

What is a Patentability Opinion?

Prior to investing heavily in patent protection for a potentially valuable invention, it may be prudent to request a patent opinion, formal or informal, from a competent patent professional as to the likelihood that a patent of useful scope can be obtained.

After a patentability screening search of sufficient scope is completed, a licensed practitioner examines the search results and compares the relevant patents to a description of the invention of interest. From this examination, a patent opinion is drafted, identifying the references most similar to the subject invention. A comprehensive patent opinion explains each reference and how it relates to the invention. The patent opinion concludes with its "opinion" as to the patentability of the invention based on the search results. It is important to note that a patent opinion is based on the search results which are necessarily limited in scope and cannot be guaranteed to have located all relevant materials.

Why would I want a Patentability Opinion?

A professionally conducted patentability screening search and patent opinion provides professionally rendered support or basis for the business decision and large financial investment provided by patent protection. A patent opinion may also enable a patent application to have a more focused approach on the element of the invention most likely to be patentable, with a better description and claims that avoids the existing art. The search and patentability opinion informs management as to the potential protection that may be obtained with respect to business planning, and raises the likelihood of a successful and less costly prosecution of the application.

The patent professionals at Maine Cernota & Rardin collaborate with clients to assure that patentability issues are addressed to the client's satisfaction prior to commencing utility applications. Continuing vigilance for newly emerging published references during the prosecution is necessary, as patent applications typically remain unpublished for up to 18 months, and can in some cases remain unpublished until issued – but may be effective as prior art as of their filing dates! Thus a patent opinion supports the on-going efforts of a business to minimize risks and optimize intellectual property assets. For an opinion on patentability, contact any of the registered patent attorneys at Maine Cernota & Rardin

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Maine Cernota & Rardin, Registered Patent Attorneys

547 Amherst St., 3rd Floor, Nashua, NH 03063
603-886-6100 – info@mcr-ip.com