and obtaining from our law firm a prompt confirmation that we received the instructions.

