

Plenary Session: Teaching Students to Practice Intellectual Property— Science

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Teaching Patent Law

I. Illustrate and emphasize the centrality of a patent claim

(A) Hand out 3 representative U.S. Patents and go through the constituent parts

(B) Use a common, accessible, scientific and legal framework. Use two simple sets of claims as examples:

(i) Mechanical example: A bucket with a handle

1. An apparatus for transporting liquid comprising:
a circular base;
a cylindrical sidewall connected to said base at a first end; and
an open top at a second end of said sidewall.
2. The apparatus of claim 1 further comprising a semicircular handle that is connected to said second end of said sidewall at diametrically opposite points.

Add a lid and/or a spout to the bucket and so on.

Discuss some claim drafting—perhaps should have used the terms—horizontal, circular base; vertical, cylindrical sidewall; lower end; upper end; and the like.

Illustrate patent law doctrines using this example, *e.g.*, obviousness, literal infringement, infringement of doctrine of equivalents, etc...

(ii) Chemical example: Simple Composition Claim

1. A composition for polishing silver comprising substantially equal amounts of compound A and compound B and together forming approximately 60% of said composition, with the remaining amount of said composition being compound C.

(C) Explain and discuss the technology in each case in class in simple terms. *e.g.*, inventory control in a laundry; pH of a solution used as a dye; wheelchair suitable for use in an automobile. . .

II. Emphasize not getting too smug about their technical background simply because law firms adore them.

(A) About 40% of my Patent Law class are non-techies, and often, non-techies get the Best Exam Award.

(B) Urge the students to not hide behind their technical background. Instead, use your general fluency, training, and ability to understand science and engineering.

You are not engineers with a law degree, rather lawyers with a technical background.

Technical background is only useful in your narrow technical area, not in other technical areas.

Example: Assay for measuring early onset of osteoporosis in women

(C) Remember that federal judges that deal exclusively with patent cases are generalists.

Example: The pizza guy—using analogies and its pitfalls

(D) Obsolescence in your technical knowledge is very real, therefore, your background is less useful with the passage of time.

(E) There is no technical requirement to become a Patent Litigation Attorney.