

Basics of Patent Protection

Sue A. Purvis

Innovation and Outreach Coordinator

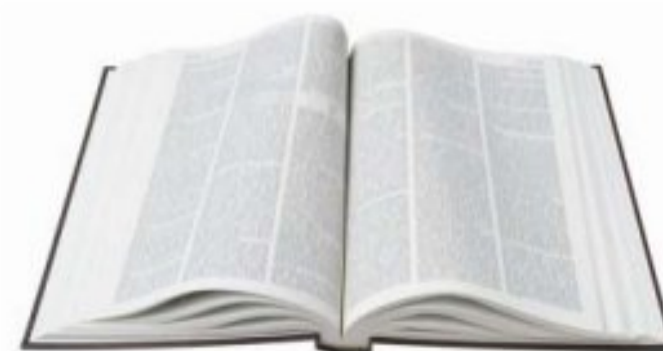
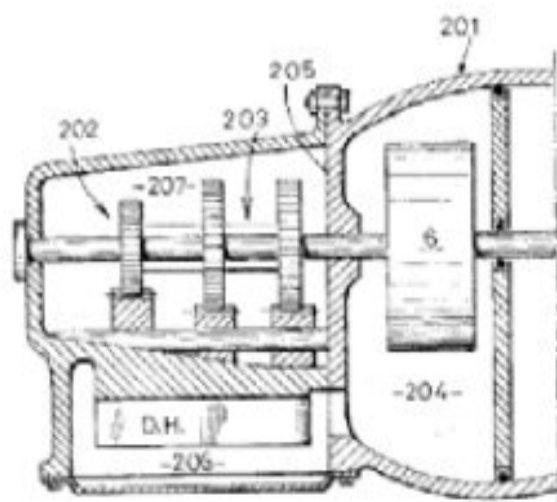
New York City Region

Outline

- Overview of Intellectual Property
- What is a Patent?
- Why get a Patent?
- Who can file for a Patent?
- Types of Patents
- Requirements for Patentability
- How is a Patent granted?
- How long does it take to get a Patent in the United States?
- Patenting Considerations
- Trade Secret vs. Patent

Overview of Intellectual Property

	What's Protected?	Examples	Protection Lasts for:
Utility Patent	Inventions	iPod, chemical fertilizer, process of manipulating genetic traits in mice	20 years from the date of filing regular patent application
Design Patent	Ornamental (non functional) designs	Unique shape of electric guitar, design for a lamp	14 years
Copyright	Books, photos, music, fine art, graphic images, videos, films, architecture, computer programs	Michael Jackson's Thriller (music, artwork and video), Windows operating system	The life of the author plus 70 years (or for some works, 95 years from first publication)
Trade Secret	Formulas, methods, devices or compilations of information which is confidential and gives a business an advantage	Coca-Cola formula, survey methods used by a pollster, new invention for which patent application has not been filed	As long as information remains confidential and functions as a trade secret
Trademark	Words, symbols, logos, designs, or slogans that identify and distinguish products or services	Coca-Cola name and distinctive logo, Pillsbury doughboy character	As long as business continuously uses trademark in connection with goods or services



Some IP found in a mobile phone

Trademarks:

- Made by "Nokia"
- Product "N95"
- Software "Symbian", "Java"

Patents:

- Data-processing methods
- Semiconductor circuits
- Chemical compounds
- Battery/Power Control
- Antenna

Copyrights:

- Software code
- Instruction manual
- Ringtone
- ...



© Nokia

Trade secrets:

- ???

Designs (some of them registered):

- Form of overall phone
- Arrangement of buttons in oval shape
- Three-dimensional wave form of buttons
- Sliding screen

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

Quid Pro Quo



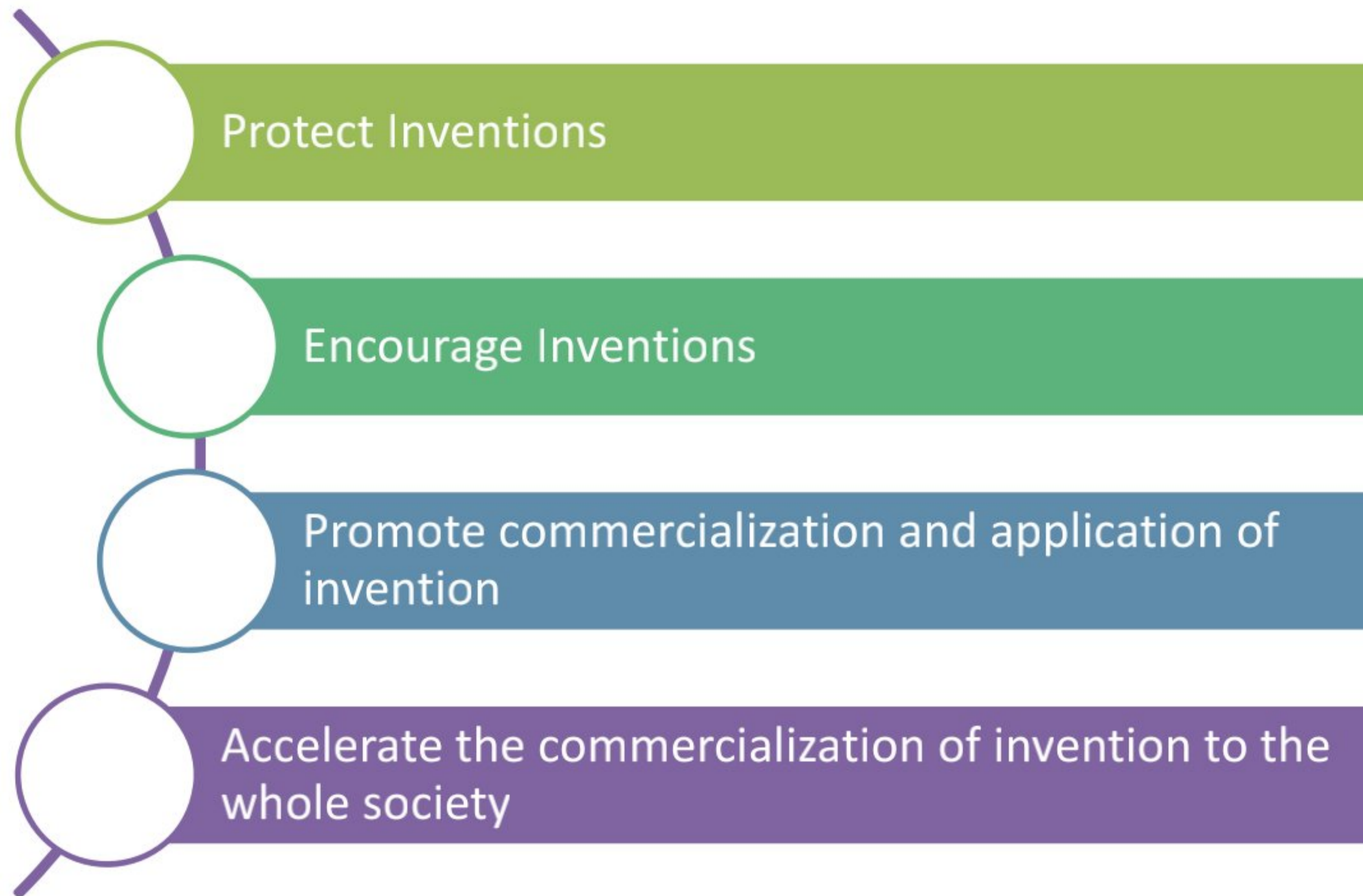
Time-Limited
Monopoly



Franklin

Discloses Invention

Role of the Patent System



First U.S. Patent

**Patent No x-1
(July 31, 1790)**



The United States.

To all to whom these Presents shall come. Greeting.

X000001
July 31, 1790

Whereas Samuel Hopkins of the City of Philadelphia and State of Pennsylvania hath discovered an Improvement, not known or used before such Discovery, in the making of Pot. ash and Pearl ash by a new Apparatus and Process; that is to say, in the making of Pearl ash 1st by burning the raw Ashes in a Furnace, 2^d by dissolving and boiling them when so burnt in Water, 3^d by drawing off and settling the ley, and 4th by boiling the ley into Salts which then are the true Pearl ash; and also in the making of Pot. ash by fluxing the Pearl ash so made as aforesaid; which Operation of burning the raw Ashes in a Furnace, preparatory to their Dissolution and boiling in Water, is new, leaves little Residuum; and produces a much greater Quantity of Salt: These are therefore in pursuance of the Act, entitled "An Act to promote the Progress of useful Arts", to grant to the said Samuel Hopkins, his Heirs, Administrators and Assigns, for the Term of fourteen Years, the sole and exclusive Right and Liberty of using, and vending to others, the said Discovery, of burning the raw Ashes previous to their being dissolved and boiled in Water, according to the true Intent and Meaning of the Act aforesaid. In Testimony whereof I have caused these Letters to be made patent, and the Seal of the United States to be hereunto affixed Given under my Hand at the City of New York this thirty first Day of July in the Year of our Lord one thousand seven hundred & Ninety.

City of New York July 31st 1790. -

I do hereby certify that the foregoing Letters Patent were delivered to me in pursuance of the Act, entitled "An Act to promote the Progress of useful Arts"; that I have examined the same, and find them conformable to the said Act.

Edm. Randolph Attorney General for the United States. -

G. Washington

**Signed by
George Washington**

Why Get a Patent?

- A patent can be
 - Used to gain entry to a market
 - Used to exclude others from a market
 - Used as a marketing tool to promote unique aspects of a product
 - Sold or licensed, like other property

Who Can File for a Patent?

- Anyone...from anywhere may apply, with only one exception:
 - Officers and employees of the USPTO
 - 35 U.S.C. §4 - Restrictions on officers and employees as to interest in patents**
 - Officers and employees of the Patent and Trademark Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office...
- An assignee, a person to whom the inventor is under an obligation to assign, or a person who otherwise shows sufficient proprietary interest

Basis for Protection of Patents and Copyright in the U.S.

US Constitution, Article 1, Section 8, Clause 8

– “Congress shall have the power ... 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.”



Overview of Patent Law

Sources of Law

- Statutory
 - 35 U.S.C. (Patent Code)
- Rules: 37 C.F.R. (Patent Regulations)
 - Rules governing the operation of the USPTO; may be changed by the USPTO following the proper procedure
- Case Law
 - The United States has a common law system
 - Court cases shape the interpretation of laws

Types of U.S. Patents

- **Utility – How an invention works**
 - Inventions
 - Functionality
 - 20 year term from filing date
- **Design – How it looks**
 - ornamental design described & shown
 - 14 year term from grant date
- **Plant – new variety of asexually reproduced plant.**
 - 20 year term from filing date

Utility Patent



US008151007B2

(12) **United States Patent**
Momose

(10) **Patent No.:** US 8,151,007 B2
(45) **Date of Patent:** Apr. 3, 2012

(54) **INFORMATION PROCESSING PROGRAM AND INFORMATION PROCESSING APPARATUS**

6,608,624 B1 * 8/2003 Wang 345/473
2004/0023717 A1 2/2004 Tsuda et al.
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2006/0227106 A1 10/2006 Hashimoto et al.
2006/0267955 A1 * 11/2006 Hino 345/173

(75) **Inventor:** Hiroshi Momose, Kyoto (JP)

(73) **Assignee:** Nintendo Co., Ltd., Kyoto (JP)

(*) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 237 days.

(21) **Appl. No.:** 12/078,896

(22) **Filed:** Apr. 8, 2008

(65) **Prior Publication Data**
US 2009/0055614 A1 Feb. 26, 2009

(30) **Foreign Application Priority Data**
Aug. 24, 2007 (JP) 2007-217829

(51) **Int. Cl.**
G06F 3/00 (2006.01)
G06F 1/00 (2006.01)
(52) **U.S. Cl.** 710/5; 710/17; 710/24; 345/522;
345/531; 345/532; 712/214

(58) **Field of Classification Search** None
See application file for complete search history.

(56) **References Cited**
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JP 2006-293476 10/2006
JP 2006-318392 11/2006

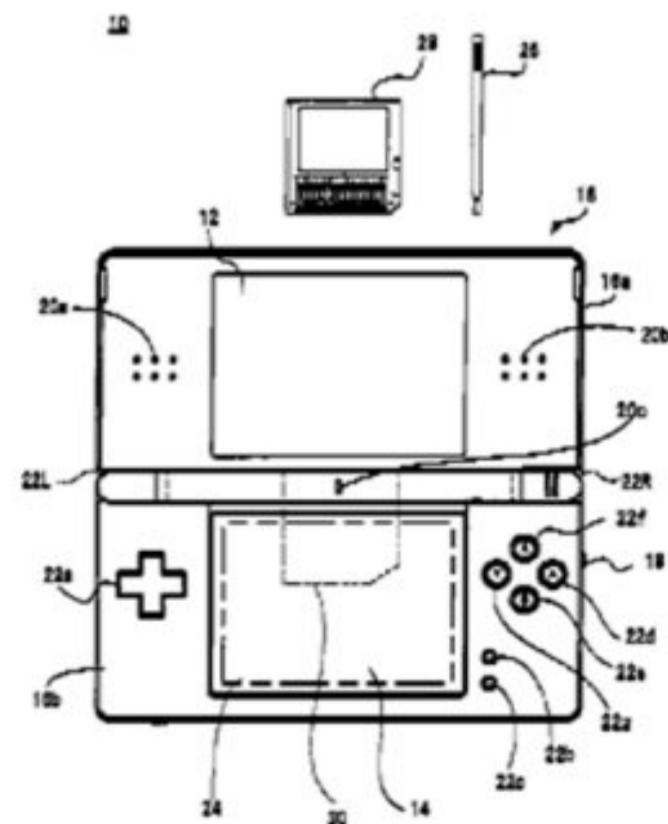
* cited by examiner

Primary Examiner — Eron J Sorrell
Assistant Examiner — Dean Phan
(74) **Attorney, Agent, or Firm** — Nixon & Vanderhoye P.C.

(57) **ABSTRACT**

A computer of an information processing apparatus repeatedly accepts an operation to designate at least one of a plurality of command elements making up of a command, executes at least any one of a first memory writing processing to write a first command element having a specific attribute out of the command elements corresponding to the accepted operation in a first memory and a second memory writing processing to write a second command element having an attribute different from the attribute in a second memory, determines whether or not a command element array stored over the first memory and the second memory satisfies an execution allowable condition every execution of the writing processing, and processes information according to the command element array when the satisfaction is determined.

16 Claims, 17 Drawing Sheets



US006237152B1

(12) **United States Patent**
Gootrad

(10) **Patent No.:** US 6,237,152 B1
(45) **Date of Patent:** May 29, 2001

(54) **POCKETED WATERPROOF GARMENT AND A METHOD FOR PROVIDING SAME**

(76) **Inventor:** Kevin Gootrad, Dearborn Station, #356, 47 W. Polk St., Chicago, IL (US) 60605

(*) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) **Appl. No.:** 09/318,413

(22) **Filed:** May 25, 1999

(51) **Int. Cl.** A41D 3/04
(52) **U.S. Cl.** 2/87; 2/67; 2/77; 2/82;
2/94; 2/108; 2/125; 2/250

(58) **Field of Search** 2/49.2, 485, 69,
2/108, 94, 102, 67, 2.15, 2.16, 2.17, 93,
247, 2.5, 77, 70, 82, 125, 250, 87, 450/89

(56) **References Cited**
U.S. PATENT DOCUMENTS
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2,428,477 * 10/1947 Thompson 2/69.5
2,519,126 * 8/1950 Falk 2/69.5
2,544,840 * 3/1951 Kowatsch 2/69.5
2,709,815 * 6/1955 Nelson 2/69.5
3,137,865 * 6/1964 Evans et al. 2/69.5

4,293,957 * 10/1981 Melarvic 2/2.1
4,665,563 * 5/1987 Harvey 2/87
5,173,968 * 12/1992 Fox 2/244
5,255,392 * 10/1993 Stanislaw 2/247
5,496,205 * 3/1996 Lee 450/89
5,592,697 * 1/1997 Young 2/247
5,598,586 * 2/1997 Munjone 2/237
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5,878,441 * 3/1999 Busker et al. 2/247
6,049,913 * 4/2000 Harrigan, Jr. 2/227

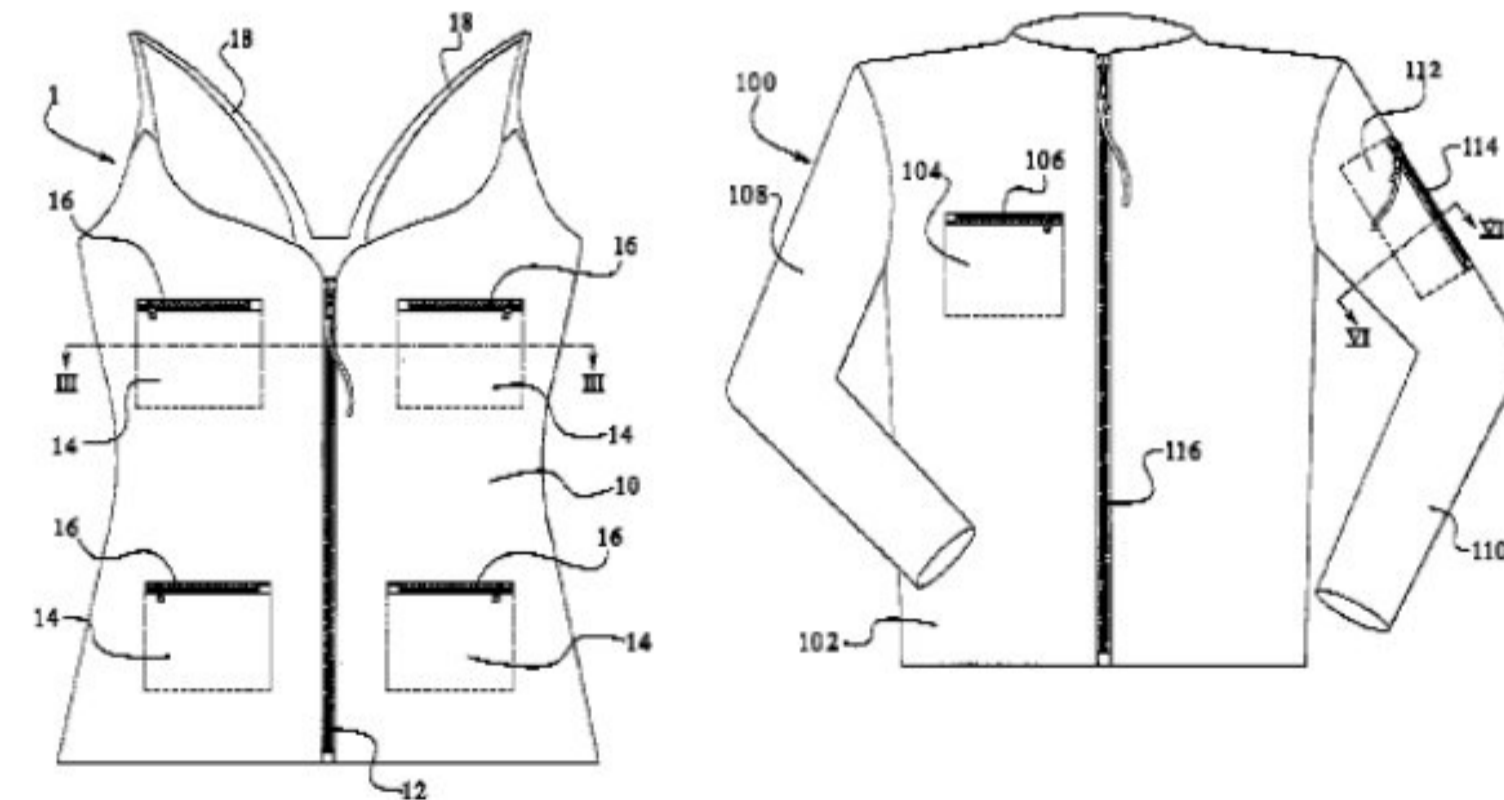
* cited by examiner

Primary Examiner—John J. Calvert
Assistant Examiner—Katherine Moran
(74) **Attorney, Agent, or Firm**—Patents +TMS

(57) **ABSTRACT**

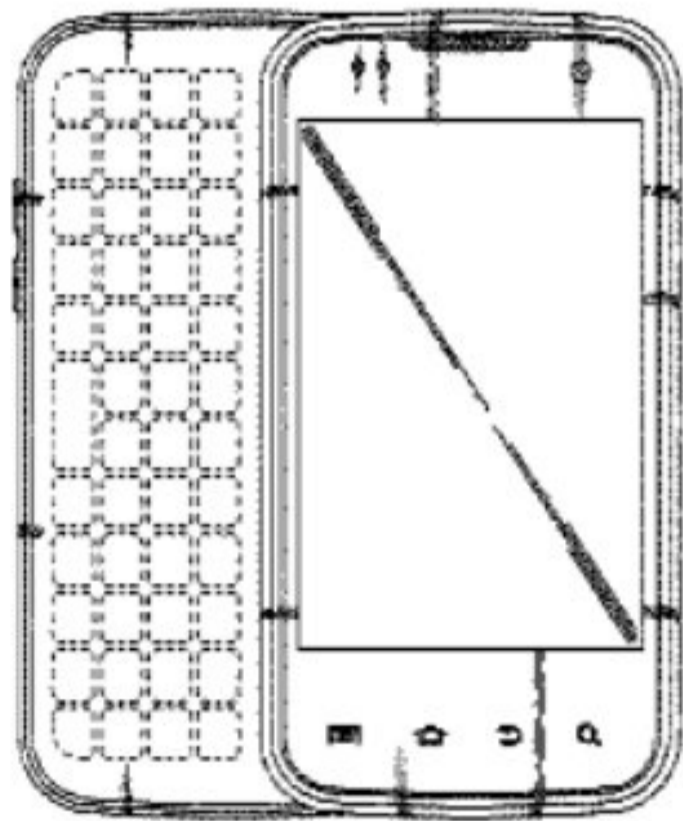
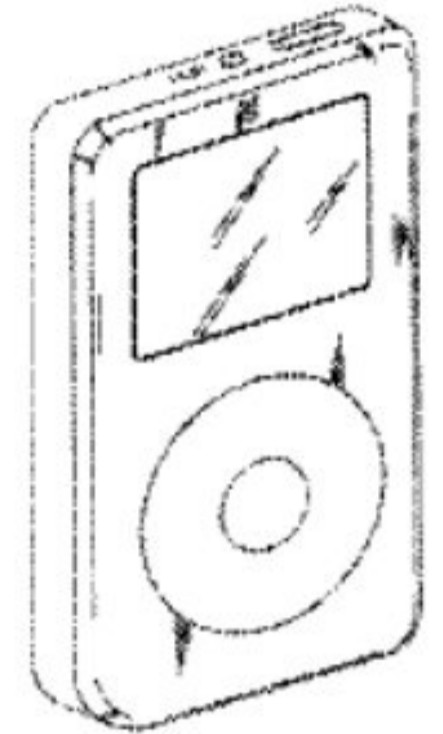
A garment is provided having at least one pocket that is attached to the garment and accessible via a zipper or other fastener that provides access to an interior compartment formed by the pocket as well as a method for providing a garment with a waterproof compartment. The fastener is preferably a waterproof zipper that is attachable via a process requiring the pocket and the zipper to be attached by gluing, stitching and/or heat-sealing the same. As a result, a completely watertight and waterproof pocket is formed allowing the user of the garment to carry items therein that typically may not be exposed to water.

22 Claims, 3 Drawing Sheets

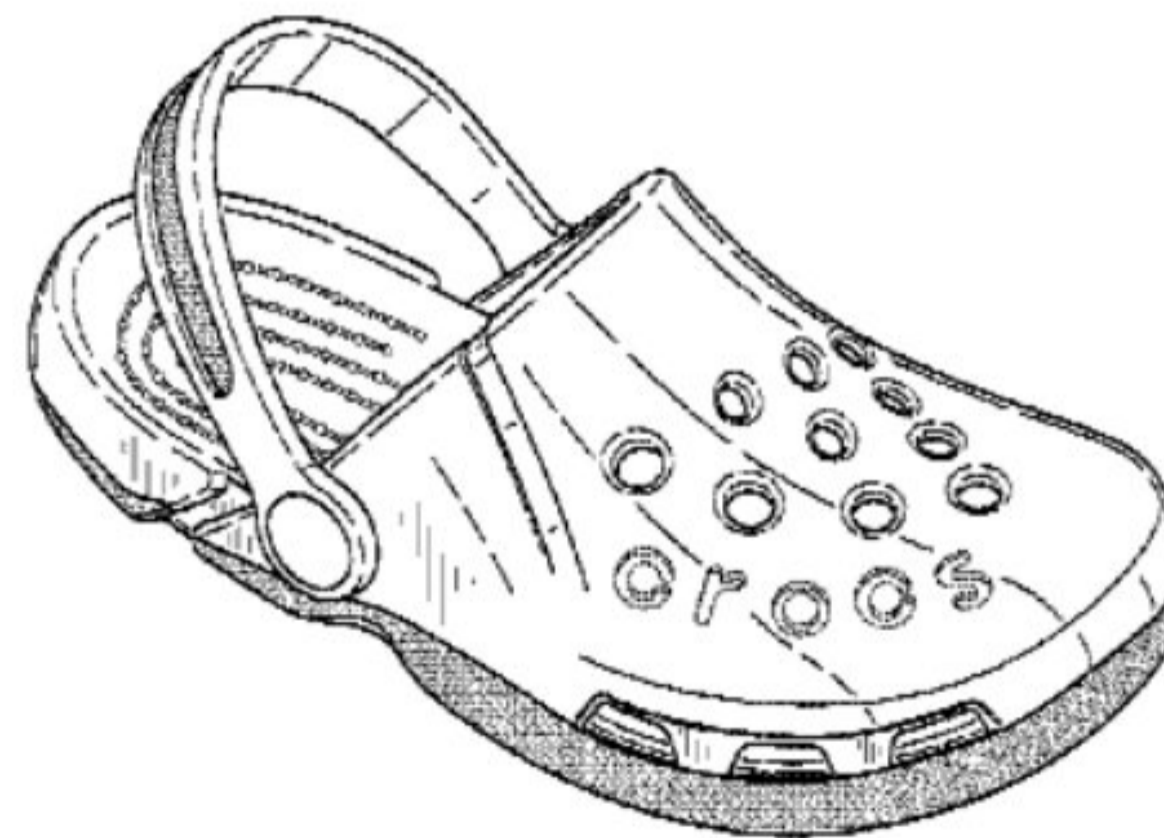


Design Patent

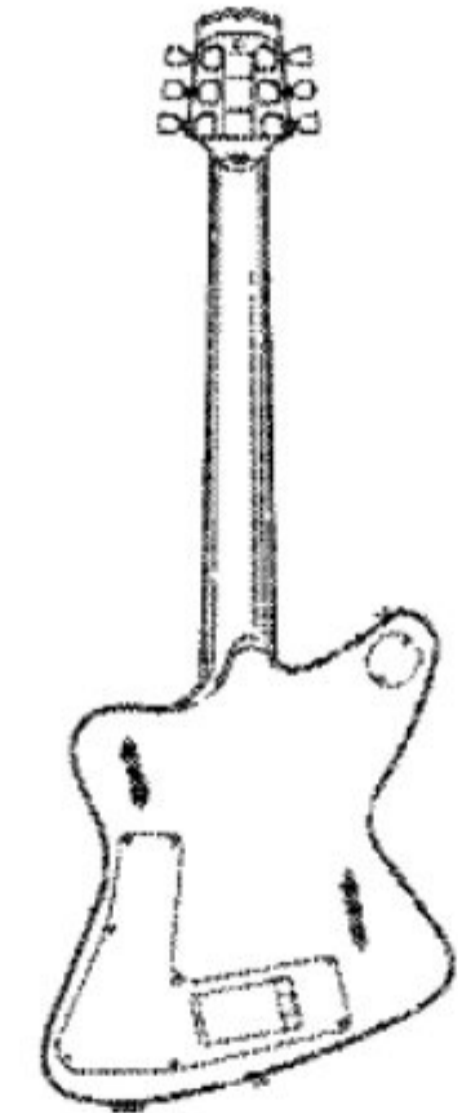
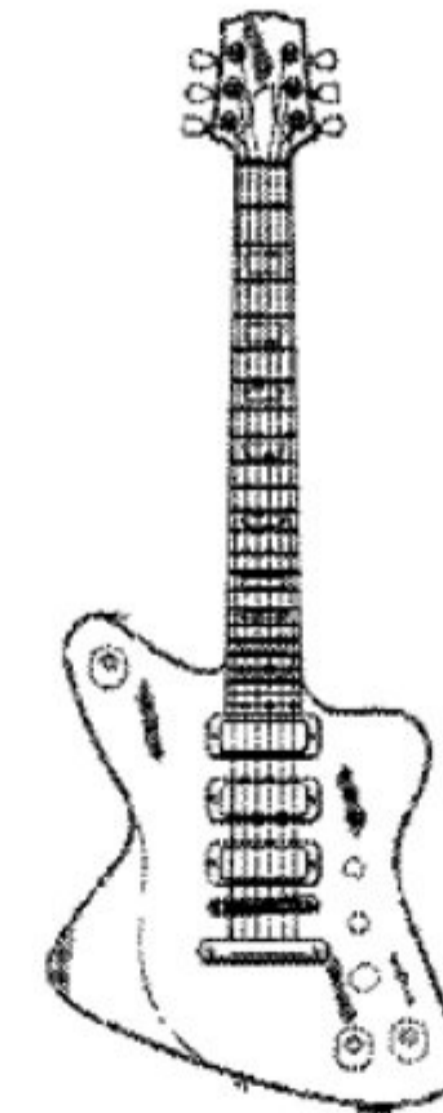
- Protects the way an article looks, including
 - its shape and configuration, as well as
 - surface ornamentation applied to the article



Christian Dior
Couture



Crocs



Plant Patent PP20,900



US00PP20900P2



(12) **United States Plant Patent**
Kelly et al.

(10) **Patent No.:** US PP20,900 P2
(45) **Date of Patent:** Mar. 30, 2010

(54) **PIN OAK TREE NAMED 'PWJR08'**

(50) Latin Name: *Quercus palustris*
Varietal Denomination: **PWJR08**

(76) Inventors: **Joseph C. Kelly**, 6511 NE. 41st St.,
Redmond, OR (US) 97756; **Peter J.
Brentano**, 5009 Davidson Rd. NE., St.
Paul, OR (US) 97137

(*) Notice: Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 0 days.

(21) Appl. No.: **12/315,680**

(22) Filed: **Dec. 4, 2008**

(51) **Int. Cl.**
A01H 5/00 (2006.01)

(52) **U.S. Cl.** **Plt./225**

(58) **Field of Classification Search** **Plt./225**
See application file for complete search history.

Primary Examiner—Susan B McCormick Ewoldt
(74) *Attorney, Agent, or Firm*—Klarquist Sparkman, LLP

(57) **ABSTRACT**

A new variety of *Quercus palustris* Pin Oak tree substantially
as herein shown and described, characterized particularly by
a combination of glossy foliage, new growth leaves that are
pubescent, upright growth habit and orange-red Fall color.

8 Drawing Sheets



Requirements for Patentability

35 USC §101 – Utility, Statutory Subject Matter

35 USC §112 (a) – Enablement, written description, and best mode

35 USC §112 (b) – Definiteness

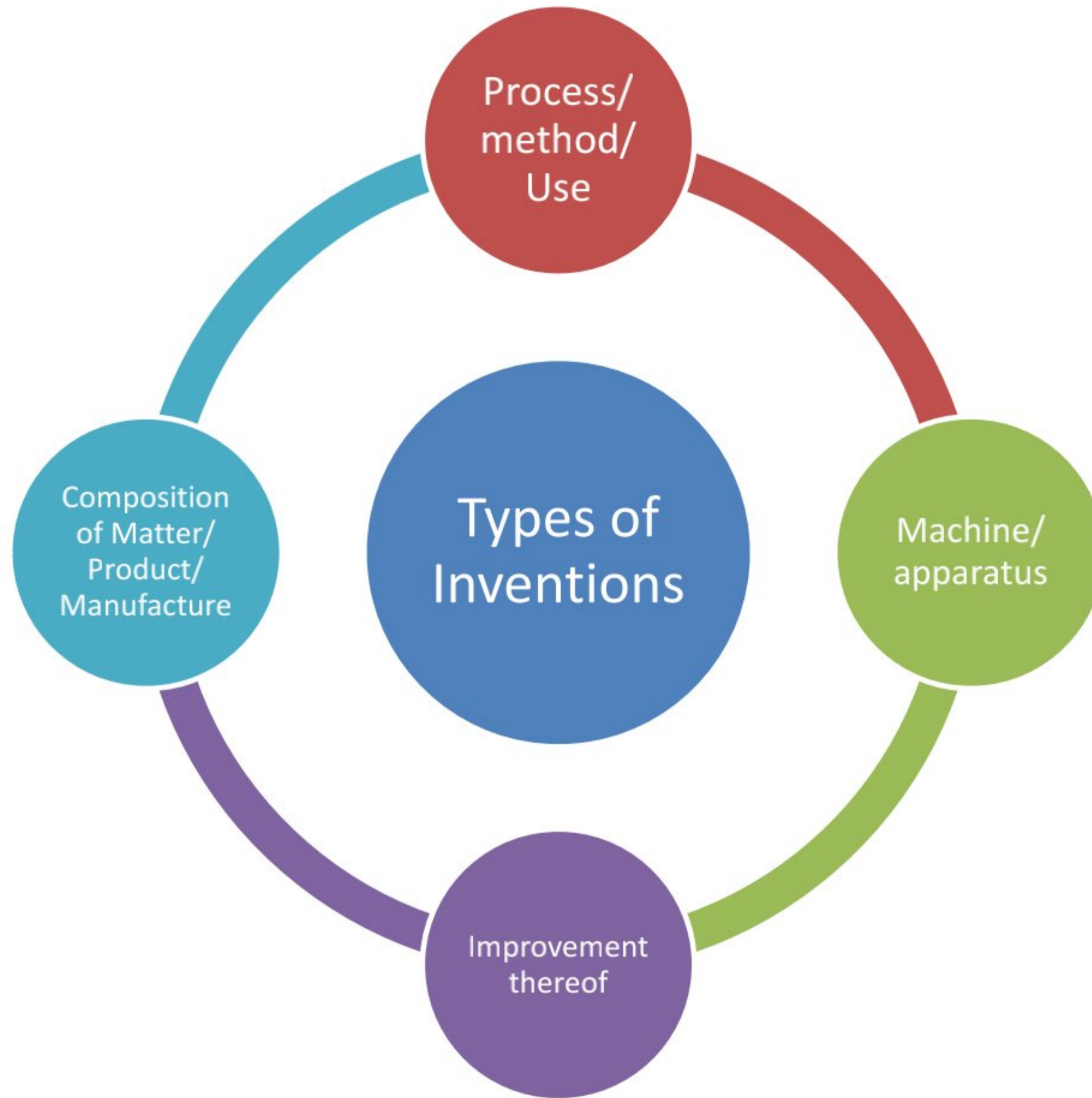
35 USC §102 – Anticipation

35 USC §103 – Obviousness

35 U.S.C. 101

“Whoever invents or discovers any **new and useful process, machine, manufacture, or composition of matter**, or any **new and useful improvement thereof**, may obtain a patent therefore, subject to the conditions and requirements of this title.”

Utility Patents



35 U.S.C. 112 (a)

- The specification shall contain
 - a **written description** of the invention, and of
 - the manner and process of making and using it,
 - in such full, clear, concise, and exact terms as to **enable** any person skilled in the art
 - to which it pertains, or with which it is most nearly connected,
 - to make and use the same,
 - and shall set forth the **best mode**
 - contemplated by the inventor of carrying out his invention

35 U.S.C. 112 (b)

- The specification shall conclude with
 - one or more **claims**
 - particularly pointing out and
 - **distinctly claiming**
 - the subject matter which the applicant regards as his invention

35 U.S.C. 102

- 35 U.S.C. 102 - an invention must be new
 - An invention lacks novelty (i.e., is “anticipated”) only if
 - each and every element as set forth in the claim is found,
 - either expressly or inherently,
 - in a single prior art reference
 - Reference must teach every aspect of the claimed invention either explicitly or impliedly
 - Any feature not directly taught must be inherently present

35 U.S.C. 103

- 35 U.S.C. 103 - an invention must be non-obvious
 - More than a mere obvious modification of the prior art
 - Reference teachings must somehow be modified to meet the claims
 - Modification must be one which would have been obvious to one of ordinary skill in the art at the time the invention was made
 - The teachings of multiple references may be combined under § 103

It's all about the claims!

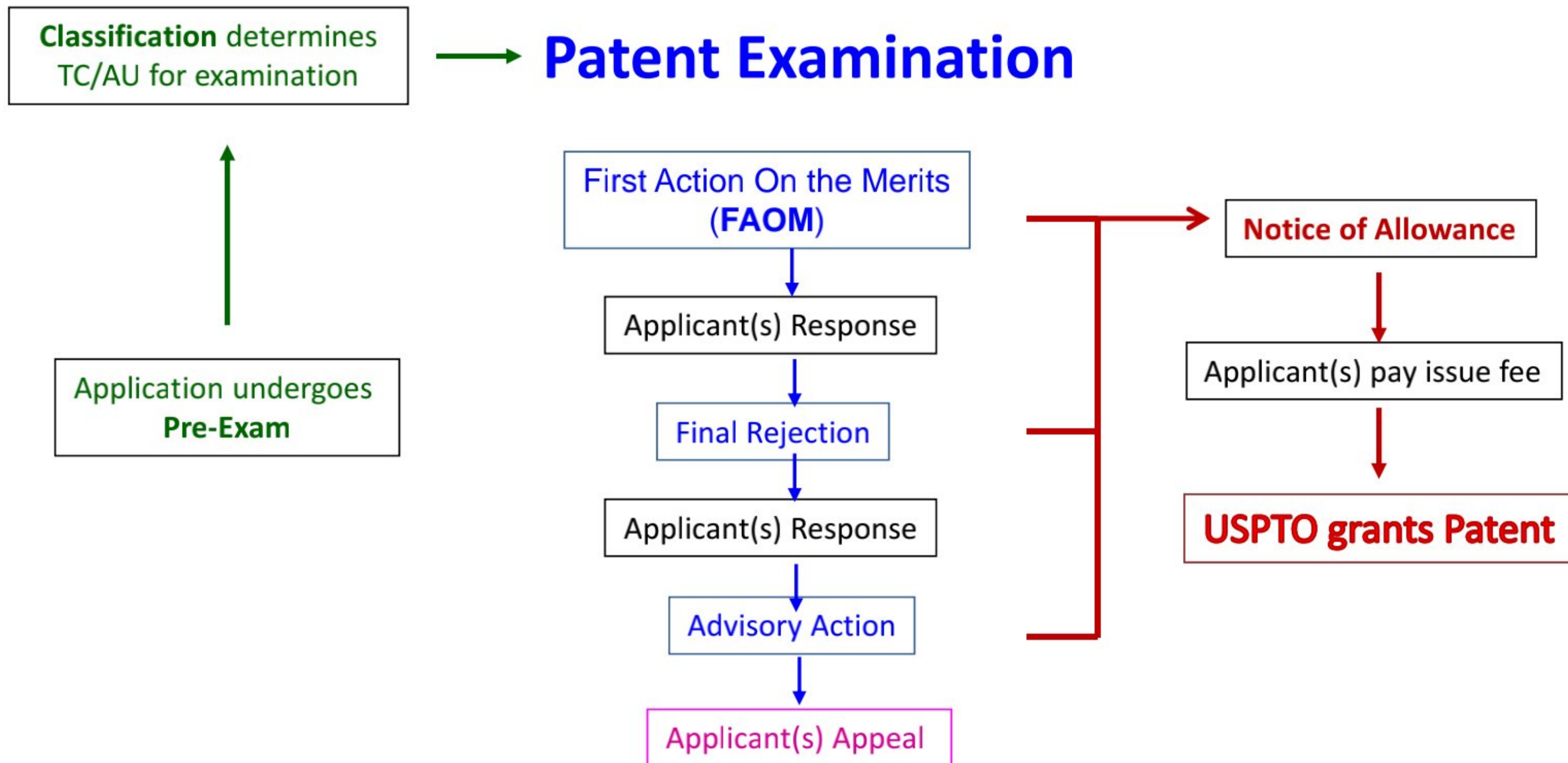
- Protection is limited to what is claimed
- During prosecution, claims are searched, may be rejected, amended, and allowed
- Specification may include numerous embodiments and elements
 - but only subject matter claimed is afforded protection
- Examiner works with the Applicant to focus the claims on novel aspects of the invention
- Broadest reasonable interpretation during examination
 - Search of invention may extend to unrelated areas

37 CFR 1.77(a): Elements of an Application

1. Utility application transmittal form.
2. Fee transmittal form.
3. Application data sheet – bibliographic information.
4. Specification.
 - Abstract, title, cross-references to related applications, background of invention, summary of invention, brief description of drawings, detailed description, claims, etc.
5. Drawings (if necessary).
6. Executed oath or declaration.

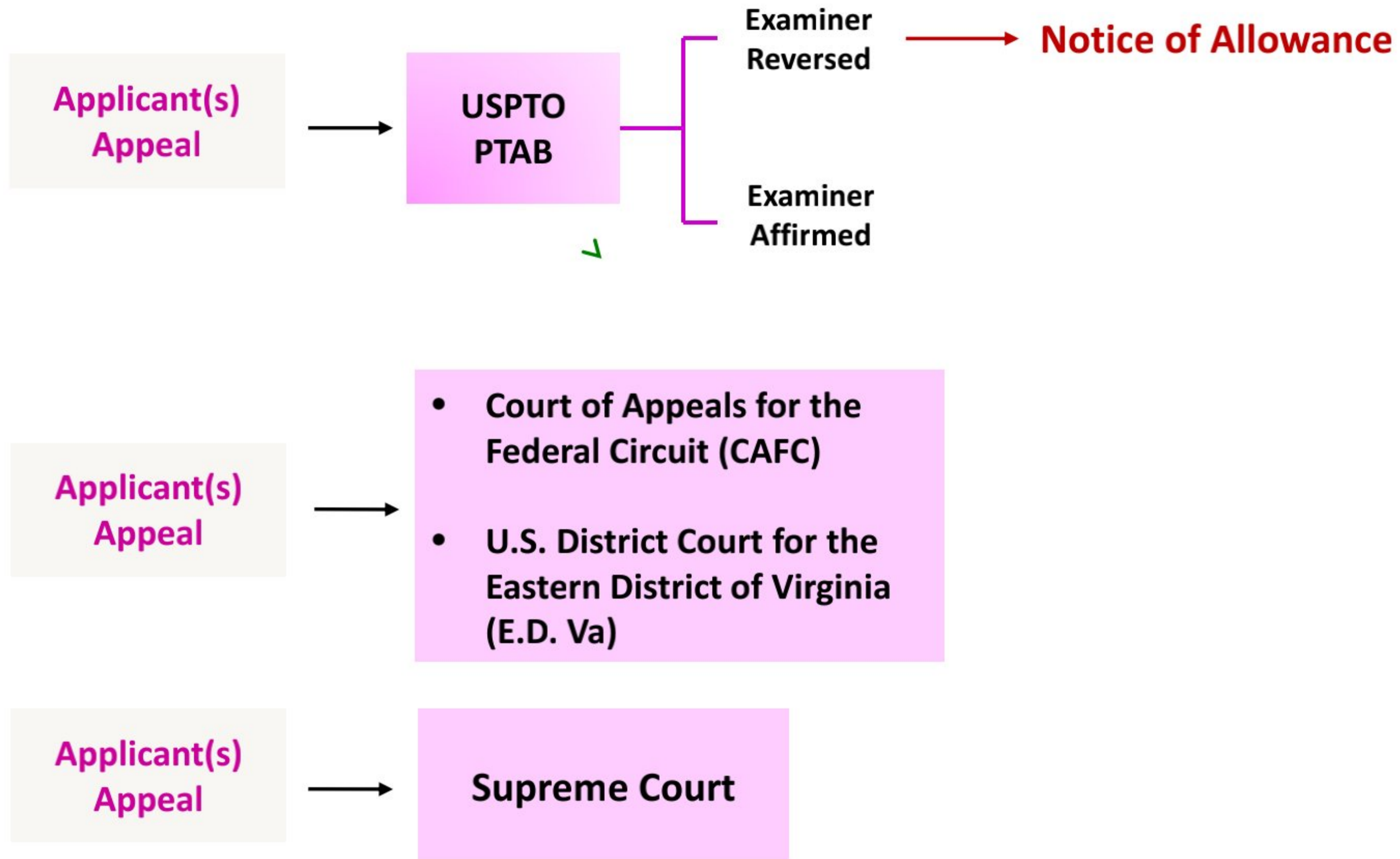
Flowchart of Patent Examination and Appeal System

(I) Patent Examination



Flowchart of Patent Examination and Appeal System, cont.

(II) Appeal Process



Patent Examination

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

Prior Art - 35 U.S.C. 102 & 35 U.S.C. 103

- Prior Art
 - Any information available for consideration when determining whether an invention is patentable
 - Public information
 - Patents, publications, articles, products, information on the internet, etc.
 - Printed publications – U.S. or foreign
 - Information available/dated before the filing date of application being examined

Examiners search the prior art

EAST Browser - L3: (173) (2/77).CCLS. | US 6237152 | Tag: S | Doc: 9/173 (FILTERED) | "Full" 1/8 (Total images 8) | Front Page

File Edit View Tools Window Help

US Full Image

US-PAT-NO: 6237152
DOCUMENT-IDENTIFIER: US 6237152 B1
TITLE: Pocketed waterproof garment and a method for providing same

Current US Cross Reference Classification - CCXR (5):
2/77

(12) **United States Patent**
Gootrad

(10) Patent No.: **US 6,237,152 B1**
(45) Date of Patent: **May 29, 2001**

(54) **POCKETED WATERPROOF GARMENT AND A METHOD FOR PROVIDING SAME**

(76) Inventor: **Kevin Gootrad**, Dearborn Station, #356, 47 W. Polk St., Chicago, IL (US) 60605

(* Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/318,413**
(22) Filed: **May 25, 1999**

(51) Int. Cl. **A41D 3/04**
(52) U.S. Cl. **2/87; 2/67; 2/77; 2/82; 2/94; 2/108; 2/125; 2/250**

(58) **Field of Search** 2/49, 2, 485, 69, 2/108, 94, 102, 67, 2, 15, 2, 16, 2, 17, 93, 247, 2, 5, 77, 70, 82, 125, 250, 87, 450/89

(55) **References Cited**
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2,428,477	*	10/1947	Thompson	2/69.5
2,519,126	*	8/1950	Falk	2/69.5
2,544,840	*	3/1951	Kowatsch	2/69.5
2,709,815	*	6/1955	Nelson	2/69.5
3,137,865	*	6/1964	Evans et al.	2/69.5

4,293,957 * 10/1981 Melarvic 2/2.1
4,665,563 * 2/1987 Harvey 2/87
5,173,968 * 12/1992 Fox 2/244
5,255,392 * 10/1993 Stanislav 2/247
5,495,205 * 3/1996 Lee 450/89
5,592,697 * 1/1997 Young 2/247
5,598,586 * 2/1997 Munjosa 2/237
5,608,916 * 3/1997 Aumann 2/247
5,878,441 * 3/1999 Baker et al. 2/247
6,049,913 * 4/2000 Herrigan, Jr. 2/227

* cited by examiner
Primary Examiner—John J. Calvert
Assistant Examiner—Katherine Moran
(74) Attorney, Agent, or Firm—Patents +TMS

(57) **ABSTRACT**
A garment is provided having at least one pocket that is attached to the garment and accessible via a zipper or other fastener that provides access to an interior compartment formed by the pocket as well as a method for providing a garment with a waterproof compartment. The fastener is preferably a waterproof zipper that is attachable via a process requiring the pocket and the zipper to be attached by gluing, stitching and/or heat-sealing the same. As a result, a completely watertight and waterproof pocket is formed allowing the user of the garment to carry items therein that typically may not be exposed to water.

22 Claims, 3 Drawing Sheets

Details Text Image HTML KWIC

[FLT]	+	U	S	1	Document ID	Publicati	Inventor	Page
9		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	US 6237152 B1	20010529	Gootrad; Kevin	8
10		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	US 5924133 A	19990720	Zapiti; Mike	6
11		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	US 5919539 A	19990706	Bisbis; Benyoussef Y. et al.	7
12		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	US 5720044 A	19980224	Robinson; James	6
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15		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	US 5492753 A	19960220	Levy; Ruth L. et	30

Details Text Image HTML KWIC

Other Types of Prior Art in the U.S.

- Prior sales or public use in the United States
 - If the U.S./foreign patent/publication or public use/sale in the U.S. is more than one year before the effective filing date
 - Applicant is barred from obtaining a patent
- **AIA Changes to Prior Art** (March 16, 2013)
 - Prior public use or sale anywhere in the world qualifies as prior art

Grace Periods

- Time prior to filing during which public disclosure by an inventor will not be considered prior art
- Differs in different jurisdictions.
 - U.S.: 1 year grace period (35 U.S.C. 102(b))
 - EU: No grace period.
 - JPO: 6-month grace period, under certain circumstances

Public Search Page

US Patent Full-Text Database Manual Search - Windows Internet Explorer provided by USPTO

http://patft.uspto.gov/netahtml/PTO/search-adv.htm

USPTO PATENT FULL-TEXT AND IMAGE DATABASE

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 When searching for specific numbers in the Patent Number field, patent numbers must be seven characters in length, excluding commas, which are optional.

Field Code	Field Name	Field Code	Field Name
PN	Patent Number	IN	Inventor Name
ISD	Issue Date	IC	Inventor City
TTL	Title	IS	Inventor State
ABST	Abstract	ICN	Inventor Country
ACLM	Claim(s)	LREP	Attorney or Agent
SPEC	Description/Specification	AN	Assignee Name
CCL	Current US Classification	AC	Assignee City
ICL	International Classification	AS	Assignee State
APN	Application Serial Number	ACN	Assignee Country
APD	Application Date	EXP	Primary Examiner
PARN	Parent Case Information	EXA	Assistant Examiner
RLAP	Related US App. Data	REF	Referenced By
REIS	Reissue Data	FREF	Foreign References
PRIR	Foreign Priority	OREF	Other References
PCT	PCT Information	GOVT	Government Interest

Public PAIR

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http://portal.uspto.gov/external/portal/lut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3hff1INDc1NLYwN3SzcDA08PwyD_YF8zINcYKB-JW97AiCLdBgR0h4Nci9f

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12/365,987 FREQUENCY MODE SELECTION DISCRIMINATOR AND LOW PASS FILTER 112055-0120U

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Fees | Published Documents | Address & Attorney/Agent | Supplemental Content | Display References

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room Date	Document Code	Document Description	Document Category	Page Count	PDF
04-06-2011	ISSUE.NTF	Issue Notification	PROSECUTION	1	<input type="checkbox"/>
03-22-2011	IFEE	Issue Fee Payment (PTO-85B)	PROSECUTION	1	<input type="checkbox"/>
03-22-2011	WFEE	Fee Worksheet (SB06)	PROSECUTION	2	<input type="checkbox"/>
03-22-2011	N417	EFS Acknowledgment Receipt	PROSECUTION	2	<input type="checkbox"/>
01-12-2011	NOA	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	4	<input type="checkbox"/>
01-12-2011	SRNT	Examiner's search strategy and results	PROSECUTION	1	<input type="checkbox"/>
01-12-2011	FWCLM	Index of Claims	PROSECUTION	1	<input type="checkbox"/>
01-12-2011	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1	<input type="checkbox"/>
01-12-2011	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>
12-17-2010	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1	<input type="checkbox"/>
12-17-2010	CLM	Claims	PROSECUTION	3	<input type="checkbox"/>
12-17-2010	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2	<input type="checkbox"/>
12-17-2010	DRW	Drawings-only black and white line drawings	PROSECUTION	1	<input type="checkbox"/>
12-17-2010	WFEE	Fee Worksheet (SB06)	PROSECUTION	2	<input type="checkbox"/>
12-17-2010	N417	EFS Acknowledgment Receipt	PROSECUTION	3	<input type="checkbox"/>
12-17-2010	WFEE	Fee Worksheet (SB06)	PROSECUTION	1	<input type="checkbox"/>
08-20-2010	CTNF	Non-Final Rejection	PROSECUTION	5	<input type="checkbox"/>
08-20-2010	892	List of references cited by examiner	PRIOR ART	1	<input type="checkbox"/>
08-20-2010	BIB	Bibliographic Data Sheet	PROSECUTION	1	<input type="checkbox"/>
08-20-2010	FWCLM	Index of Claims	PROSECUTION	1	<input type="checkbox"/>

How long does the process take?

- Utility Patents
 - 18.7 months avg. for a first office action
 - 30.6 months avg. for total pendency
- Design Patents
 - 13 months avg. for total pendency
- Time can vary depending on the technology and amount of prosecution
 - 597,318 application backlog
- **7,734 Patent Examiners**

(May 2013 statistics)

Where to Patent?

- Patent protection can be an important part of overall business strategy in global marketplace
- Patent rights are territorial
 - Protection against infringing activities
 - Only within the country or region in which patent was granted
- **NO world-wide patent**
 - Must apply for and be granted a patent in each country or region of interest

Patenting Considerations

- Conduct cost/benefit analysis
 - Consider the shelf life of a product, e.g., changes in technology, style
 - Consider how the patent will be used, e.g. licensing, to exclude competitors
 - Consider whether the product can be used outside your market
- Determine patentability
 - Searching yourself vs. engaging a professional searcher
- Choose right patent attorney/agent
- Preparation of a thorough and accurate application
- Are there workarounds for the invention?
- Costs – Patents can be expensive.
 - Background work can help to keep attorney fees lower
 - Annuity & Maintenance fees

How much does it cost?

Fees

- USPTO Utility application
 - Filing fee
 - Search fee
 - Examination fee
 - Discount for small entities
 - Issue Fee
 - Maintenance Fees
 - due at 3 ½ , 7 ½ & 11 ½ years
- Attorney fees
 - Hourly fees
 - Flat Rates
- Design Patents
 - No maintenance fees
 - ~2,000-\$3,000

Cost varies based on amount of prosecution.

~\$5,000-\$25,000

Provisional Patent Application

- A low-cost way to establish an early effective filing date (priority date) in a non-provisional patent application with fewer formalities
 - Specification & Drawings
 - No claims required
- 12 month window to file a corresponding utility patent application in order to benefit from the priority date of the provisional application
 - Caution – will lose priority date for any new matter filed in the utility application
- Provisional application is abandoned automatically at 12 months and is not examined

Patent Infringement in the U.S.

Occurs when –

Without authorization of patent owner:

- Making or using the invention
- Offer to sell or sells within the U.S.
- Import the invention into the U.S.
- Actively induce infringement by another

Enforcement Considerations

- Enforceability of patents
 - Effectiveness of enforcement laws and procedures in the country/region of interest
 - Some countries allow recordation of patent with customs
- Enforcement requires patent owner action
- Competitor products should be monitored
 - In stores
 - At trade shows
- Licensing may be beneficial
 - Limit as to time, geographical area, or field of use

Trade Secret Law

- Protects a commercially valuable proprietary information
- Valuable business information that gives a competitive advantage
- Trade Secrets are not generally known and must be subject to reasonable efforts to preserve confidentiality
- Examples
 - Formulas (e.g. Coca-Cola®)
 - Manufacturing processes
 - Business strategies
 - Business management information
 - Customer lists
 - Design concepts

Trade Secret vs. Patent

Trade Secret

- Indefinite
- Not registered or disclosed
- Can be separately discovered
- Remedy only if the secret is illegally appropriated

Patent

- 20 year term
- Public disclosure
- Right to exclude others
- Remedy for infringement

Common Ways to Lose a Trade Secret

- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development
- Failure to take adequate steps to prevent disclosure

www.Espacenet.com

- European Patent Office
- Worldwide search
- 80+ countries
- WIPO search for PCT applications

The screenshot shows the Espacenet Patent search website. The header includes the EPO logo and name in three languages (German, English, French), the Espacenet logo, and a 'Patent search' title. Language options (Deutsch, English, Français) and a 'Change country' dropdown are also present. A navigation bar contains links for 'About Espacenet', 'Other EPO online services', 'Search', 'Result list', 'My patents list (0)', 'Query history', 'Settings', and 'Help'. The main content area is titled 'Advanced search' and is divided into two sections: '1. Database' and '2. Search terms'. The '1. Database' section has a dropdown menu set to 'Worldwide - full collection of published patent applications from 80+ countries'. The '2. Search terms' section contains several input fields with pre-filled text: 'Keyword(s) in title: plastic and bicycle', 'Keyword(s) in title or abstract: hair', 'Publication number: WO2008014520', 'Application number: DE19971031696', 'Priority number: WO1995US15925', 'Publication date: yyyyymmdd', 'Applicant(s): Institut Pasteur', and 'Inventor(s): Smith'. On the left side of the search area, there is a sidebar with 'Smart search', 'Quick search', 'Advanced search' (highlighted), 'Number search', and 'Classification search'. Below this is a 'Quick help' section with several links and a 'Related links' section.

Resources

- <http://www.uspto.gov/inventors/index.jsp>
 - Inventors Resources on PTO Internet site
- <http://patft.uspto.gov/>
 - Searching US patents
- http://www.uspto.gov/patents/init_events/pct/index.jsp
 - PCT Legal Web site
- <http://www.StopFakes.gov>
 - Protecting Intellectual Property Rights
- <http://www.ustr.gov/trade-topics/intellectual-property>
 - Office of US Trade Representative
- <http://www.wipo.int>
 - World Intellectual Property Organization
- <http://www.espacenet.com/access/index.en.html>
 - European patent database
- http://www.ipdl.ncipi.go.jp/homepg_e.ipdl
 - Japanese patent database

THANK YOU

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