

Patent Drafting for Beginners
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Lecture – 47
Best Method

Best method.

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Best Method



Let us look at the other requirement, we have just seen the requirement of enabling disclosure. And while we read 64 1 h we also said that there could be another objection to the specification based on the descriptive part of the specification; where the invention has described the other objection could be that. The best method of performing the invention is not disclosed.

Now, let us look at the best method requirement. It is a simple requirement we already said that it is an requirement that can easily be satisfied, if you look at the claim and describe the claim in detail how the claim works, and that will qualify for the best method disclosure.

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Best Method of Performing

- S.10(3): “...best method of performing the invention which is known to the applicant and for which he is entitled to claim protection”
- Patent can be revoked, if not disclosed
- Two issues
 - 1) Whether the best method is disclosed (subjective)
 - 2) Whether the disclosure is adequate to practice the best method (objective)



Now, the best method is on performing the invention. Now this we get from section 10 3 that the complete specification should disclose the best method of performing the invention which is known to the applicant. So, he can only disclose what he knows for which he is entitled to claim protection.

So, the best method is tied to the claim. So, if you describe the claim in detail, the method of performing the invention in detail whatever you have claimed then you satisfy this requirement. Now the patent again as we have seen in section 64 1 h, it can be revoked if you do not disclose the best method in your specification. Now there are 2 issues that come out of the best method requirement.

The first one is a subjective issue; which is whether the best method is disclosed, whether the best method has been disclosed by the applicant. This is subjective because you will have to see whether there has been a disclosure at all. The second requirement is there is a disclosure; whether the disclosure is adequate to practice the best method. The first instance was to see whether there is a disclosure at all.

In the second case the disclosure is there, will that disclosure qualify as a best method? Now the scope of the best method.

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Scope of Best Method

- Applies only to claimed subject matter
- Known on the date of filing
- Need not match the commercial method
- Statement that the inventor believes to be the best method is sufficient
- Show by working example
- Trade secrets not allowed



It applies only to the claimed subject matter. Just how we saw the enablement requirement, the enablement requirement is tied to the claim. Similarly, the best method is also tied to what you have claimed, you are not expected to disclose, things which you have not claimed in your best method disclosure. Again, like the enablement requirement, it should be what is known on the date of filing. What is known to the applicant on the date of filing the best method need not match the commercial method. So, if an applicant files an application, and he starts commercially manufacturing something related to the invention, though not what he has claimed, it could be a dependent claim or it could be something incidental to the invention.

There is no requirement in law which requires the applicant to actually disclose the best method as the method which he would eventually commercialize. So, you could commercialize something that is incidental something that is a variance something that is an improvement to your claim, but there is no requirement which says that the commercial method should also be the best method. A statement in the specification that the inventor believes to be the best method will be sufficient. If the inventor says in his application that, this is the best method known to us or this is the way in which we have understood the invention works best or the invention can be performed in the most efficient manner.

So, whatever words if there is something that can be attributed to the inventor, that will satisfy this requirement. Now one way to ensure that this requirement is satisfied is to have a working example. So, you have the claim, you have descriptions in the specification, we will see that there is a there are different parts there is a summary description there is a detailed description, and you have a working example of an embodiment which is what you have covered in your claim, the main claim. So, if the main claim has a working example. It satisfies the best method requirement. Again, trade secrets are not allowed we saw the same thing for the enablement requirement.