

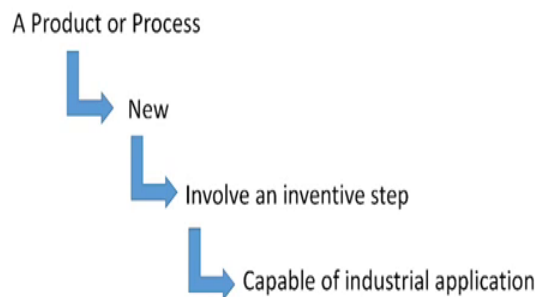
Patent Drafting for Beginners
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Lecture - 07
What are not Inventions

What are not inventions?

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To be an invention



To be an invention, the invention should manifest in a product or a process. So, you can only patent an invention which manifests as a product or a process. That product or process should be new, it should involve and inventive step, and it should be capable of industrial application.

Now, these 3 steps new inventive step, industrial application are referred to as the tests of patentability or the patentability criteria. For something to be patentable, it has to be new or it has to be novel or it is a novelty requirement, it has to involve an inventive step. In other words, it should it should not be obvious to a person skilled in the art.

We will come to the details, and it should have some kind of a use or utility, that it should be capable of industrial application.

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The following are not inventions (Section 3&4)

- 3(a) Contrary to natural laws
- 3(b) Contrary to public order or morality
- 3(c) Scientific principle / abstract theory
- 3(d) New forms / properties of known substance

the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.



However, the act in section 3 and 4 lists a host of things that are not considered as inventions.

For instance, what is contrary to natural laws, cannot be an invention. A perpetual motion machine; that is capable of perpetual motion cannot be subject matter of an invention because it is contrary to natural laws. Inventions that are contrary to public order or morality. For instance, if somebody invents a guillotine a machine that is used for executing people that goes against morality and public order. So, the state or a country will not grant a patent over a it.

A scientific principle or an abstract theory. Like $E = mc^2$, cannot be patented. New form or properties of known substances what is called section 3 d of the patents act. Cannot be a subject matter of an invention. And section 3 d covers a new form of a known substance. A new property or a new use of a known substance, and also a mere use of a known process.

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The following are not inventions (Section 3&4)

- 3(e) Admixture of substance
- 3(f) Re-arrangement of known devices
- 3(g) Omitted
- 3(h) Method of agriculture



An admixture of a substance, a substance which just merely mixes other substances to form a resultant compound or a substance cannot be patented. For instance, for something to be patented, it has to show synergistic effect effect that for instance, 1 plus 1 should be more than 2 there should be some kind of a synergy between the substances. In such cases it would be patentable, but mere admixtures without showing synergy will not be granted a patent. Rearrangement of known devices. Say, you decide to fit in a gas lighter within a watch, now that if it is not inventive it will not be granted a patent, because it is a mere rearrangement of known devices. A method of agriculture cannot be patented.

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The following are not inventions (Section 3&4)

- 3(i) Method of treatment
- 3(j) Plant or animal parts (microorganisms excluded)
- 3(k) Business method or computer program per se
- 3(l) Copyrightable products (literary, dramatic work)



Method of treatment cannot be patented. A plant or animal parts cannot be patented. But micro organisms are excluded, they can be patented.

A business method or a computer program per se. Source code of a computer program cannot be patented. Matters that are copyrightable in nature. For instance, literary and grammatic works cannot be subject matter of a patent.

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The following are not inventions (Section 3&4)

- 3(m) Method of playing a game
- 3(n) Presentation of information
- 3(o) Topography of integrated circuits
- 3(p) Traditional knowledge



A method of playing a game cannot be patented. Presentation of information, the way you do it, cannot be subject matter of a patent. Topography of integrated circuits, we have a different law to protect that, it will not come under patents.

Traditional knowledge, again will not be a subject matter of a patent, because they are not regarded as inventions. Apart from section 3, all these are covered under section 3. Section 4 deals with atomic energy, anything pertaining to autonomic energy will not merit the patent.