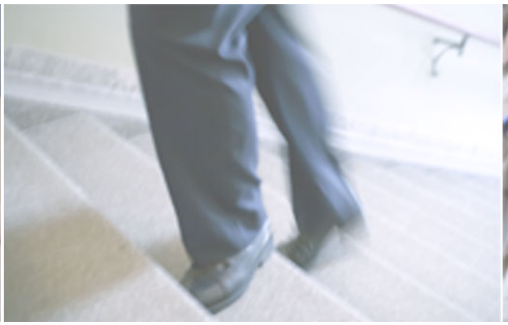
KIPA
Krahbichler Intellectual Property Advisors






Presentation of KIPA

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About Us

- Offices in Sweden – Head office in Helsingborg (South of Sweden, close to Copenhagen Denmark)
- Our attorneys include: European Patent Attorneys, Swedish Authorised Patent Attorneys, and European Trademark and Design Attorneys, and a US Patent Attorney
- Founded 2006 based on identification of a large unmet need for specialized global med-tech and medical IP advisor
- Profound technical backgrounds in automotive, telecommunication, electronics, physics in particular optics, software, materials science, mechanics, medtech

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Decades of IP Experience

- Drafting and prosecution of applications in all major jurisdictions including EPO
- Oral proceedings at EPO
- Opposition proceedings at EPO
- International dispute resolutions including litigations and arbitrations
- License negotiations
- Infringement/non-infringement opinions

- Former EPO examiner

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Technical Know-How

- Medical Devices, Anatomy, Physiology
- Software and algorithms, e.g. Imaging analysis, vehicle dynamics, user interfaces
- Cardiological devices, incl. Implants, Surgical implants
- Digital solutions (CAD/CAM and Guided Surgery)
- Telecommunications, integrated circuits, antennas, handsets, base stations, sensors, light harvesting, digital TV broadcasting
- Mechatronics, sensors, power harvesting, condition monitoring
- Mechanics: e.g. hand tools, stirring devices, screws, packaging, fluid dynamics, piezo-systems, valves, dental implants, vehicle frames, manufacturing equipment, pumps, sealings, handset mechanics
- Optics, Optical communication, spectroscopy, sensors, optical tomography, imaging
- Sensor systems, Gas measurement, Ultrasonic sensors
- Material science
- Chemistry, e.g. pharmaceutical, applied chemistry, medical and food products
- Biotechnology, e.g. nucleic acids, protein, antibodies, diagnostics, medicine

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Our Services

- IP Prosecution
  - Patent
  - Trademark
  - Design
- IP portfolio management
  - IP strategy
  - IP quality and cost control
  - Searches and analyses
  - Freedom-to-operate analysis
  - IP watch services
  - Prosecution/Opposition/Appeal at EPO
- Legal
  - Opinions, License support, Infringement handling

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Our Services (cont.)

- Dispute resolution
  - Pan-European IP litigation coordination
    - Multiple countries including DE, UK, IT, NL, ES, SE
    - Lead patent counsel in all jurisdictions, responsible for coordinating arguments for local IP litigators
    - Experience attending court trials from first to last appeal instance, including Bundesgerichtshof (DE Supreme Court)
  - Alternative dispute resolutions
    - Settlement negotiations
  - EP Oppositions
    - Oral proceedings, vast experience in med-tech field
    - Coordinated with litigations
    - High profile cases
  - EUIPO TM Oppositions, Settlement agreements, Co-existence agreements

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Our Strengths

Our strengths:

- Responsiveness
- High Quality work
- Attractive Prices
- Administration: highly experienced paralegals, also worked inhouse in industry, e.g. Anna Sandström
- Professional IP docketing system (Patricia, world's most used IP docketing system)
- English is our working language
- Technical background and IP experience
- Former EPO Examiners
- Easy access to all EPO sites via Copenhagen/Kastrup

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Erik Krahbichler

Founder, European Patent Attorney
European Trademark and Design Attorney
Solid background in the field of Medical Technology:

- Born & raised in Germany, Electrical Engineer from University Karlsruhe, majoring in Biomedical Engineering
- Worked for Siemens Medical both in Stockholm, Sweden and in Germany
- Former Patent Examiner at EPO Munich for Medical Devices
- Ceipi Univ Diploma on European Litigation
- Coordination of Pan European litigation cases
- Works with medical devices and technologies, software, optical systems, electronic devices, and mechanical devices
- Examples of IP working experience: Implantable cardiac devices, Heart valves, Stents, Catheters, Anesthesia machines, Patient management systems, Graphical user interfaces for medical devices, Software patents, Dental implants, Surgical planning systems and software

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Pär Hjalmarsson

Partner, European Patent Attorney

European Trademark and Design Attorney

- MSc in Eng Physics from Lund University,
  with emphasis on optics/spectroscopy, measurement/medical technology, nanophysics
- Researcher at Newcastle University, Dept. of Chemical Engineering with NIR spectroscopy for non-invasive measurements of turbid materials
- Worked as Product Development Scientist at a start-up company in UK with novel measurement techniques within the area of biochemistry
- Works as a patent attorney within the fields of medical devices and technologies, software, optical systems, electronic devices, software, telecommunications and mechanical devices
- Ceipi Univ Diploma on European Litigation
- Works with Oppositions, Appeals at EPO and national litigation procedures
- Handles the European IP portfolio of one of China's largest medtech companies

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Martin Kraenzmer

European Patent Attorney, Ph D

Swedish Authorized IP Attorney

- Ph.D., Building services engineering, and Master of Science, Engineering Physics, Chalmers University of Technology, Gothenburg
- Former partner and team manager (mechanics) at private practice firm in Sweden
- Former office manager at private practice firm in Munich
- In-house work as responsible for powertrain related technology at GM (Rüsselsheim) and Volvo Cars (Gothenburg)
- Experience of handling patent trolls
- 17 years as member of an examination committee (I and IV) for the EQE
- Handles drafting and prosecution, oppositions and appeals at EPO, FTO analysis, infringement and validity opinions

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Thorlakur Jonsson

European Patent Attorney

- Ph.D., Chemistry, University of California, Berkeley
- Extensive R&D experience, including 16+ years at Decode Genetics, an Icelandic Biotech company
- Director of IP at Decode Genetics for 8 years
- Former partner at Icelandic patent law firm
- Extensive experience advising startup companies across multiple technical areas
- Handles drafting and prosecution, oppositions and appeals at EPO, FTO analysis, infringement and validity opinions
- Active in epi (European Patent Institute) for 12+ years, member of epi council and biotechnology committee
- Broad experience in pure and applied chemistry, protein and nucleic acid based biotechnology

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Marie Mannerlöf

European Patent Attorney, PhD

Swedish Authorized IP Attorney

- Ph.D., Molecular Biology and Biotechnology, from industry at University of Lund
- Senior Scientist Novartis Seeds (France) and Danisco Biotechnology (Denmark)
- Former director of patent law 2015-2022 at Johnson & Johnson, Sweden
- European Patent Attorney and partner 2007 at BRANN
- Patent Attorney 1999-2007 at Albihns Patentbyrå and Ström & Gulliksson team manager (Life Science)
- Supporting start-ups, SMEs and investments companies mainly within the Life Science area
- Experience within pharmaceuticals, biotechnology, food and agriculture
- Marie is a specialist in building up IP portfolios in a cost-effective way that protects the key investments of a SME or start-up as well as supporting investment companies in the evaluation of IP portfolios. Focus being on Life Science technical areas

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Anna Johnson Aspberg

European Patent Attorney

- PhD in Medical Science from Lund University
- Extensive experience in Life Science, Biotech and Food and Agri sectors
- Working in patents since 2006, worked both in Copenhagen and Sweden, both in consultancy and in-house
- In-house industry experience managing IP-portfolio with global outlook; FTO analyses, Due Diligence analyses, IP strategy and portfolio management, as well as drafting and prosecution in many jurisdictions.

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Sarah Malik

Applied Sciences and Engineering (B.A.Sc.)
Sarah is a Canadian Intellectual Property Specialist with over 15 years of industry experience in Intellectual Property Law in Canada, dealing with both Canadian and US patent practice. She joined KIPA as a Patent Attorney, in August of 2024.

- Former Patent Examiner at the Canadian Intellectual Property Office (CIPO)
- Former associate at Marks & Clark, Canada
- Former associate at Dentons LLP, Canada
- In-house industry experience at Baylis Medical Company, Ontario, Canada, as a Senior Intellectual Property Associate
- Patent portfolio development, from ideation to prototyping to market
- Medical devices, biomedical, electromechanical, and mechanical engineering technology in the medical field, manufacturing, optics, telecommunications, electrical and mechanical technologies, and aerospace engineerin

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Gabriela Tomescu

US Patent Attorney, Attorney-at-Law (member of the California Bar)

Partially qualified for the EQE

- BS in Microbiology for Ohio State Unversity; JD, Georgetown Unversity Law Center
- Former Senior Associate at AWA Sweden, Life Science group, (2022-2024)
- Former Patent Counsel/US Patent attorney at Bergenstråhle & Partners (2014-2022)
- Former Director of IP at 3 medical device start-ups in the Bay Area, California, and Patent Consultant at own IP Consulting company (2005-2014)
- Experience with medical devices, biotechnology, pharmaceuticals
- Supports SMEs, patent strategy in the US, direct filing and prosecution of patent applications before the USPTO
- Prepares FTO analyses, patentability, infringement and validity opinions
- Teaches US patent practice courses at IP Akademin, member of FICPI Sweden

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Clara Xi

Trademark and Design Attorney

Patent prosecution

- LL.M. from Lund University, with emphasis on European business law
- LL.B. from China, with Chinese background
- Worked as an intern in Xuhui district court in Shanghai
- Works with trademarks and designs worldwide management.
- Handles trademark/design availability search, drafting and prosecution, oppositions and appeals at EUIPO and Swedish Intellectual Property Office(PRV) and trademark/design infringement
- Handles IP negotiation and license
- Supports Chinese companies with patent administration in Europe

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Your guide in the IP jungle




US Patent practice primer

Gabriela Tomescu

November 27, 2024

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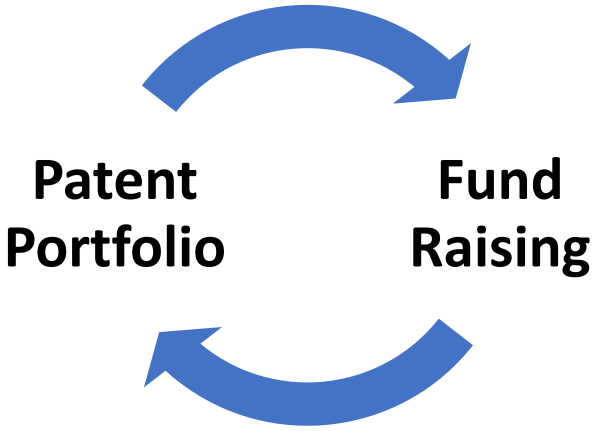
US Patents: Myth vs. Reality

Myths regarding US patent prosecution:

- US Patents are expensive to obtain
- It takes a long time to obtain US patents



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Types of Patent Applications

3 Types of Patents in the US:
- Utility, design and plant
- Only utility patents will be discussed

Provisional

- Do not require any claims
- Never published
- Can be used as proof of constructive reduction to practice
- Abandoned after 12 months
- Important to secure a priority right and when involved in business negotiations
- Approximately 150 USD

Non-Provisional

- Require claims
- Published 18 months after priority claim or filing date (whichever comes first)
- Can be used as proof of constructive reduction to practice
- Can also serve as basis for a priority claim
- Approximately 750-800 USD

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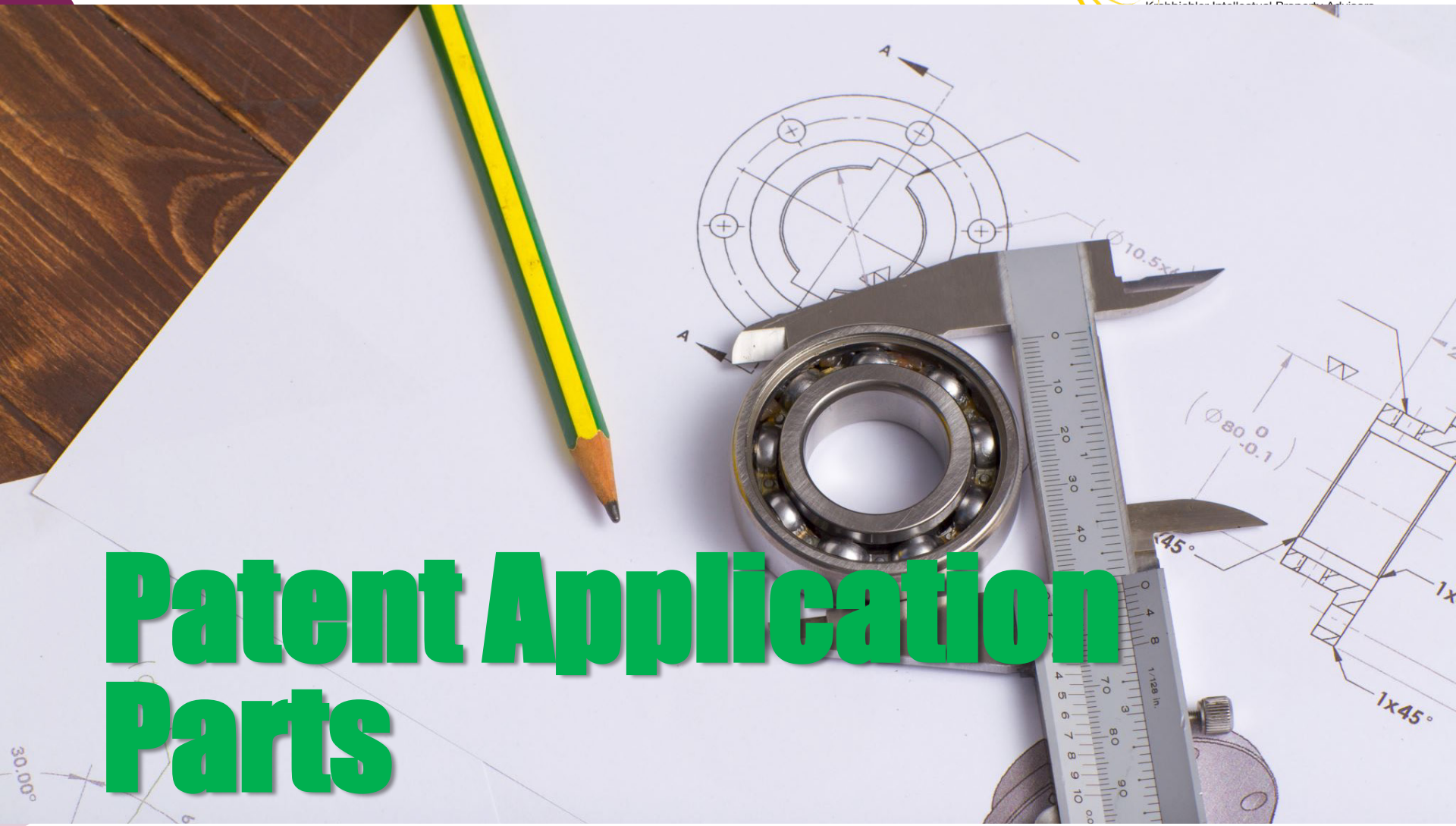

Patent Application Parts

Specification

- Requirements – 35 USC 112(a)
  - Written description of the invention
  - The manner and process of making and using the invention (the enablement requirement)
    - Pay particular attention in the case where the invention involves products of nature or abstract ideas
  - Best mode of carrying out the invention
    - Must to be disclosed but does not need to be labelled as such

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Specification

Examples:

- Actual Working Examples
- Prophetic Examples – how a person skilled in the art may go about experimenting with and testing the invention in the future (MUST be written in the present tense, so as not to mislead the reader of the application).

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Specification- What to Avoid

- Prior Art Discussions - Not recommended

- Patent Profanity – words in the specification that unnecessarily limit the scope of the invention
  - Examples: peculiar, unique, necessary, essential, key, every, must, never only absolutely, etc.
  - Do Not Use: ”invention”, instead ”embodiment of the invention”
  - Remember, the specification is supposed to be a reservoir from which individual features pertaining to separate embodiments can be combined in order to artificially create a particular combination

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Criteria for subject matter eligibility - MPEP § 2106:

- the claimed invention **must** belong to one of the four statutory categories of invention - **process, machine, manufacture, or composition of matter**; and
- the claimed invention must ***not*** be directed to ***a judicial exception -*** laws of nature, natural phenomena, and abstract ideas, unless the claim as a whole includes additional limitations amounting to significantly more than the exception.

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Tips for avoiding subject matter eligibility problems:

- If the patent application does or may involve abstract ideas, then make sure that the specification adequately demonstrates that
  - the embodiment of the invention is ***integrated into a practical application***
  - the claims recite ***significantly more than an abstract idea***

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- If the patent application involves products of nature, make sure that the specification discloses
  - *a marked difference,*
  - *a characteristic that must be changed as compared to nature and cannot be an inherent or innate characteristic of the naturally occurring counterpart or an incidental change in a characteristic of the naturally occurring counterpart*.

    Myriad, 133 S. Ct. at 2111, 106 USPQ2d at 1974-75.

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- Disclose the inventive concept in relation to the aplication

- Discuss pre- and post-solution activities:
  - What does the device do with the result?
  - What is the technical effect of the inventive concept?

- Include claims in different categories: method, device, system

- Do not forget to claim the commercial product

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USPTO's Solution

Further reading material

Guidance for Determining Subject Matter Eligibility

- Effective January 7, 2019, updated in October 2019 & then in 2024.
- Gives many reference examples to help applicants, patent attorneys, and examiners understand the patent subject matter eligibility analysis

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Claims

- Multiple Dependent Claims
  - Allowed, but very, very expensive
- Avoid ambiguities, for example “more preferably…”-type language; go for the broadest language… this can always be narrowed during prosecution

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Claims

- Support for the limitations in the claims can come from different parts in the specification (e.g. different examples)
- Content of the applications as filed is literally a reservoir from which features pertaining to separate embodiments of the application could be combined in order to **artificially create a particular embodiment**

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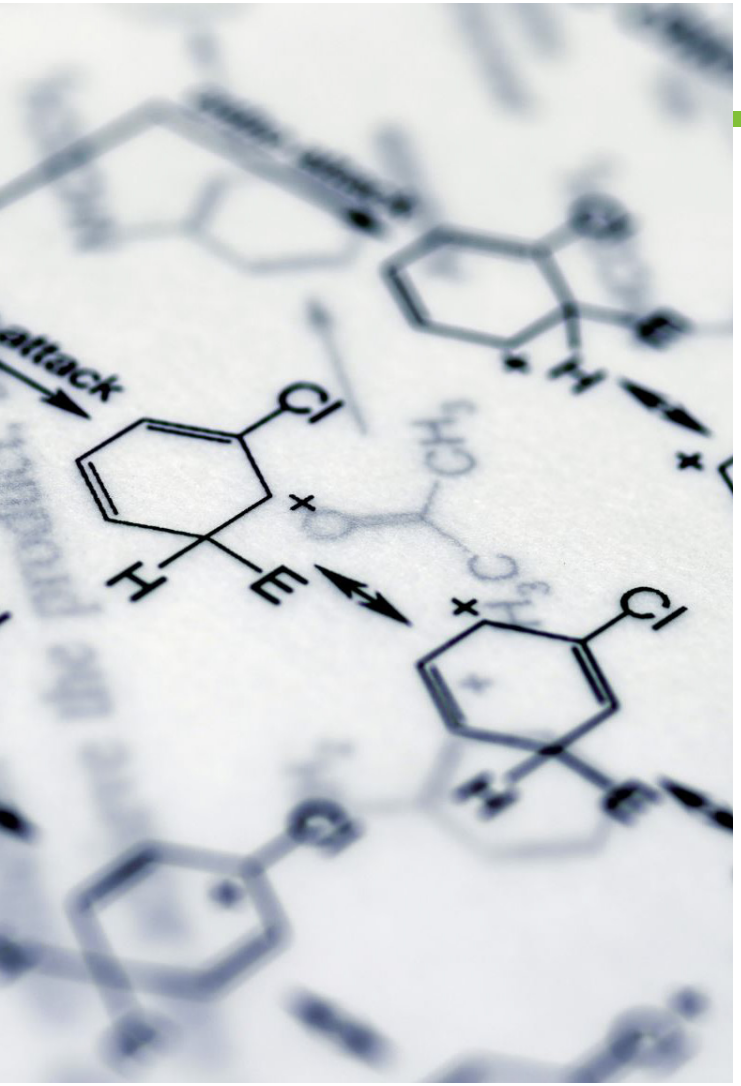

Means-Plus-Function Claims

- Use of the word ”means” will invoke 35 USC §112(f), the”means or step plus function” claim interpretation

Effect:

- Limits scope of the claim to the corresponding embodiment disclosed in the specification and equivalents thereof, **not every possible structure that would perform the recited function**

- **Thus, care must be taken not to excessively narrow the scope of the claim**

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Diagnostic Methods & Medical Procedures Claims

Diagnostic methods may be patentable in the US, so long as they are found to amount to something more than just a natural law

Medical and surgical procedures are patentable as ”processes” under 35 §USC 101.

However, under 35 USC §287(c), a patent on certain medical or surgical procedures cannot be enforced against medical professionals.

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Software Claims

- Make sure that they are not simply ”abstract ideas”
- May be useful to include boilerplate language in these claims:
  - A computer system including at least one processor configured to execute instructions to form …
  - A computer-implemented method comprising employing at least one processor to execute instructions to…:
  - A non-transitory computer-readable medium encoding instructions which, when executed by a computer system, cause the computer system to…

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Patent Prosecution in the US

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Joint Applicants & Priority Claims

- Joint applicants may each file continuing patent applications that validly claim priority

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Continuing Patent Applications

- ***Divisional*** – non-elected (withdrawn) claims from the parent patent application
- ***Continuation*** – new claims based on the description and figures in the parent application
- ***Continuation-in-Part*** – essentially a continuation but has new material added to the description and figures
  - new material has a later priority date than the parent application;
  - CIP's patent expiration date is the same as the parent application's

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Application Fees

Large Entity	Small Entity	Micro Entity

Regular Fees	1. independent inventor,
	2. a small business concern or
	  1. fewer than 500 employees and
	  2. not under obligation to assign, grant, or convey a license or other ownership to another entity who is not a small business concern
	3. a nonprofit organization.
		1. USPTO-defined small entity.
		2. Not more than 4 previously filed applications or academics w/ obligation to assign pat. app'n
		3. Gross income < approx. 150K USD.
		4. Not under an obligation to assign, grant, or convey a license or other ownership to another whose income > approx. 150K USD

Regular fees	50% of regular fees	25% of regular fees
No certification	US Attorney certification	US Attorney must certify the income statement for business concern applicants; inventor applicants certify for themselves

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Restriction/Election Requirements

- If two or more independent and distinct inventions are claimed in a single application
- A further consideration is the undue burden on the examiner who has to undertake the search
- Response must include election of claims, even if the election itself is traversed
- Withdrawn claims may be rejoined once the elected set of claims is allowed, else a divisional may be filed

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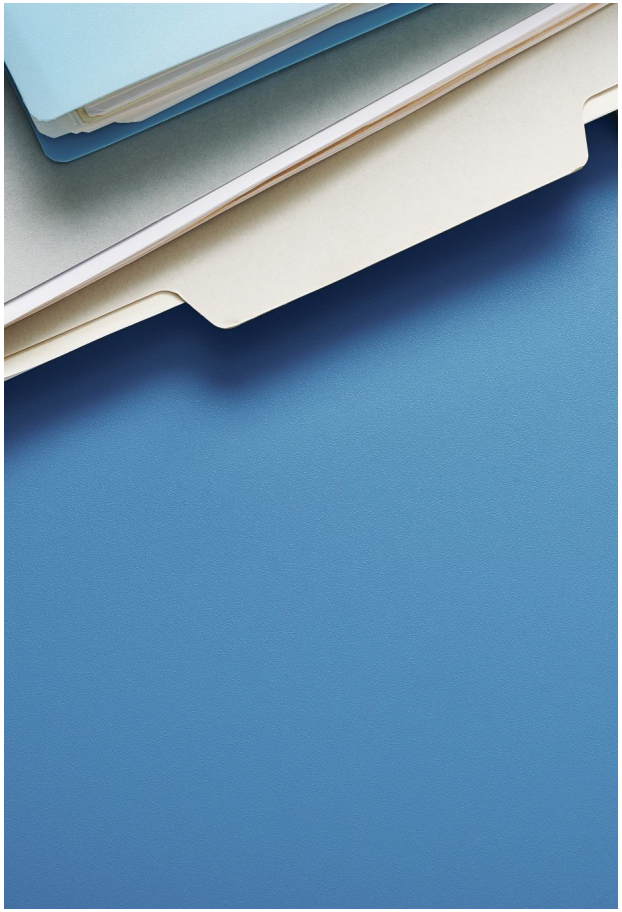
The Search & Examination Process

- Both the search and examination are performed by the same Examiner. Thus, a USPTO Examiner will usually run a new search every time a claim is amended.

- New documents may be cited as prior art throughout the prosecution!



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Office Actions: Response time and extensions

- **Response Times:**
  - 3 months – regular Office Actions
  - 2 months – election requirement
  - 2 months – correcting formalities
- **Extensions:**
  - Paid when the response is filed
  - However, fees add up very quickly
- **No Response… Notice of abandonment at the end of 6 months!**

PTO/SB/22 (03-13)
Approved for use through 3/31/2013. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)

Application Number | Filed

For

Art Unit | Examiner

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	Micro Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$200	$100	$50	$ _____
☐ Two months (37 CFR 1.17(a)(2))	$600	$300	$150	$ _____
☐ Three months (37 CFR 1.17(a)(3))	$1,400	$700	$350	$ _____
☐ Four months (37 CFR 1.17(a)(4))	$2,200	$1,100	$550	$ _____
☐ Five months (37 CFR 1.17(a)(5))	$3,000	$1,500	$750	$ _____

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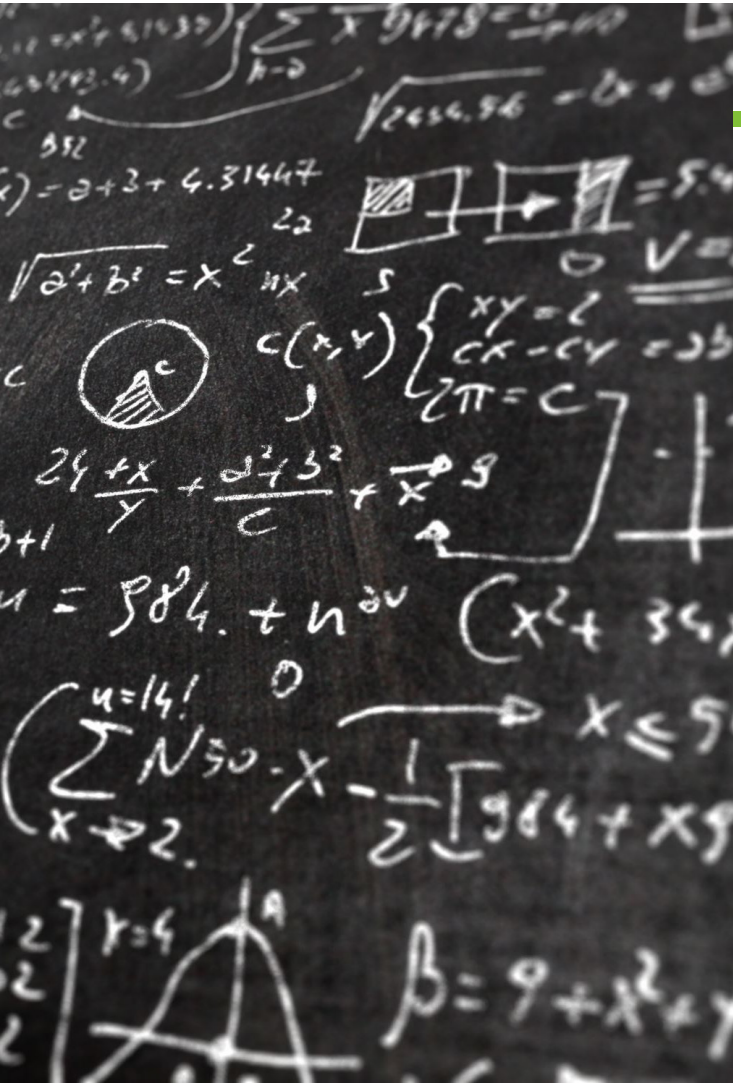

Novelty Requirement: Non-Prejudicial Disclosures - 35 USC Sec. 102 (b) (1)

A disclosure made **1 year or less before the effective filing date** of a claimed invention **shall not be prior art** to the claimed invention under subsection (a)(1) if—

- (A) the disclosure was **made by the inventor or joint inventor** or by another who obtained the **subject matter disclosed directly or indirectly from the inventor** or a joint inventor; or
- (B) the **subject matter** disclosed had, before such disclosure, been **publicly disclosed by the inventor** or a joint inventor or another who **obtained the subject matter disclosed directly or indirectly from the inventor** or a joint inventor.

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Obviousness - 35 USC 103

- Difficulty in overcoming this rejection
- The Examiner may theoretically combine a limitless number of patent documents
- ”Outside the field of the invention” not a valid argument
- Strongest argument ”missing element”
- Other secondary indicia should be used as evidence, for example invention’s commercial success, satisfying a long felt but unsolved need, and the failure of others where the invention succeeds….

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Patent Prosecution Steps

Information Disclosure Statement

- A “duty of disclosure” to disclose to the Patent Office **any known prior art that is material to the patentability of the invention claimed** in the patent application—not just the results from search reports prepared by other patent offices.

- Applies to all individuals (e.g., inventors and attorneys) that are involved in the patenting process.

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Information Disclosure Statement

- **Failure to satisfy the duty of disclosure can result in patent unenforceability.**
- **The failure to cite one or more material references that were known to the Applicants can be the basis of an inequitable conduct claim, if there is also an "intent to deceive" the Patent Office.**

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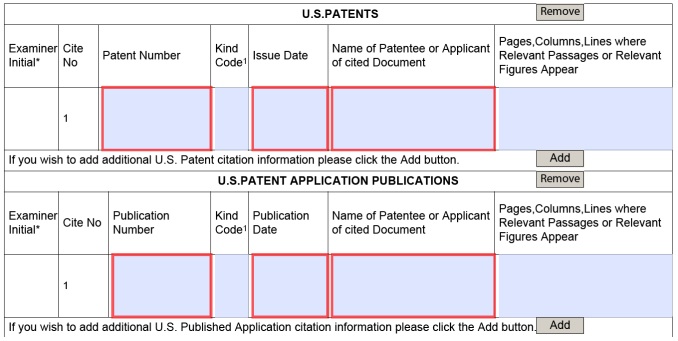
Information Disclosure Statement



U.S.PATENTS						Remove
Examiner Initial*	Cite No	Patent Number	Kind Code¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1					

If you wish to add additional U.S. Patent citation information please click the Add button. Add

U.S.PATENT APPLICATION PUBLICATIONS						Remove
Examiner Initial*	Cite No	Publication Number	Kind Code¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1					

If you wish to add additional U.S. Published Application citation information please click the Add button. Add

- File copies of foreign patent documents and non-patent literature
- Include relevant results from pre-filing searches
- Do not forget to continue disclosing relevant documents to the USPTO throughout the prosecution of the patent application!

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USPTO Interviews

- USPTO Interviews without traveling to the US
  - WebEx
  - telephone
- Full First Action Interview Pilot Program– before a 1st Office Action has issued – educate the examiner on the substance of the invention and the Examiner can discuss prior art with the patent attorney
- Interview can be requested at any time

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Final Office Action – Recommendations:

- React quickly!
- Within the first month after receipt of Final OA, have an attorney client consultation and devise response strategy
- Schedule Examiner interview within first six weeks after receipt of Final OA
- After interview, if agreement on claims not yet reached, consider filing an RCE

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Speeding up … & slowing down prosecution

Accelerated Prosecution

- Fee – based:
  - Track One
- No fee:
  - Age/health of applicant
  - Material enhancement of environmental quality
  - Clean energy
  - Method of treating cancer using immunotherapy

Requirements for Accelerated Prosecution

- E-filing
- Detailed IDS
- Statement re pre-examination search
- Willingness to have an interview
- Claims related to a single invention

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Speeding up … & slowing down prosecution

- **Suspension of Prosecution**
- Petition to suspend prosecution for up to 36 months
  - 70 USD petition fee
  - No pending OA
- May be filed with an RCE
- Also without an RCE, for good cause

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When US patent prosecution stalls and a US patent is urgently needed…

Track One – for a Fresh Start

- May be used when with:
  - Request for Continued Examination
    - Same USPTO Examiner, but now with an incentive to spend more time on the application
  - File a Continuation with the same or amended claims as the parent
    - Advantage: good chance of getting a different USPTO Examiner

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Revival of Patents & Patent Applications

Revivals available for:

- no response to OA,
- maintenance of continuity,
- missed issue fee payment or
- missed maintenance fee

Qualifying reasons:

- **unintentional** or **unavoidable** abandonment

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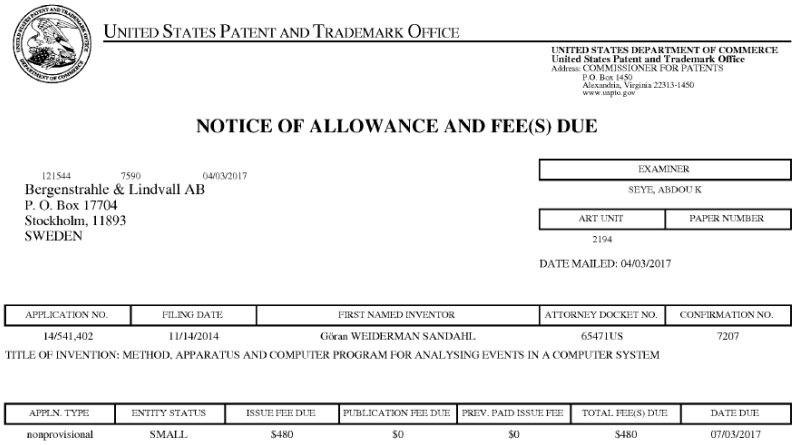
Notice of Allowance



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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

121544 7590 04/03/2017

Bergenstrahle & Lindvall AB
P. O. Box 17704
Stockholm, 11893
SWEDEN

EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 04/03/2017

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/541,402	11/14/2014	Göran WEIDERMAN SANDAHL	65471US	7207

TITLE OF INVENTION: METHOD, APPARATUS AND COMPUTER PROGRAM FOR ANALYSING EVENTS IN A COMPUTER SYSTEM

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$480	$0	$0	$480	07/03/2017

Check:

- **Priority documents' retrieval**
- **IDS - has everything been submitted?**
- **Any need to change entity?**
- **Assignments in place?**
- **Three month deadline—no extensions**

- **Any wish to file a continuing application?**

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Issue Fee Payment & Additional References

- If further documents need to be considered after payment of issue fee, then an RCE will need to be filed to stop the patent from issuance and re-open prosecution

- Now **Quick Path Information Disclosure System (QPIDS)** is available to reduce the need to file an RCE

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Maintenance Fees

- No renewal fees in US
- Maintenance fees at 3 to 3 ½ years - 800 USD*, 7 and 7 ½ years - 1800 USD, and 11 to 11 ½ years 3700 USD* without surcharge

  * For a small entity
- Cheaper than in Europe

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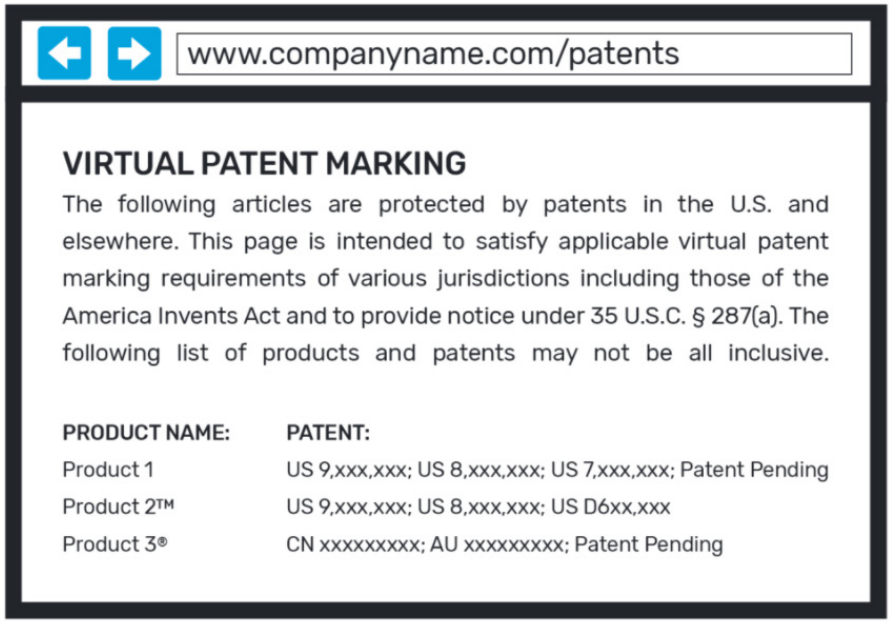
Patent Marking

- Patented products should be marked with the relevant patents covering them; not needed for method or process patents
- Make sure that licensees and contract manufacturers mark the products
- If regular marking is not possible, use virtual marking



https://www.chamblisslaw.com/shout-it-from-the-rooftops-the-ins-and-outs-of-patent-marking/

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General Tips

- Try to limit the number of claims at filing time; do not pay for additional claims which will likely need to be restricted during an election requirement
- Be proactive with the Examiner; find out about the Examiner's allowance record
- Carefully examine the Filing Receipt and Notice of Allowance to make sure that all the required documents have been properly retrieved
- Do not be afraid to try Track One accelerated prosecution, the 2000 USD fee is worth it…
- Do not waste much time arguing against the Examiner or filing appeals; consider refiling the application using Track One or filing a divisional or continuing application.

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Thank You

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