

DESIGN TOOLKIT

**File your own Design Toolkit**

**My**Patent

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2010

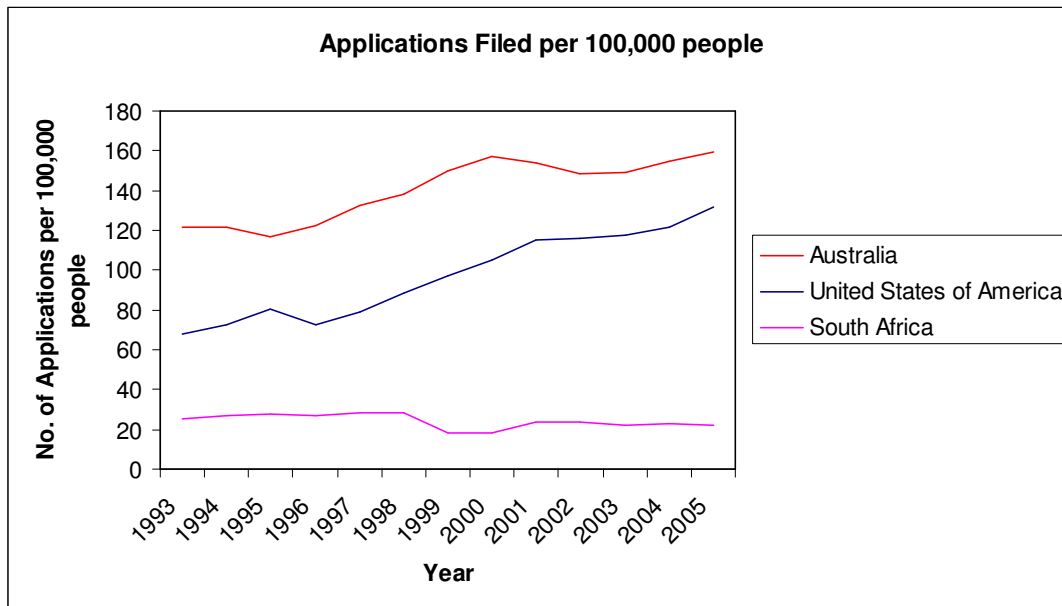
## DESIGN TOOLKIT

### Opening the door to Intellectual Property

Kreepy Krauly, Prately's Putty, the Cat Scan, the first successful heart transplant, the Rooivalk attack helicopter and Sasol's leading coal and gas-to-liquid technology are just a few of many inventions born and developed in South Africa. If these inventions are proof of South Africa's ability to innovate, why is it that the South African wheel of innovation is gradually losing momentum?

If we compare the patent records of Australia, the US and South Africa it is clear that patent filings internationally follow an increasing trend, whereas South African patent filings are on the decline, with filings reducing by 24% from a recorded high in '98 and low in 2000.

Some may argue that this is due to stagnation of our creativity and skills. However, the number and quality of inventions receiving SABS design awards appears to contradict this. Could it not be that our patenting costs are too high and that the average inventor lacks access to our patenting system?



**Graph 1:** Patent applications filed per 100,000 people in Australia, United States and South Africa during the period 1993 to 2005.

We believe so, and if correct, a reduction in patenting costs should increase the number of South African patent filings, resulting in a higher number of commercially successful products, which in turn would increase our competitiveness and stimulate our economy.

Popular Mechanics and [www.MyPatent.co.za](http://www.MyPatent.co.za) (an affiliate of Sibanda & Zantwijk Patent Attorneys) aim to empower inventors by providing them with practical tools to file their own patents and designs. MyPatent has published guides, discussions on IP strategy and templates to assist inventors to commercialise their IP. By doing so, we hope to bring South Africa in line with international patenting trends.

## DESIGN TOOLKIT

### **Drafting and filing your own design application for R240**

As an alternative to filing design applications through a patent attorney at a cost of between R3,850 (MyPatent charge) and R10,000 (depending on the firm selected), you can protect the appearance (i.e. pattern, shape, configuration and/or ornamentation) of your article by drafting and filing your own design application at the South African Designs Office at a cost of R240.

To prepare a design application you merely have to: determine the class in which your article falls; decide whether the application is for an aesthetic or functional design; prepare a set of drawings / photographs; and complete the prescribed forms.

Aesthetic designs protect those features of your article which appeal to and are judged solely by the eye (e.g. jewellery), whereas functional designs protect those features that are necessitated by the function the article is to perform (e.g. a flat-top screw). Functional designs may however not be filed for spare parts, being articles that are expected to be replaced during the life of the machine, vehicle or equipment as a result of ordinary wear and tear.

A set of articles can be protected in a single application, provided that each article in the set has the same general character and are ordinarily on sale together or intended to be used together (e.g. cutlery, set of tools, tea set, etc). The registration protects the set as well as each individual article forming part of the set.

The scope of protection of your design is defined by the definitive statement. The (optional) explanatory statement focuses on specific aspects of the design and may be used to explain the function and the method or principle of construction of the article. These statements may include reference numerals to identify particular features of the article represented in the drawings / photographs.

Immaterial features of the design may be “disclaimed” by illustrating these features in broken lines. However, this may only be done where the features disclaimed are capable of being manufactured separately. For example, where a metal hammer head can be attached to various wooden handles, the handle can be drawn in broken lines.

To prepare the application: complete forms D1, D2, D3, D6 and D8 (all except form D3 in duplicate) in block letters and black ink; attach two copies of the preferred drawing / photograph for publication to form D8; and enclose four copies of the drawings / photographs (on A4 pages and signed at the end of each page). Copies of these forms are available at [www.mypatent.co.za](http://www.mypatent.co.za).

Deliver the application to the South African Designs Office (DTI campus, Block F, 77 Meintjies Street, Sunnyside, Pretoria), pay the cashier R240 in cash to stamp the documentation and submit the application. Applications may be submitted up to 6 months following public disclosure.

On registration, a brief statement of features that describes the design ( $\pm 100$  words) and the preferred drawing / photograph (typically a perspective view) will be published in the Patent Journal. Following publication, your aesthetic and functional design registrations will provide protection against others making, importing, using or disposing of articles within the same class that embody your design or a design not substantially different, for periods of 15 and 10 years, respectively.

## DESIGN TOOLKIT

### DESIGN GUIDE

#### AESTHETIC OR FUNCTIONAL DESIGN?

**Aesthetic designs:** protect those features of an article that appeal to and are judged solely by the eye (e.g. jewellery)

**Functional designs:** protect those features that are necessitated by the function the product is to perform (e.g. a flat-top screw)

#### **Notes:**

- Spare parts are excluded from functional designs.
- Separate aesthetic and functional designs may be filed for the same article.
- A design application may be filed within 6 months following disclosure to the public.
- Term of protection: 15yr (Aesth.); 10yr (func.)

#### CLASSIFICATION

Ensure that you classify the design correctly. Useful links are available at [www.mypatent.co.za](http://www.mypatent.co.za). Refer only to the main class, e.g. class 9 for containers.

Where more than one class is relevant, file separate applications for each class.

#### DEFINITIVE STATEMENT

This statement defines the scope of protection afforded by the design. Example:

*Protection is claimed for the features of shape, pattern, configuration and/or ornamentation [~~delete whichever is not applicable~~] of a [*identify the article*], substantially as shown in the accompanying representations.*

#### **Note:**

- When filing an application for a set of articles, the definitive statement must be amended as follows:

*Protection is claimed for the features of shape, pattern, configuration and/or ornamentation of a **set of** ....., substantially as shown in the accompanying representations.*

#### EXPLANATORY STATEMENT

This statement is optional. It is used to focus the eye on specific aspects of the design, and may be used to explain the function and the method or principle of construction of the article.

In practice, one identifies features on the drawings with arrows associated with letters/numbers, which features are referred to and discussed in the explanatory statement. One should include explanatory statements

where the design is generally similar to prior art with the exception of subtle, but important differences.

#### BRIEF STATEMENT OF FEATURES

This statement has no legal significance. It is merely used for publication purposes. Example:

*The design relates to a [*identify the article*]. The features of the design are those of pattern, shape, configuration and/or ornamentation [~~delete whichever is not applicable~~].*

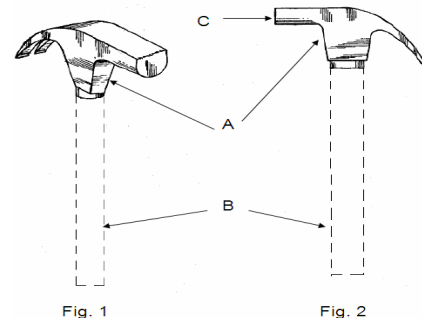
#### REPRESENTATIONS

Prepare drawings or photographs (on A4 paper) showing all necessary views. The bottom of each page must be signed.

Immaterial features of the design may be “disclaimed” by illustrating these features in broken lines. However, this may only be done where the features disclaimed are capable of being manufactured separately.

Select a perspective view for publication.

#### PRACTICAL EXAMPLE – A HAMMER



#### **Article:**

Hammer

#### **Aesthetic or Functional:**

Aesthetic

*(although this is a functional object, the “new features” for which protection is claimed are not dictated by its function, they have that shape due to their eye-appeal. However, if the hammer is designed to stand on its head, the flat top may be dictated by its function and a functional design should also be filed)*

#### **Class:**

8

#### **Definitive statement:**

Protection is claimed for the features of shape and/or configuration of a hammer, substantially as shown in the accompanying representations, irrespective of the shape of the handle “B”.

#### **Explanatory statement:**

The head “A” of the hammer comprises a striking portion “C” of substantially constant cross-section and a flat top.

#### **Description of features:**

The design relates to a hammer. The features of the design are those of shape and/or configuration.

## DESIGN TOOLKIT

### MyPatent Tariff of Fees (2010)

PLEASE REVIEW OUR [TERMS OF SERVICE](#)

[Also see our [Free Patent Tools](#)]

All amounts are **exclusive of VAT** (if applicable)  
Amounts quoted are subject to changes in official fees

**NO STRINGS ATTACHED OR HIDDEN COSTS**  
**Lowest priced patent services, guaranteed!**

### PATENTS

Drawings	R600
Provisional patent: File patent application (no review) - use our <a href="#">Free Patent Toolkit</a>	R600
Provisional patent: Single review (we provide comments)	R1,250
Provisional patent: Additional reviews of same application (per review)	R600
Provisional patent: Single review, drawings and file	R1,850
Provisional patent: Draft, drawings and file* ( <i>Subject to capacity</i> )	R4,950
Provisional patent: Re-file patent application (if not disclosed in interim)*	R600
Complete patent: Draft, drawings, file and publish grant (where provisional drafted by non-patent attorney)* ( <i>Subject to capacity</i> )	R6,950
Complete patent: Draft, file and publish grant (where provisional patent drafted by us and there are no modifications, improvements or additions)*	R4,500
Complete patent: Draft, file and publish grant (where provisional patent drafted by a patent attorney includes a summary of the invention and there are no modifications, improvements or additions)* ( <i>Subject to capacity</i> )	R5,200
PCT patent applications (see our <a href="#">PCT Patent Cost Calculator</a> )*	From R13,500
South African foreign or national phase patent application: Filing South African patent applications for foreign applicants (no review or amendments)*	R3,500

\* Services offered by [Sibanda & Zantwijk](#) patent attorneys  
(Amounts include official fees - file provisional patent R60, file complete patent R590)  
(S&Z requires at least 2 weeks notice to file patent applications and 4 weeks notice to draft patent applications)

### **Patent renewals\***

## DESIGN TOOLKIT

Years	Official fee	Our fee	Total
4, 5 and 6	R130 each	R250 each	R380 each
7 and 8	R85 each	R250 each	R335 each
9 and 10	R100 each	R250 each	R350 each
11 and 12	R120 each	R250 each	R370 each
13 and 14	R145 each	R250 each	R395 each
15 and 16	R164 each	R250 each	R414 each
17 and 18	R181 each	R250 each	R431 each
19 and 20	R206 each	R250 each	R456 each
<b>All 20 years</b>	R2,392	R2108	R4,500

\* Services offered by [Sibanda & Zantwijk](#) patent attorneys  
(We require at least 4 weeks notice to pay patent renewals)

### DESIGNS

Drawings	R730
File design application (no review) - Use our <a href="#">Free Design Toolkit</a> (For both South African and foreign clients)	R730
Single review and file design application	R1,500
Additional reviews	R400 each
Draft design application, drawings, file and publish grant*	R3,850
Draft subsequent design applications in additional classes / types, drawings, file and publish grant*	R950 each

\* Services offered by [Sibanda & Zantwijk](#) patent attorneys  
(Amounts include official fees - file application R240)  
(S&Z requires at least 2 weeks notice to file design applications and 3 weeks notice to draft design applications)

## DESIGN TOOLKIT

### Design renewals\*

Years	Official fee	Our fee	Total
4, 5 and 6	R120 each	R250 each	R370 each
7 and 8	R77 each	R250 each	R327 each
9 and 10	R90 each	R250 each	R340 each
11 and 12	R110 each	R250 each	R360 each
13 and 14	R132 each	R250 each	R382 each
15	R149	R250	R399
<b>All 10yrs (Fn)</b>	R694	R1,056	R1,750
<b>All 15yrs (Aesh)</b>	R1,327	R1,423	R2,750

\* Services offered by [Sibanda & Zantwijk](#) patent attorneys (S&Z requires at least 4 weeks notice to pay design renewals)

### **PATENT / DESIGN SEARCHES** (Novelty)

Search (No analysis of results provided) (Subject to capacity)	Select your cap, suggest R2,750 to R4,000
----------------------------------------------------------------------	-------------------------------------------

(We require at least 2 weeks notice to conduct a patent/design search)

### **QUICK PRICE LIST FOR FOREIGN CLIENTS**

	US\$	Euros
File South African provisional patent application (pre-prepared)*	110	80
File South African <a href="#">national phase</a> / foreign patent application*	585	460
File South African design application*	250	195
Patent / Design renewals* (Price depends on year)	65-80	50-60

\* Services offered by [Sibanda & Zantwijk](#) patent attorneys  
 (Quoted prices include all taxes and official fees)  
 (Exchange rate: US\$1 = approx. R7 (South African Rand))

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