

## **Glossary of Patent and IP-Related Terms (sorted by relevance)**

### **Intellectual Property (IP):**

Intellectual property (IP) refers to creations of the mind – including inventions, artistic works, names and designs – that are legally protected. Common types of intellectual property include patents, copyrights, trademarks and trade secrets.

### **Utility Patent:**

A patent which protects any new invention or functional improvements on an existing invention.

### **Design Patent:**

A patent granted on the ornamental design, configuration, improved decorative appearance, or shape of a functional item, not on the structure or improvement of the item (examples: ornamental designs of jewelry, furniture, beverage containers, computer icons, and computer fonts).

### **USPTO:**

United States Patent and Trademark Office. Federal agency for granting U.S. patents and registering trademarks.

### **Patent Application (non-provisional):**

Application for a non-provisional patent, must include background of the invention (including a description of prior art), specification with accompanying figures, and claims.

### **Provisional Patent Application:**

Preliminary patent application upon which a complete (non-provisional) application may be based. Provisional application must include a specification and figures (if applicable), but need not contain claims. The priority date for all material covered in a provisional application is the filing date of the provisional application. A provisional application lapses 1 year after the filing date. During this 1 year period, a non-provisional application claiming the benefit of the provisional application may be filed by the applicant. Claims in the non-provisional application would have the priority date of the provisional application for all claims adequately covered in the provisional application. For any new claimed material (not covered in the provisional), the priority date is the filing date of the non-provisional application. Provisional patent applications are not examined by the PTO. Patent term for all claims in a non-provisional application begins on the filing date of the non-provisional application, even if the priority date is established prior to this date by a provisional application.

**Divisional Application:**

In a fair number of patent applications, the examiner determines that there is more than one distinct claimed invention contained within the application. For example, an application may contain one set of claims describing a novel structure for an electronic device and another set of claims describing novel methods for fabricating the device (or in some cases 3 or more sets of claims describing distinct inventions). In some cases (depending on the specifics of the claims), an examiner may determine that each set of claims represents independent and distinct inventions and requires a different scope and range of examination. In these cases, the examiner issues a so-called *restriction requirement*, which requires the applicant to choose between the sets of claims as to which set the examiner will search and examine in the originally filed application, and the non-elected claims are not examined and considered in the application. However, after electing which claims will be pursued, the applicant has the option to file *divisional applications* for each group of non-elected claims. The divisional application has the same priority date and specification as the original application, but contains a group of non-elected claims from the original application. In the end, if prosecution of the original and divisional applications is successful, separate patents will issue, one for the original application and one for each divisional application. See the JOM article on the class website for more details.

**Continuation Application:**

A patent application based on an earlier filed patent application where there is no new disclosure, but which may contain different claims. Priority date is that of the earlier filed application.

**Continuation-in-Part (CIP) Application:**

CIP applications are used in cases where a new improvement to an invention is conceived or developed after the original application is filed. A CIP consists of a specification and claims. The specification must describe the originally filed invention and the newly disclosed portion of the invention, and the claims correspond to the newly disclosed material. The originally filed material has a priority date corresponding to the date of filing of the original application, but the newly disclosed material has a priority date that corresponds to the date of filing of the CIP.

**PCT:**

The Patent Cooperation Treaty (PCT) is an international patent law treaty providing a unified procedure for filing patent applications to protect inventions in each of its Contracting States and Regions. A patent application filed under the PCT is called an *international application* or *PCT application*. A PCT application does not eventually result in an international or PCT patent (no such thing exists), it simply streamlines the process for filing applications in individual Contracting States and Regions.

**PAIR:**

Patent Application Information Retrieval, USPTO's online patent prosecution database, for retrieval of complete filing and prosecution history of a patent application.

**Specification:**

Also known as the disclosure, the specification is a written description of the invention. It includes the title, background information (including a description of prior art), a summary of the claims, a description of all figures included in the application, and a detailed description of the invention, as well as a few other sections (see link on class website for more detail).

**Claims:**

Claims are the legal description of the elements and methods which are covered or protected by the patent. Claims define in technical terms the extent of coverage which is conferred by the patent. Each claim consists of a single sentence describing an object, apparatus, or method which is covered by the patent. There are two basic types of claims: independent claims and dependent claims. An independent claim is a stand-alone claim, while a dependent claim follows or depends from one or more claims and narrows the scope of any claims from which it depends.

**Prior Art:**

Patentability (novelty and nonobviousness) of an invention are judged against everything publicly known before the invention, as shown in prior patents and other published material. This body of public knowledge is called *prior art*.

**IDS:**

Information Disclosure Statement. Statement submitted along with (non-provisional) patent application disclosing all prior art relevant to the claimed invention that the applicant is aware of.

**Artisan:**

One skilled in the art.

**Filing Date:**

The date when a patent application is first filed at a patent office.

**Priority Date:**

The date used to establish the novelty and/or obviousness of a particular invention relative to other art. For a description of the difference between the priority date and the filing date, read the article on the class website.

**Patent Term:**

Period of time during which patent can be enforced. Patents filed after June 8, 1995 have a term beginning on the filing date and lasting 20 years for a utility patent or 14 years for a design patent.

**Patent Prosecution:**

Patent prosecution refers to the complete process of applying for a patent, including filing of the application, examination by a patent office, and all filings and interactions between the applicant and the patent office.

**Patent Litigation:**

Lawsuits or other legal action related to or resulting from infringement of one or more patents.

**Inventor:**

An individual or group of individuals who conceive(s) of a non-obvious claimed invention in a patent application. See class handout on inventorship for more details.

**Assignee:**

The individual or entity to which a patent is assigned. For example, an employee who comes up with an invention as part of their work for a company may be contractually obligated to have the patent assigned to the company. The company typically pays all the filing and prosecution costs for the patent, and the employee is listed as an inventor, but all of the rights granted by the patent are assigned to the company, even if the inventor leaves the company.

**Trademark:**

A trademark is a word, symbol, or phrase, which is used to identify a particular manufacturer or company's products and distinguish them from the products of another.

**Trade Secret:**

Broadly speaking, trade secrets are information that companies keep secret to give them an advantage over their competitors. More specifically, trade secrets can include formulas, methods of practice, designs, processes, instrumentation, or compilations of information which are not generally known or reasonably ascertainable, and by which a company can obtain an economic advantage over competitors. The most famous trade secret is the formula for Coca-Cola (for which no patent exists).