**Our SIXTH TIP in a Series**

**6. What is ‘Ongoing Duty of Disclosure’ in US Patent Law?**

by Eviatar Aron, US Patent Attorney, JMB Davis Ben-David

When meeting with inventors, one question that they often ask is "what will I have to disclose to the Patent Office?" This type of disclosure is not what is required for describing an invention in a patent application. It is often ignored until later stages of the examination of a US patent application, but it can be critical even at the initial stages of preparing a patent application.

*What does "Disclosure” mean??*

Under US patent law, all information in the possession of the inventor, applicant and their representatives that is "material to patentability" must be ***disclosed*** to the US Patent Office (USPTO). ***Material to patentability*** means that the information might affect the patentability of a claimed invention.

***All*** *information!?*

*What information has to be disclosed?*

*When does this information need to be disclosed to the USPTO?*

*Honesty is the Best and Only Policy!*

As a final note, always remember that honesty is the best and ***only*** policy for avoiding running afoul of the disclosure requirement and for avoiding problems related to this issue during future litigation.

Read more…

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| Do you have questions about the above information? Are there subjects that you would like to hear about? [**Let us know!**](mailto:mike.hammer@jmbdavis.com) |