

# The Limited Monopoly™

## It's a Numbers Game — How They Are Used in Our Patent System

by Robert Gunderman, PE and John Hammond, PE

### Encountering Numbers on Patents and Published Applications

As engineers and scientists, we often find ourselves conducting technical research for a variety of reasons, such as to learn about a subject that we are not familiar with, check up on our competition, or do our own patent searching. In this work, we will undoubtedly encounter several numbers on the patent documents that we review. While it may seem trivial at first, knowing what these numbers represent gives us a better understanding of our search and the results of the search that we are reviewing.

### Types of Numbers Found on United States Patent Documents

In the United States, patent applications are published 18 months after the first filing date. So oftentimes you will encounter a document with the heading “United States Patent Application Publication”. Make no mistake about it, this is a published patent application and not a patent.

### Publication Number *US 2009/0230039*

When a patent application publishes, it is given a publication number that begins with the year of publication, followed by a slash and then a seven digit number. This is not a patent number, because the published patent application is just that, an application. It should be noted that Provisional Patent Applications will never be assigned a publication number because they are not published. But a provisional patent application will become public record when the utility patent application that claims priority to it publishes at 18 months from the filing date of the provisional.

### Application Number *12/403,435*

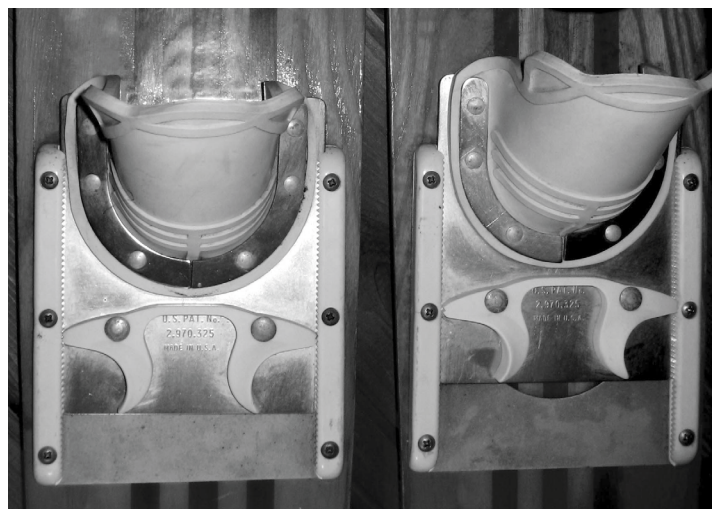
When a patent application is filed, it is given an application number, also known as a serial number or by some old schoolers as a “USSN” (United States Serial Number). The application number starts with a two digit number, followed by a slash, and then a six digit number. We are currently using 13 series numbers for United States Utility Patent Applications, 61 series

numbers for United States Provisional Patent<sup>1</sup> Applications, 12 series numbers for Plant Patent<sup>2</sup> Applications, and 29 or D series numbers for Design Patent<sup>3</sup> Applications.

### Patent Number *8,016,993*

A patent number should be used to clearly mark the products that are covered under that patent. In the United States, more than 8 million patents have been granted, and Utility Patent numbers are currently 8 million series numbers (7 digit numbers

beginning with 8). Design Patent numbers begin with the letter D, followed by six digits, currently beginning with 6. Plant Patent numbers begin with PP, followed by five digits, currently beginning with 2. Reissue numbers of previous patents begin with the letters RE followed by five digits, currently beginning with 4.



### Types of Numbers Found on Patent Cooperation Treaty Documents

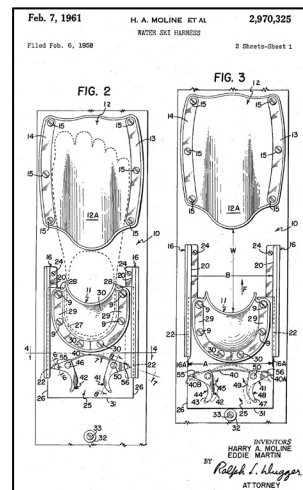
### *PCT/US2009/037097 and WO 2009/114768*

When a Patent Cooperation Treaty (PCT) Application is filed, it is given an international application number that begins with the letters PCT, followed by a slash, followed by the two digit country code of the receiving office of the applicant/inventor and the year of the international filing, followed by a slash, and then a six digit number. If a PCT application is not filed through the receiving office of the applicant/inventor, but is filed directly with the World Intellectual Property Organization (known as the *International Bureau*), the two digit country code will appear as “IB.” Similar to the United States, PCT Applications publish at 18 months from the first filing date. When a PCT Application publishes, it is given a publication number that begins with the letters WO followed by a slash, followed by the year of publication, followed by a slash and then a six digit number. Since PCT Applications never become issued patents, there are no PCT patent numbers.

## Kind Codes

A letter, and in many cases a number, such as “A1” or “B1” is often included after a document number. This is known as a Kind Code, and is used on PCT documents as well as United States documents dated after January 2, 2001. Kind Codes originated with WIPO for PCT documents, and helps to distinguish the kind of patent document and the level of publication (first publication, second publication, or corrected publication). Here is a short summary of the kind codes used in the U.S.:

|            |   |
|------------|---|
| A1         | Patent Application Publication  |
| A2         | Patent Application Publication (Republication)  |
| A9         | Patent Application Publication (Corrected Publication)                                    |
| B1         | Patent with no previously published pre-grant publication                                 |
| B2         | Patent having a previously published pre-grant publication and available March 2001       |
| C1, C2, C3 | Reexamination Certificate   |
| E          | Reissue Patent  |
| H          | Statutory Invention Registration  |
| P1         | Plant Patent Application Publication with pre-grant publication available March 2001      |
| P2         | Plant Patent with no previously published pre-grant publication                           |
| P3         | Plant Patent having a previously published pre-grant publication and available March 2001 |
| P4         | Plant Patent Application Publication (Republication)                                      |
| P9         | Plant Patent Application Publication (Corrected Publication)                              |
| S          | Design Patent   |



## Types of Numbers Found on International Documents

Every country with a patent system has its own numbering scheme. As many countries publish patent applications at 18 months, you can expect that there will generally be an application number and eventually a publication number for most patent applications filed in other countries.

## Product Markings

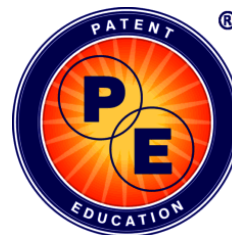
Application numbers should never be used like a patent number to mark a product, and should be held in confidence, especially if the application has not yet published. If a patent application is pending, but has not resulted in an issued patent, it is best to mark the product with the words “Patent Pending”<sup>4</sup>. Publicly using an application number before publication can expose the application to an opposition proceeding such as a protest. Using an application number or a publication number as if it were a patent number to mark a product could also be considered false marking and create legal problems.

## In Summary

Knowing what type of document you are reviewing and properly interpreting the document numbers has a direct bearing on the quality of your research. There is a lot of information contained in these simple numbers that can be used to your advantage. For example, when you see a 4 series patent number you should know immediately that it has likely expired, since 4 series patents are old enough to have reached end of term. In a similar manner, a published application may lead you to more investigation –such as did a patent ever issue from the application, or did the inventor give up and let the patent application go abandoned.

1. See also [“The Limited Monopoly”<sup>TM</sup> January 2006.](#)
2. See also [“The Limited Monopoly”<sup>TM</sup> December 2009.](#)
3. See also [“The Limited Monopoly”<sup>TM</sup> October 2006.](#)
4. See also [“The Limited Monopoly”<sup>TM</sup> May 2007.](#)

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**Note:** This short article is intended only to provide cursory background information, and is not intended to be legal advice. No client relationship with the authors is in any way established by this article.

**Photo credit:** Robert D. Gunderman, Jr. “Vintage Thompson water skis-Ash and Cherry with Patented bindings”

The Thompsons began to make wooden water skis around 1946 at their boat factory in Woodruff, Wisconsin. Roy H. Thompson, son of Chris Thompson, started the ski manufacturing operation using wood from their boat building operations. He was later joined by his brother Grant. By 1956, they had constructed a new factory in Crivitz, Wisconsin and were incorporated as Thompson skis, Inc. By 1962, a small side business to their boat building operations had become big business with the annual production of 80,000 water skis annually under various United States patents. Thompson Water Skis was sold several times over, and today does not exist. Modern water skis are mostly fiberglass, with some high end skis being made with carbon fiber or Kevlar®.