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## News from Questel

### Defensive Publication: a key element in your IP strategy

#### What is it?

Defensive Publication consists in publishing an invention to establish prior art, preventing others from patenting the idea. It is an additional tool to enrich an intellectual property strategy.

Defensive Publications are generally a very cost effective alternative to patenting where application and maintenance fees can be substantial.

There are multiple scenarios where it is more interesting to publish a disclosure rather than obtaining a patent:

- Some inventions are useful but are unlikely to generate enough income to warrant the cost of obtaining, maintaining and enforcing patent protection.
- Some may be hard to protect or
- The product using a new invention is already well protected by existing patents
- The invention can be outside of the company's main area of business.

And finally, when comes the time of litigation if the application is granted (the probability of which is rather low) the cost of defending a patent can be fearsome.

Defensive Publications are a hot topic following the America Invents Act. John Villasenor, Nonresident Senior Fellow, Governance Studies, Center for Technology Innovation, explains "However, the AIA includes an important exception in the form of a grace period allowing an inventor, or others who obtained information from the inventor, to make disclosures regarding the invention in advance of filing a patent application as long as the application is filed within one year after the first disclosure". He add that the grace period "allows an inventor time to examine the commercial practicability of the invention, engage in discussions with potential partners and customers, and secure the resources necessary to draft a patent application".

#### What are the key advantages?

Besides cost savings, Research Disclosure brings many advantages:

- Patent examiners are required to search Research Disclosure by the PCT minimum documentation statute. This means the chances for your disclosure to be looked at and cited are very high. Research Disclosures are frequently cited in patent applications
- Research Disclosures are abstracted into major service providers and databases including Derwent's World Patent Index

- Research Disclosure has created legal precedent, having been cited in more than 150 litigation cases in the USA and nearly 20 instances in Europe
- Research Disclosures permits total independence by allowing for anonymous publication reducing the risk of discovery during competitive intelligence searches

#### How does it work in practice?

The Research Disclosure defensive publication service is both simple and effective. For a small fee, we publish innovations and distribute them to every country in the world with a patent office. Therefore, regardless of the different novelty standards of national patent systems, any item published in Research Disclosure thereafter renders the invention described as un-patentable by anyone else. Our service uses an advanced online and paper publication method and combines it with our 50 year relationship with the world's patent offices to offer an unbeatable solution.

#### An excellent Non-Patent Literature source as well

Research Disclosure database:

Fifty years of defensive publications are an excellent Non-Patent-Literature source for prior-art needs.

Originally designed as a service to the world's patent offices we created the Research Disclosure database. This significant non-patent literature full text database contains the entire Research Disclosure archive and has quickly become a recognized prior art search resource used by academic and corporate researchers, as well as patent examiners worldwide.

#### About Questel:

Questel has been focusing on its core business, Intellectual Property since its inception in the early 70's. We provide a suite of leading-edge patent, trademark and industrial design services to researchers, lawyers, scientists, and competitive intelligence professionals. Questel built Fampat, the largest databases collection in the world and available in our portal Orbit.com for searching, mapping, watching, archiving and sharing information, as well as analyzing and managing IP portfolios. Since 2007, Questel has been supported by the leading European mid-cap Private Equity investor, Syntegra Capital. For more information, please visit [www.questel.com](http://www.questel.com).

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