

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Patent Basics for Inventors, Entrepreneurs, and Start-ups

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Outline

- Why Patents?
- Types of Patents
- Patent Examiner Duty
- Patent Examination Process
- USPTO Resources

Constitutional Authority

- Congress shall have the power ...
 - to regulate commerce with foreign nations, and among the several states, and with Indian tribes. -- U.S. Const. art. I, § 8, cl. 3.
 - to **promote the progress of** science and **useful arts**, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. -- U.S. Const. art. I, § 8, cl. 8.

What is a Patent?

- A Property Right
 - Right to exclude others from making, using, selling, offering for sale or importing the claimed invention
 - Limited term
 - Territorial: protection only in territory that granted patent; **NO world-wide patent**

Why get a Patent?

- A patent can be:
 - Used to deter others from a market
 - Used as a marketing tool to promote unique aspects of a product
 - Assert/enforce rights against an infringer or competitor
 - Used as collateral to obtain funding
 - Create revenue – sell or license like other property

Types of Patents

Utility

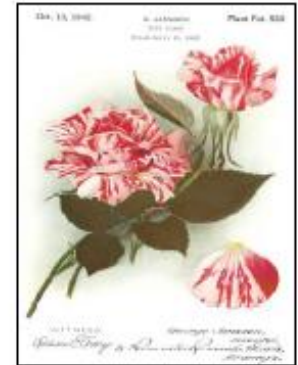
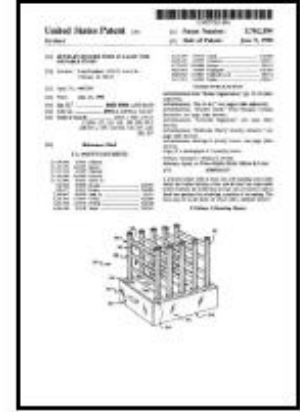
New and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof

Design

Any new, original and ornamental design; protects the way an object appears

Plant

Whoever invents or discovers and asexually produces any distinct and new variety of plant



Why do startups file Patents?

- Attractive to investors and buyers
- Deter patent infringement lawsuits
- Can increase leveraging power
 - i.e. mergers and acquisitions
- Patents are a form of property than can add value to a company's assets

Do I really need a patent?

- Myths -

- “If I just publish, I will prevent anyone from getting a patent on my invention”
 - What if already patented?
 - No Patent Claim = No Protection
 - Can’t exclude others from market
- “I’m not going to get a patent, because other countries will steal my invention”
 - How will you keep it secret?
- “I just want my invention to be available”
 - Who will invest in development, scale-up, clinical trials, production if it can be easily copied?

Utility Patent Claims

- Defines what applicant believes is the invention
- Must particularly point out and distinctly claim the subject matter which applicant regards as their invention or discovery
- Must conform to the invention as set forth in the specification – terms and phrases used in the claims must find clear support or antecedent basis in the written description

Patents support investment in, and development of, inventions

- Oncomouse (US Patent 4,736,866)
- Streptomycin (US Patent 2,449,866)
- Cochlear implant (Australian patent 46563, US Patent 4,267,410)
- CPAP (continuous positive airway pressure) mask for sleep apnea (US Patent 4,944,310)

Cochlear Implant

- University of Melbourne, Australia
- Patents in multiple countries, including Australia (46563) and US (4,267,410)
- Enabled commercial development, manufacturing, and wider availability

Cochlear Implant

United States Patent [19]

[11] 4,267,410

Forster et al.

[45] May 12, 1981

We claim:

1. An aural prosthesis system comprising:

a first part adapted to be located exteriorally of the body to transmit a data signal and a second part adapted to be located within the body to receive said data signal,
said data signal comprising a plurality of sequential frames of an audio signal,
each of said frames having a set of channel signals, each member of said set of channel signals including a first portion indicative of the channel signal intensity and a second portion indicative of the channel signal timing within the associated frame,
a transmitter in said first part for transmitting said frames of said data signal as a series of sets of channel signals,
a receiver in said second part for receiving the signal transmitted by said transmitter,

first storage means in said second part for storing each member of a set of channel signals as it is received,
loading means to load said sets of channel signals into said first storage means,
second storage means in said second part to store each member of a set of channel signals,
a plurality of electrodes adapted to be coupled to stimulate aural nerve endings, and
coupling means to couple each member of the set of channel signals in said second storage means to a separate one of said electrodes, said first portion of each said members of said set determining the intensity of stimulation to be applied by the associated electrode and said second portion of each of said members of said set determining the time within the associated frame in which that stimulation is initiated by said associated electrode,

said coupling means coupling the channel signals of a frame from said second storage means to said electrodes while said loading means is loading the set of channel signals from the next successive frame into said first storage means.

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Provisional v. Non-Provisional

- **Provisional**

- Automatically abandoned after one year period
- no claims required
- written disclosure must meet same requirements as non-provisional
- not allowed for design
- not examined; cannot mature into a patent

- **Non-Provisional**

- At least one claim required
- written disclosure must meet requirements of 35 USC 112 1st paragraph.
- Examined for patentability, can result in a patent.

When should you file?


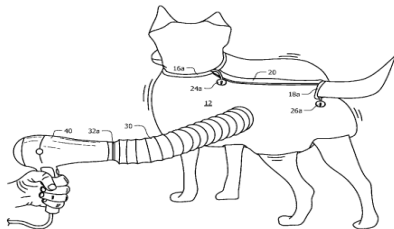
United States is a **First Inventor to File System!**

- Filing outside the United States?
 - You must file **before** public disclosure
- Only want US protection?
 - You can file within **one year after** public disclosure

Non-provisional - Parts, Form and Content

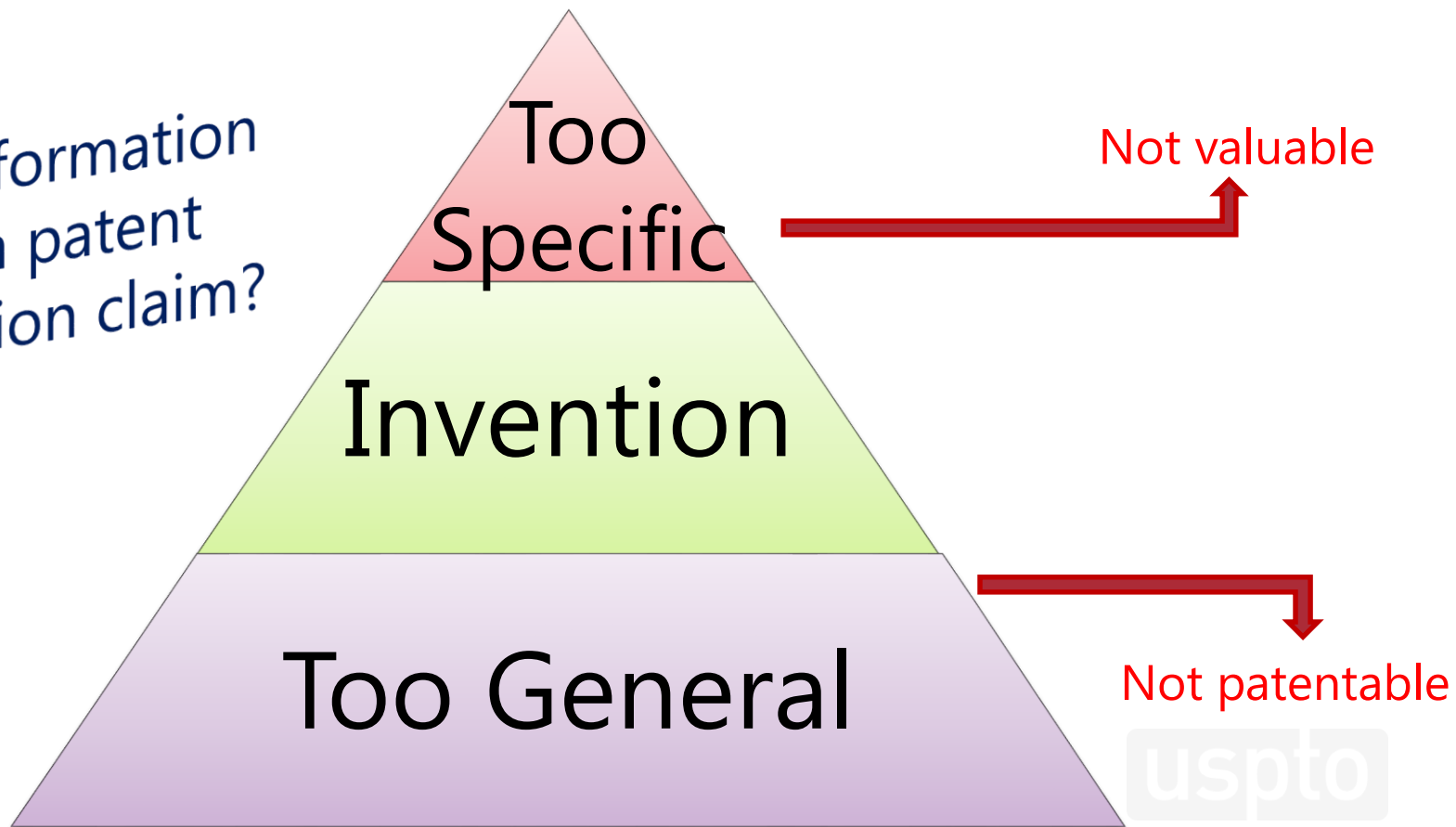
Arrangement of Application

- Title
- Cross-Reference to Related Applications
- Statement Regarding Federally Sponsored Research or Development
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings
- Detailed Description of the Invention
- Claims
- Abstract
- Drawings
- Sequence or Computer Program Listings

 US008371246B1	
(12) United States Patent Streng	
(10) Patent No.: US 8,371,246 B1 (45) Date of Patent: Feb. 12, 2013	
(54) DEVICE FOR DRYING PETS	
(75) Inventor: Marissa Streng , Indian Rocks Beach, FL (US)	
(73) Assignee: MTS Innovations, LLC , Indian Rocks Beach, FL (US)	
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 22 days.	
(21) Appl. No.: 13/039,916 (22) Filed: Mar. 3, 2011	
(51) Int. Cl. A01K 13/00 (2006.01)	
(52) U.S. Cl. 119/606; 119/678; 119/668; 119/671	
(58) Field of Classification Search: 119/602; 119/603; 604; 614; 616; 665; 668; 671; 677; 119/678; 606; 654; 725; 850; 856 See application file for complete search history.	
(56) References Cited	
U.S. PATENT DOCUMENTS 3,108,568 A * 10/1963 Whitney et al. 119/174 3,263,653 A * 8/1966 Miller 119/673 3,749,664 A * 7/1973 Vissintia et al. 119/664 4,144,845 A * 3/1979 Sneider 119/678 4,718,375 A * 1/1988 Kneger 119/678 5,060,597 A * 10/1991 Fredericks 119/678 6,234,117 B1 * 5/2001 Spitt 119/850	
FOREIGN PATENT DOCUMENTS FR 2520668 A1 * 2/1982 * cited by examiner	
(57) ABSTRACT A pet-drying device including a flexible sheet material having four openings formed therein for receiving the legs of a four-legged animal. Each opening seals around the perimeter of a pet's leg. The sheet material includes first and second longitudinally disposed edges and first and second transversely disposed edges. A first hem in the first longitudinally disposed edge receives a first drawstring for loosely tightening the sheet material around the neck and a second hem in the second longitudinally disposed edge receives a second drawstring that tightens around the tail. The first and second transversely disposed edges are secured to one another with a releasable fastener when the device is wrapped into a tubular configuration around the trunk of a pet. Warm air from a hair dryer is delivered to the inside of the sheet material through an elongate hose that engages a large diameter opening formed in the sheet material.	
4 Claims, 4 Drawing Sheets	
	

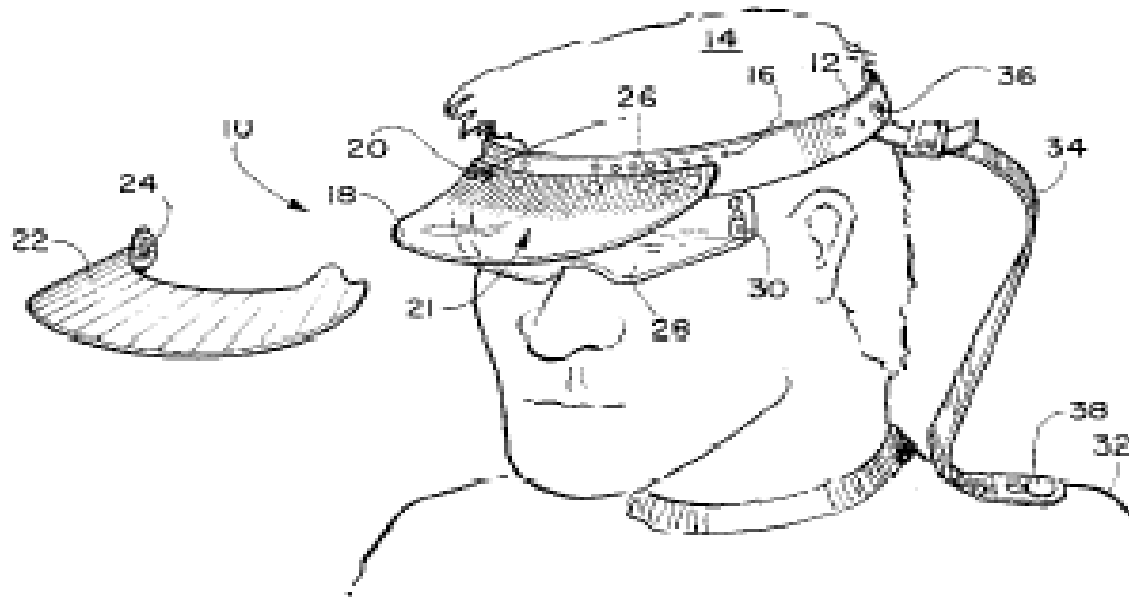
Claim Scope

What information
should a patent
application claim?



Example of an Independent Device Claim

US Patent No. 6,009,555, titled
“Multiple component headgear system.”



Example of an Independent Device Claim

Preamble

Transitional Phrase

1. **A headgear apparatus** comprising:

a headband member having a frontal;

a visor member removably secured to said frontal portion of said headband; and

an eye shield member removably secured to said frontal portion of said headband.



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Examples of Dependent Claims

A **dependent** claim incorporates by reference all the limitations of the claim to which it refers.

2. A headgear apparatus as in claim **1**, wherein said eye shield member is adjustable with respect to said headband member.
3. A headgear apparatus as in claim 1, wherein said visor member and said eye shield member are secured to said frontal portion of said headband member by a set of rivets.
4. A headgear apparatus as in claim **2**, wherein **said** headband member is formed from neoprene fabric

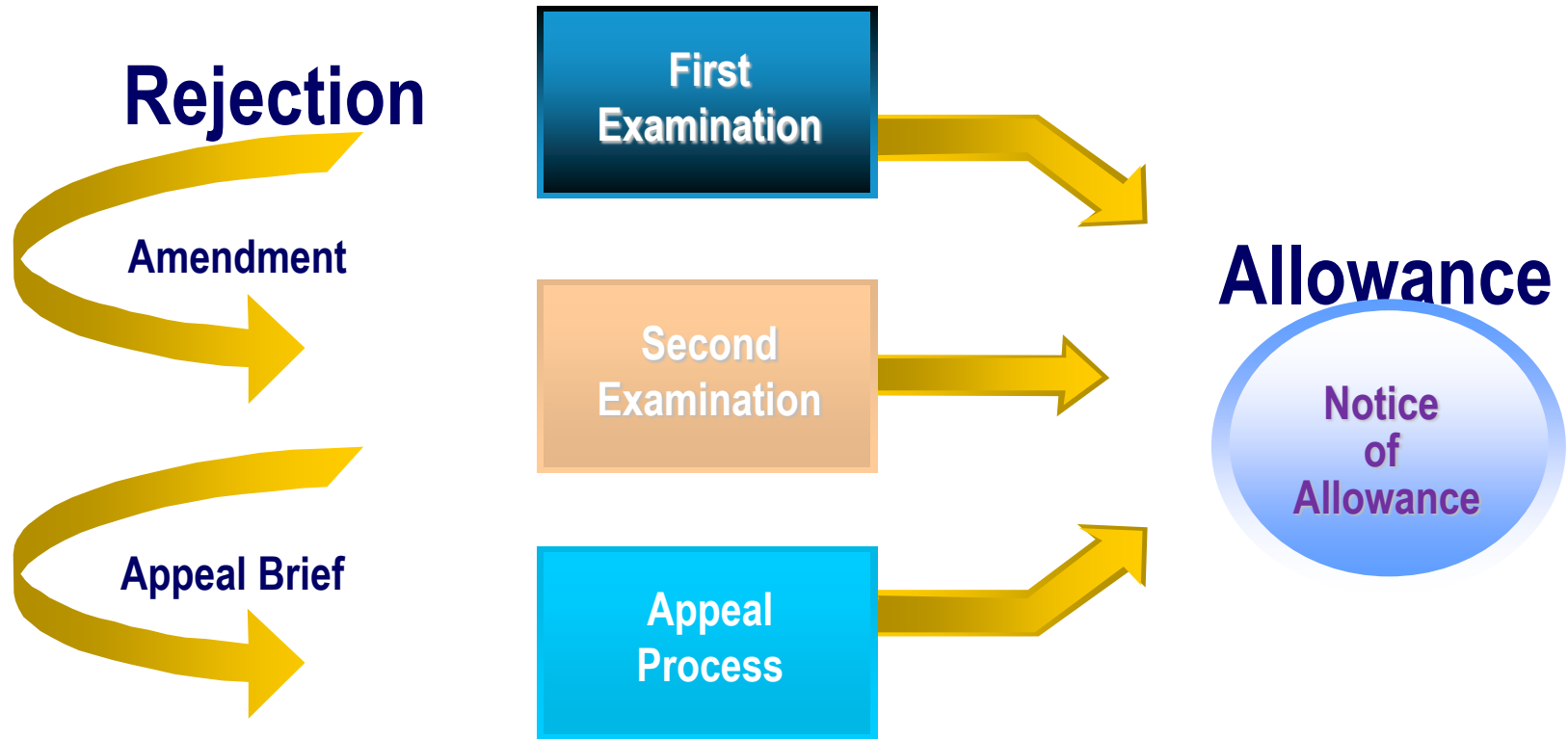
Patent Examination

- Patent Examiner reviews contents of the application for compliance with all U.S. patent legal requirements
- **Burden is on the examiner: An applicant is entitled to a patent unless...**
 - Requirements of U.S. patent law are not met

What does a Patent Examiner do?

- **Reads and understands** invention
- Determines whether the application is adequate to define the **metes and bounds** of the claimed invention
- Determines the **scope of the claims**
- **Searches** existing technology for claimed invention
- Determines **patentability** of claimed invention
- Writes opinion – called an **Office action** that notifies applicant of the examiner's patentability determination

The Examination Process



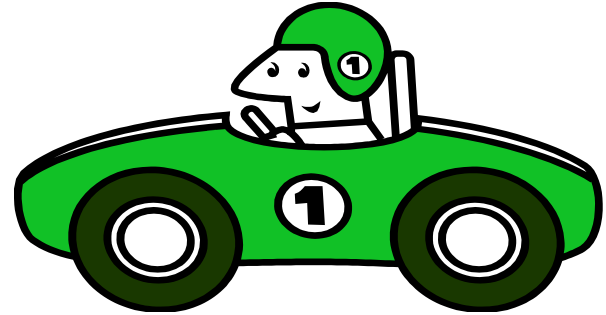
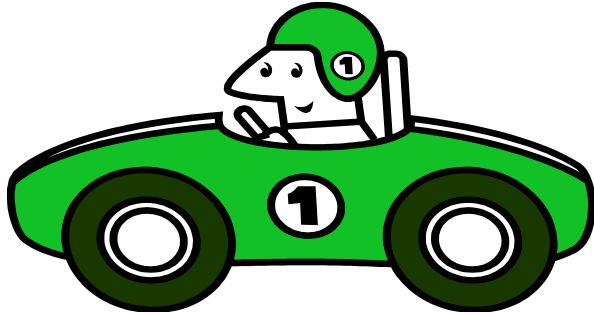
Please note that a negative opinion by the examiner may be correct. In those instances, a patent will not be granted.

Understanding Prior Art Rejections

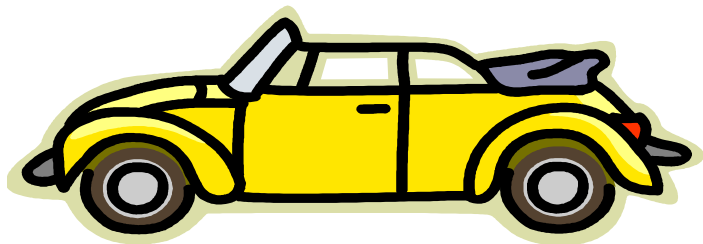
- 35 USC 102 – anticipation
 - Identical
- 35 USC 103 - obviousness

MPEP 2141 – 2144.09

Identical

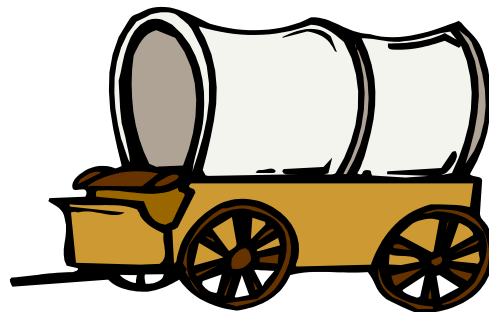


Identical?



Invention

It's a trick question!



Prior Art

Identical?

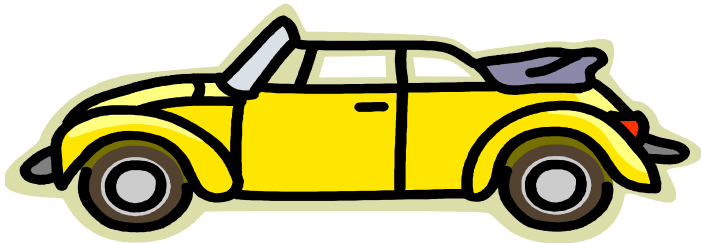
May be identical

- Wheels
- Soft Fabric Cover
- Can be steered
- Land vehicles
- Seats
- Axle
- Propelled by other than human power

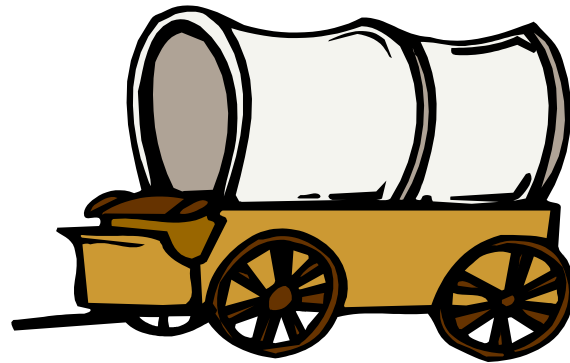
Not identical

- Rubber Tires
- Metal versus wood frame
- Power Steering
- Engine versus horses
- Leather versus wood seats
- Windows
- Headlights
- Key
- Doors

Is it Obvious?



Invention



Prior Art

35 USC 103 – The Law

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is **not identically disclosed** as set forth in section 102, if the differences between the claimed invention and the prior art are such that the **claimed invention as a whole** would have been obvious **before the effective filing date** of the claimed invention **to a person having ordinary skill in the art** to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

Understanding Obviousness

35 USC 103 Simplified

- Not Identical
- Claims as a whole are obvious
- Before the effective filing date
- Person having ordinary skill in the art (PHOSITA)

Resources - www.uspto.gov

The screenshot shows the USPTO homepage. The header includes the 'uspto' logo, 'UNITED STATES PATENT AND TRADEMARK OFFICE', and navigation links for 'About Us', 'Careers', and 'Contact Us'. A search bar is present with the text 'Search uspto.gov'. The main navigation bar features 'Patents', 'Trademarks', 'Learning and Resources' (circled in orange), and 'Quick Links' (circled in orange with a dropdown arrow). The main content area has a blue background with the text 'First time here? Let us help you find your bearings.' and 'Learn how patents, trademarks, and copyrights differ and other basic information to get started.' A 'Get Going' button is located below this text. On the left, there are three blue boxes with the text: 'First time here? Let us help you find your bearings.', 'Has your invention already been patented at the USPTO?', and 'New to Trademarks?'.

This screenshot shows the 'Learning and Resources' page. The header is identical to the homepage. The main navigation bar has 'Patents', 'Trademarks', 'Learning and Resources' (highlighted in green), and 'Quick Links'. The content area is divided into four columns:

- Resources by Audience**
 - Attorneys, agents & paralegals
 - Inventors & entrepreneurs
 - Kids & educators
 - Media
 - Researchers & librarians
- Help by Topic**
 - Fees and Payment
 - General FAQs
 - Patents FAQs
 - Trademark FAQs
 - Transferring ownership / Assignments Help
- Services & Publications**
 - Electronic Data Products
 - Federal Register Notices
 - Official Gazette
 - Support Centers
 - XML Resources
 - Classification
 - Statistics
- Tools & Links**
 - Operational Status
 - Inventors Eye Newsletter
 - Subscriptions
 - IP Programs and Awards
 - More Tools & Links
 - Glossary of Terms
 - How-to Videos
 - Executive Actions

This screenshot shows the 'Quick Links' dropdown menu. It is organized into two columns: 'Patents' and 'Trademarks'.

- Patents**
 - PatFT | AppFT: Patents search
 - EFS-Web | Forms: Patent filing
 - Private PAIR | Public PAIR: Filing status
 - PTAB: Patent Trial & Appeal Board
 - EPAS | AOTW-P: Record ownership changes & search assignments
 - Patent Fees & Payment Information
 - MPEP | Classification: Guides & Manuals
- Trademarks**
 - TESS: Search trademark database
 - TEAS: Trademark online filing
 - TSDR: Status, documents, and certificates
 - TTAB: Trademark Trial & Appeal Board
 - ETAS | AOTW: Record ownership changes & search assignments
 - Trademark Fees & Payment Information
 - TMEP | ID Manual: Guides & Manuals

At the bottom, there is a link for 'Patent & Trademark Systems Status' with the text 'Notices of possible system outages'.

Thank You!

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