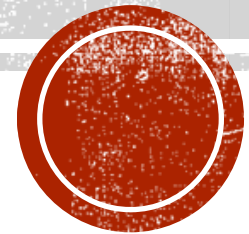


DEFINING AN INVENTION

WORKSHOP ON IDENTIFYING, DEFINING, AND ASSESSING INVENTIONS FOR PATENT
PROTECTION STRATEGY

Srividya Ravi

07/06/2024



WHAT'S AN INVENTION



- A new idea
- A new thought
- A possibility, plan, a concept
- A theory, a new proposal
- A new solution
- A new product
- A new process



RADICAL AND INCREMENTAL

- **Disruptive**, out of line, out of normal course of things
Eg: Digital age: Internet, smart phone
Others: Antibiotic, steam engine, radioactivity
- **Incremental**: Advances that enable the progress of the field
More frequent
As valuable
Benefits market-competition and price



LEGALITY

- A new product or a new process.....-TRIPs, IPA
- Patents are rights vested on an invention
 - Hitherto unknown
 - Not in public domain (thru print or electronic media or oral communication)



Product

Composition,
Formulation, Kit,
Compound, Polymer

Phone, engine,
machine, scaffold,
apparatus, device

System algorithm,
code, genetic
sequence

Process

Process of
manufacture,
process of synthesis,
process of
preparation, making

Method of diagnosis,
treatment,
prevention,
detection,
identification



METHOD V PROCESS

Method and process are two terms often used interchangeably, but they have distinct differences. A method refers to a specific technique or approach used to accomplish a task or solve a problem. It focuses on the steps and procedures involved in achieving a desired outcome.

A process is a broader concept that encompasses a series of interconnected activities or steps that are undertaken to achieve a particular goal. It involves a systematic and organized approach that may incorporate multiple methods. While a method is more specific and focused, a process provides a comprehensive framework for achieving desired results.



Assessing an invention for patentability



INVENTION

Section 2(1)(j)

"invention" means a new product or process involving an inventive step and capable of industrial application;



PATENTS


TRIPs


Part – II, Sec.5

Art. 27 to 34

Patent is an exclusive right granted for an invention, which may be a product or a process.

क्रमांक : 044 009125
Sl. No. :


भारत सरकार
GOVERNMENT OF INDIA
पेटेंट कार्यालय
THE PATENT OFFICE
पेटेंट प्रमाणपत्र
Patent Certificate
(Rule 74 of Patents Rules)


INTELLECTUAL
PROPERTY INDIA
PATENTS | DESIGNS | TRADE MARKS
GEOGRAPHICAL INDICATIONS

Patent No. : 229238
Application No. : 829/CHE/2006
Date of Filing : 10/05/2006
Patentee : 1. S. SAIRAM
2. S. BOOPATHY
3. J.L. RAJAVENKATARAMAN

It is hereby certified that a patent has been granted to the patentee for an invention entitled IMPROVEMENTS RELATED TO A SIX STROKE DIESEL ENGINE as disclosed in the above mentioned application for the term of 20 years from the 10 day of MAY 2006, in accordance with the provisions of the Patents Act, 1970.

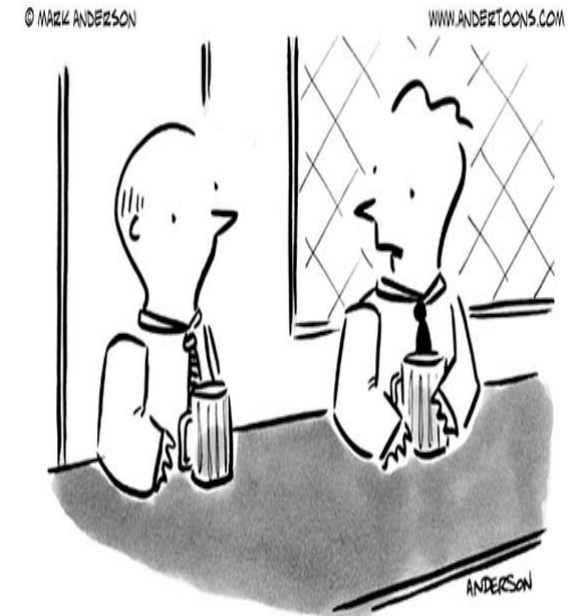
Date of Grant: 13/02/2009
Controller of Patents

Note.-The fees for renewal of this patent, if it is to be maintained, will fall / has fallen due on 10 day of MAY 2008 and on the same day in every year thereafter.



WHAT IS A PATENT ?

- A patent is a protection given to a patentee for an invention for a limited term **(20years)** by the government for disclosing the invention
- Right to exclude others from manufacturing, using, offering for sale, selling or importing your invention (MOUSI).
- Owner has a qualified right to use the invention

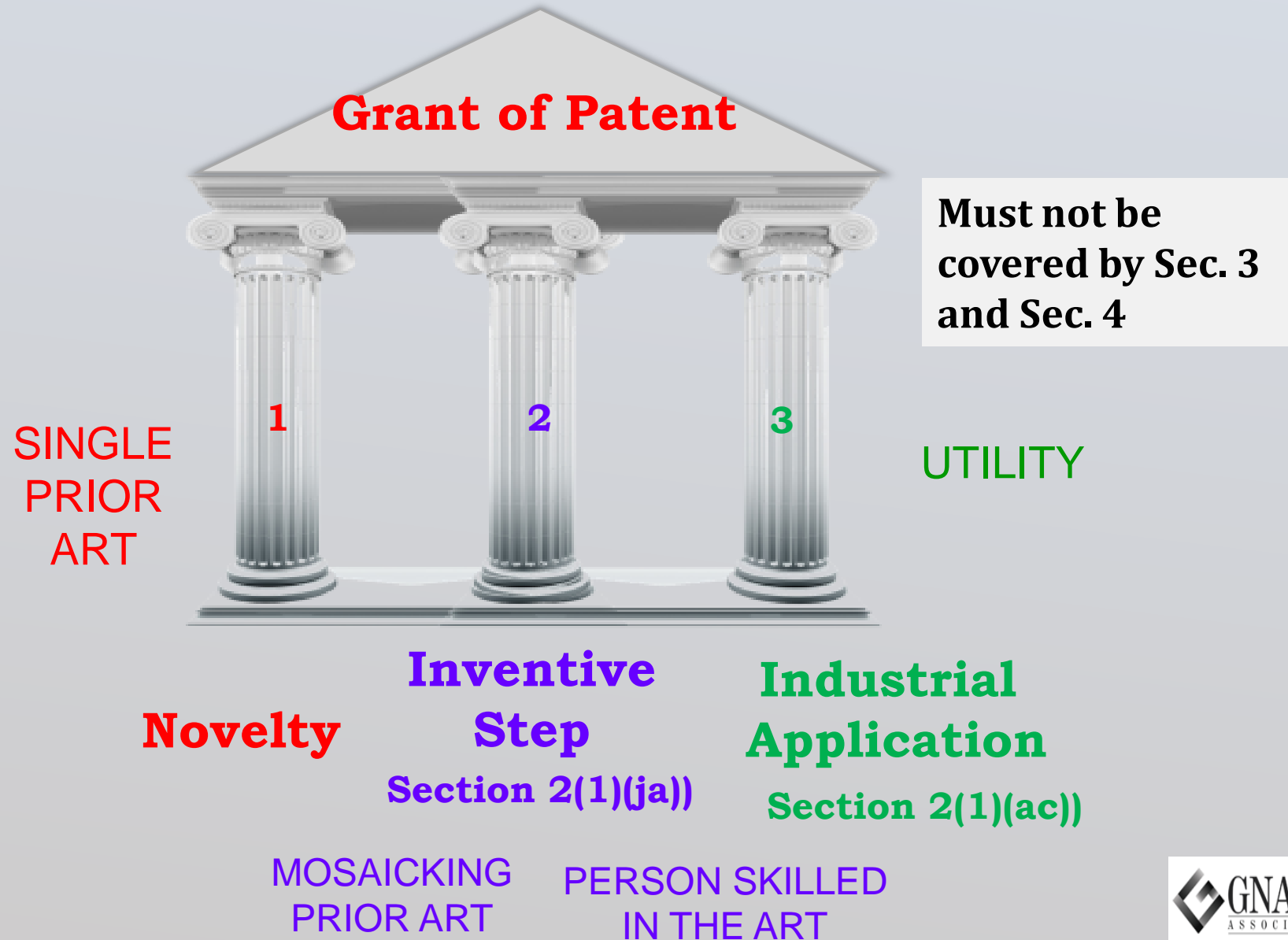


"I tried reinventing myself, but someone already has the patent."

Negative Right



Three Statutory Pillars for Patentability as per the Patents Act, 1970



THREE PILLARS

An invention can be patented if it is

➤ **Must be NOVEL**

- Must be New
- Must DISTINGUISH from “State of the Art”
(Prior Art)

➤ **Must have INVENTIVE STEP**

Must be Non-obvious to a
“Person Skilled in the Art”

➤ **Must have INDUSTRIAL APPLICATION**

Must be Useful
Must have Utility

EVALUATION

Inventions having

- ✓ **NOVELTY:**
 - ✓ Single Prior Art / Superimposable
- ✓ **INVENTIVE STEP (Non-obvious):**
 - ✓ Mosaicking for obviousness
- ✓ **INDUSTRIAL APPLICATION:**
 - ✓ Utility

**NUNS
Test**



**Statutory
Subject
matter
Sec 3a-p,
Sec 4**

INVENTIVE STEP

Section 2(1)(ja):

“inventive step” means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art.

NON-OBVIOUS

THE DIFFERENCES BETWEEN THE CLAIMED INVENTION and the PRIOR ART are such that the subject matter as a whole WOULD NOT HAVE BEEN OBVIOUS at the time the invention was made to a PERSON SKILLED IN THE ART, to which the subject matter pertains.

OVERCOMING NON-OBVIOUSNESS OBJECTIONS

- Not a mere workshop or routine (expected) improvement
- Improvement in quantitative parameters
- Comparative data-literature or experimental based
- Long standing problem in the art
- Unresolved need
- Teaching away from the invention
- Include the surprising effect in the Claim
- ***new result, or a new article or a better or cheaper article than before***
- ***Mere collection of more than one integers or things, not involving the exercise of any inventive faculty***



NOVELTY VS OBVIOUSNESS

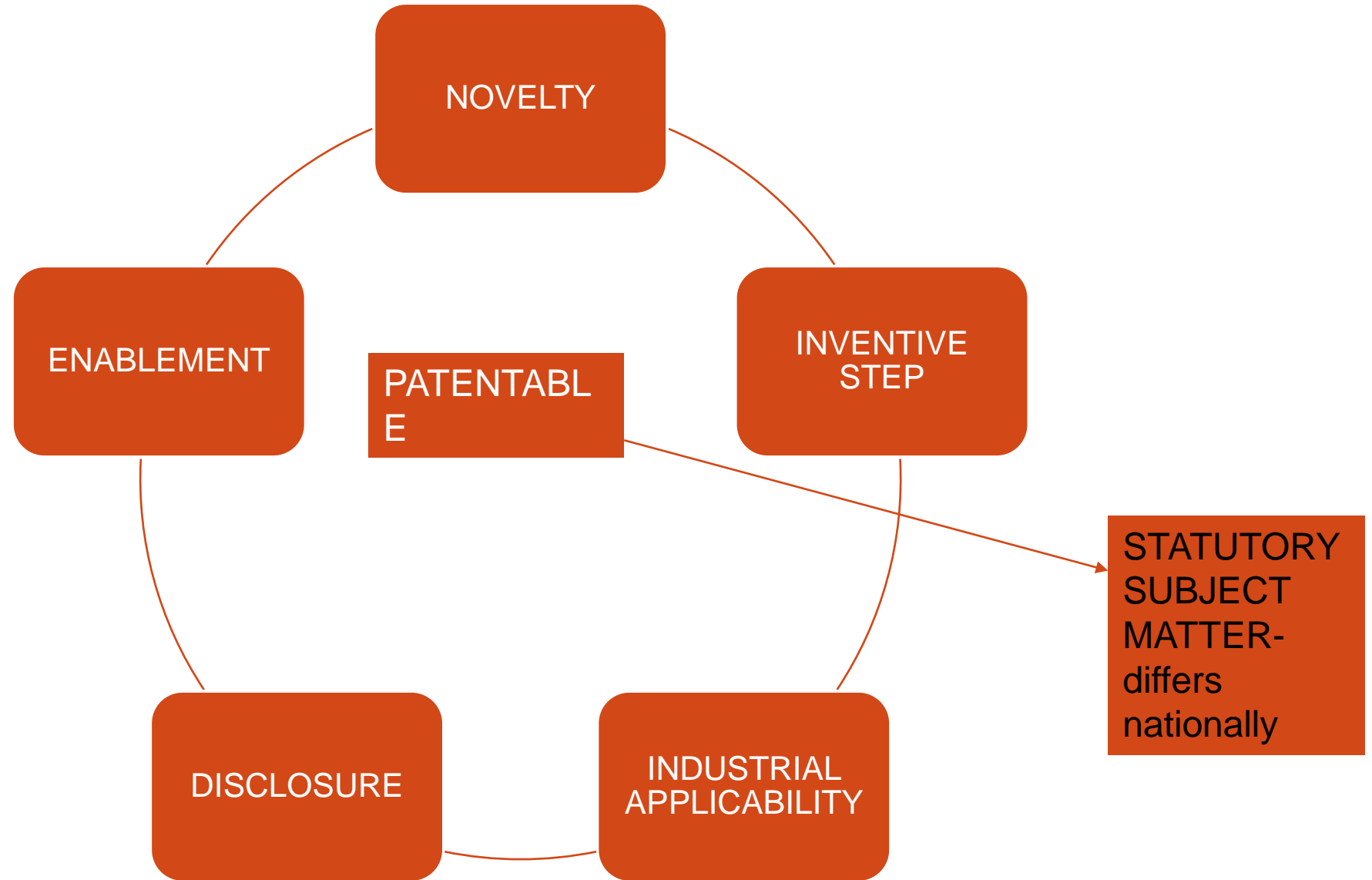
In order to demonstrate lack of novelty, the anticipatory disclosure must be entirely contained within a **single document** either explicitly or implicitly. If more than one document is cited, each must stand on its own, or the documents so cited are linked in such a manner so that they form a continuous document.

The cumulative effect of the disclosures cannot be taken into consideration nor can the lack of novelty be established by forming a **mosaic of elements taken from several documents**. This may be done only when arguing **obviousness**.

INDUSTRIAL APPLICATION

Section 2(1)(ac):

"capable of industrial application", in relation to an invention, means that the invention is capable of being made or used in an industry;



THANK YOU

Write to

srividya@gnanlex.net

