

Sec. 100. Definitions

When used in this title unless the context otherwise indicates -

- (a) The term "invention" means invention or discovery.
- (b) The term "process" means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.
- (c) The terms "United States" and "this country" mean the United States of America, its territories and possessions.
- (d) The word "patentee" includes not only the patentee to whom the patent was issued but also the successors in title to the patentee.

Sec. 101. Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Sec. 102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Sec. 103. Conditions for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- (b)
 - (1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if -
 - (A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and
 - (B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.
 - (2) A patent issued on a process under paragraph (1) -
 - (A) shall also contain the claims to the composition of matter used in or made by that process, or
 - (B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.
 - (3) For purposes of paragraph (1), the term "biotechnological process" means -
 - (A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to -
 - (i) express an exogenous nucleotide sequence,
 - (ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or
 - (iii) express a specific physiological characteristic not naturally associated with said organism;
 - (B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and
 - (C) a method of using a product produced by a process defined by subparagraph (A) or (B), or a combination of subparagraphs (A) and (B).
- (c) Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.