

Should I Seek to Pass the Patent Bar Before Starting My Search?

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In a word, yes. The legal market for patent agents is very competitive. Yet, some of the aspiring patent agent candidates that I see assume that they can simply rely on their scientific or engineering brilliance to land a job with a top law firm. These same candidates will often also assume that law firms will train them to be patent agents. I normally have to inform them that both assumptions are without foundation. In fact, law firms do not just want patent agent candidates to demonstrate their **technical** knowledge and abilities. They also want candidates to demonstrate their **legal** knowledge and abilities as well. The two best ways to do this are: (1) take and pass the Patent Bar exam given by the United States Patent & Trademark office; and (2) obtain substantial experience (preferably at least 3-4 years or so) of experience prosecuting patents, preferably at another law firm. Simply put, firms do not want to train new patent agents. Rather, they want to hire experienced patent agents who have already passed the Patent Bar. This approach saves the firms both time and money.

In order to be qualified to sit for the Patent Bar exam, a candidate needs to have at least a bachelor's degree in a scientific or engineering field. Passing the exam is not easy. Typical pass rates are around 33% (give or take 6% or so). Thus, passing this exam will say something very positive about your knowledge and abilities to be a successful patent prosecutor. So will solid patent prosecution experience. Failure to present either one or both of these things will substantially weaken your presentation as a patent agent candidate.

It is not absolutely critical for you to pass the exam before obtaining the necessary patent prosecution experience. However, it will generally be more difficult to convince firms to hire you for patent agent type work unless you have been admitted to the Patent Bar. Nevertheless, some firms - especially smaller ones -- may hire candidates who have not yet passed the Patent Bar to do work similar to a patent agent while closely supervised by a patent attorney. Such individuals are sometimes called "technical advisors," and this experience can still be invaluable when you apply to a more prestigious firm. But even if you take this approach, it is highly advisable to take and pass the Patent Bar before you start your search for a patent agent job at a top firm. It will be one critical "check" that you will have gotten out of the way. In addition, taking and passing the Patent Bar demonstrates your serious commitment to being a patent agent. A candidate who has not taken the test leaves open the question of whether they are really fully committed to being a patent agent in the demanding culture of top law firms. Such candidates will find it more difficult to obtain interviews and offers from the law firms.

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