

# **PATENT CLAIM FORMAT AND TYPES OF CLAIMS**

# **PATENT CLAIM FORMAT**

- ❖ **WRITTEN AS A SINGLE SENTENCE**
- ❖ **CLAIMS IDENTIFIER preceding the sentence, e.g. “Claim 1”**
- ❖ **HEAVILY PUNCTUATED SINGLE SENTENCE AND ENDS WITH A PERIOD**
- ❖ **APPEARS TOWARDS THE END OF THE ISSUED PATENT OR PATENT APPLICATION**

# **PATENT CLAIM FORMAT**

## **1. PARTS OF A CLAIM**

**a. THE PREAMBLE**

**b. TRANSITIONAL PHRASE**

**c. THE BODY**

## **THE PREAMBLE**

- ❖ **Identifies the category of the invention  
e.g., an apparatus, device, article,  
composition, a method or process**
- ❖ **Keep it consistent with the title of the  
invention**
- ❖ **May recite an object of the invention**

# **THE PREAMBLE**

## **Examples:**

**1.Object of the invention: to cook rice**

**AN APPARATUS FOR COOKING**

**2. Object of the invention: Cooking all kinds of grains**

**AN APPARATUS FOR COOKING GRAINS**

**3. Object of the invention: to also cook vegetables or other foodstuffs**

**AN APPARATUS FOR COOKING**

# THE PREAMBLE

## Examples:

1. Object of the invention: making tea  
**A METHOD FOR MAKING TEA**
2. Object of the invention: making beverages  
arising from plant-based substances  
**A METHOD FOR MAKING PLANT-BASED  
BEVERAGES**
3. Object of the invention: making any warm  
beverages  
**A METHOD FOR MAKING WARM  
BEVERAGES**

# THE PREAMBLE

## EXAMPLES:

1. Object of the invention: treating malaria  
A COMPOSITION FOR TREATING MALARIA
2. Object of the invention: non-motorized vehicles  
A NON-MOTORIZED LAND VEHICLES
3. Object of the invention: mounting telephones  
A DEVICE FOR MOUNTING A TELEPHONE

# TRANSITIONAL PHASE

- ❖ **OPEN-ENDED PHRASE (comprising)**
  - “including”, “containing”, “characterized by”
  - do not exclude any additional unrecited elements
  - expand the scope of the claim by allowing for other elements or limitations



# PATENT CLAIM FORMAT

## EXAMPLE 1

1. An apparatus, comprising:
  - a plurality of printed pages;
  - a binding configured to hold the printed pages together; and
  - a cover attached to the binding.

## TRANSITIONAL PHASE

### ❖ CLOSED PHRASE (consisting of)

- limits the scope of the claim to nothing more than the

- specifically recited elements

- claim covers only elements named and nothing more

# PATENT CLAIM FORMAT

## EXAMPLE 1

1. An apparatus, consisting:
  - a plurality of printed pages;
  - a binding configured to hold the printed pages together; and
  - a cover attached to the binding.

# TRANSITIONAL PHRASE

## ❖ CLOSED PHRASE (consisting of)

For example:

1. *A chemical compound consisting of:  
50% A component;  
25% B component; and  
25% C component.*

- ❖ the presence of any additional component will be excluded
- ❖ the percentages should add up to 100%

# THE BODY OF THE CLAIM

- ❖ **Must recite elements and limitation of the Claim**
- ❖ **Explains how the different elements exist in relationship to one another**

**For example:**

- 1. An apparatus for holding items, comprising:  
at least one leg; and  
a top configured to support at least one leg.**

# THE BODY OF THE CLAIM

- ❖ NOT merely a list of parts/cataloging of parts
- ❖ Must be connected in some manner

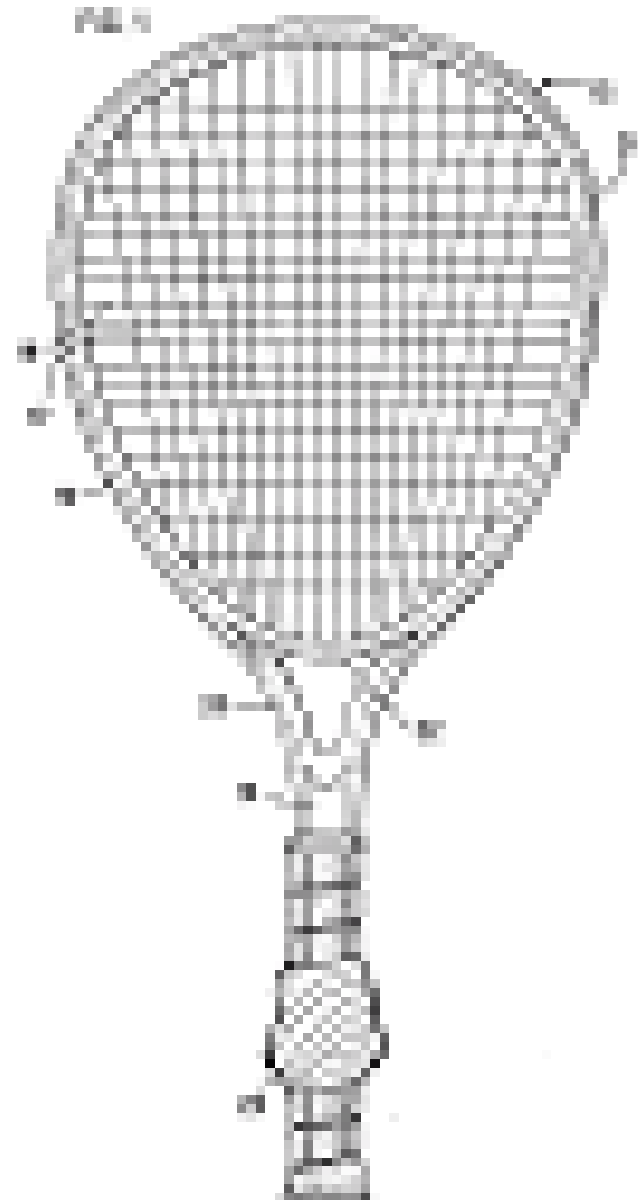
For example:

1. An apparatus for holding items, comprising:  
four legs;  
16 screws; and  
a top.

# Example

## CLAIM:

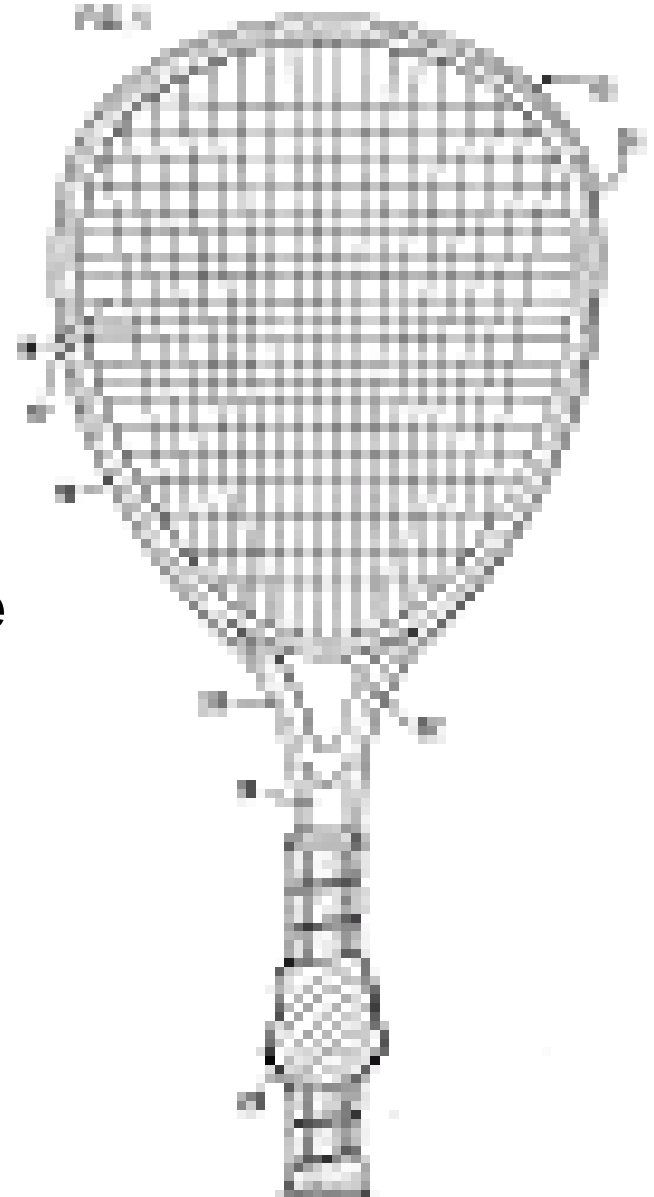
1. A game device, comprising:  
a handle;  
a head portion; and  
a protrusion.



# Example

## CLAIM:

1. A game device, comprising:
  - a handle;
  - a head portion connected to the handle; and
  - a protrusion being secured to the handle.





# PATENT CLAIM FORMAT

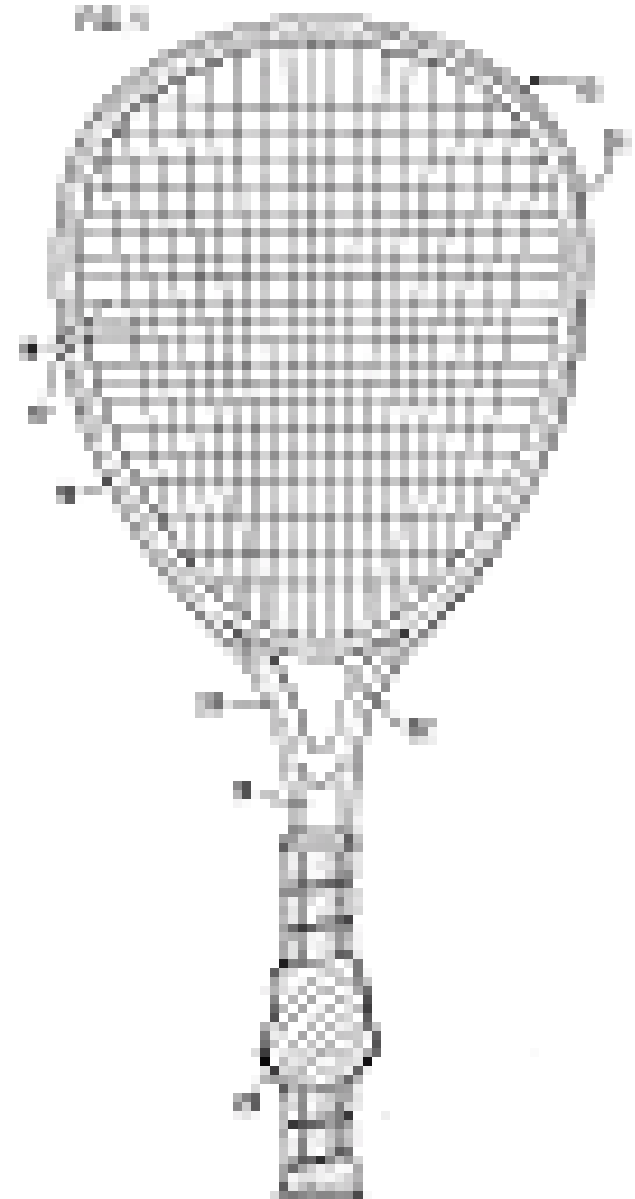
## 2. IMPROVEMENT CLAIMS or JEPSON TYPE CLAIMS

- ❖ Preamble – statement of the most relevant prior art
- ❖ Transitional Phrase – “wherein the improvement comprises”
- ❖ The body – provides the novel feature/s of the invention

# Example

## CLAIM:

1. A game device having a handle, a throat portion and a head portion connected to the throat portion, **wherein the improvement comprises** a protrusion being secured to the handle.



# PATENT CLAIM FORMAT

## 3. TWO-PART-FORM CLAIMS

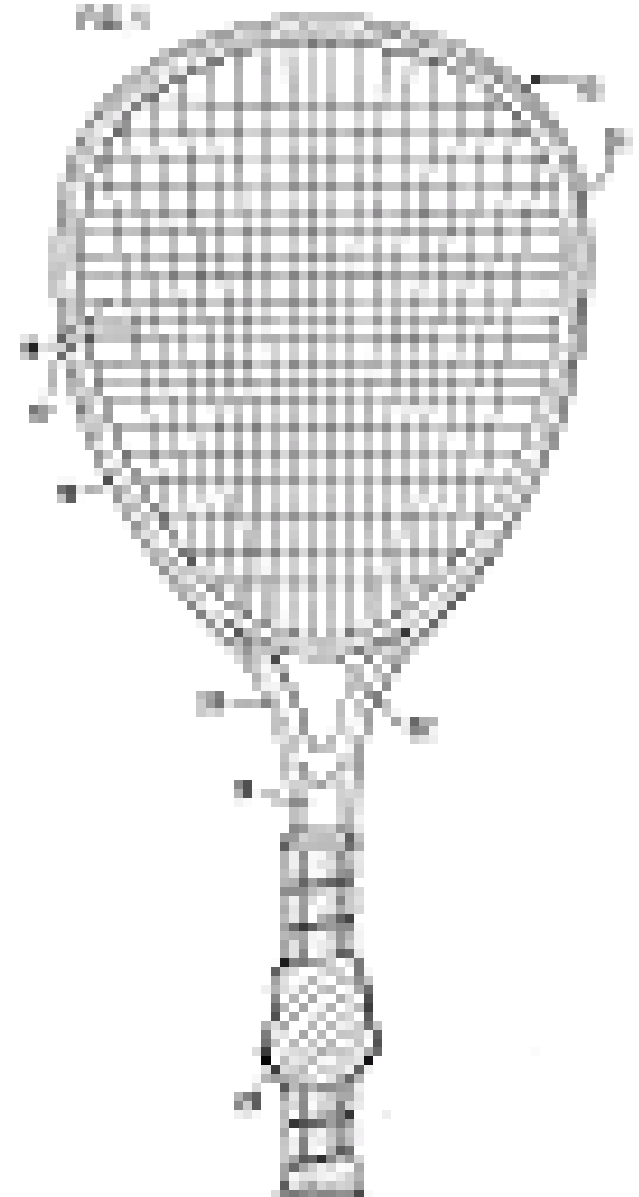
In the Philippines, the two-part form claim is adopted in accordance with Rule 416 of the revised IRR

- ❖ The designation of the subject matter of the invention,  
” i.e. the general technical class of apparatus, process, etc.  
to which the invention relate” and “those technical features  
which are necessary for the definition of the subject matter and  
are part of prior art; and
- ❖ A characterizing portion preceded by the expression,
- ❖ “characterized in that” or “characterized by” stating the  
technical features which, in combination with the features stated  
stated in the first subparagraph, it is desired to protect

# Example

## CLAIM:

1. A game device, comprising a handle and a head portion connected to the handle, characterized in that, a protrusion is secured to the handle.



# PATENT CLAIM FORMAT

## 4. MEANS-PLUS-FUNCTION CLAIMS

- ❖ Recite function preformed by structures disclosed in the specification instead of specifically defined structures
- ❖ Interpretation varies from jurisdiction to jurisdiction
- ❖ The means-plus-function clauses recited in the claim must be adequately described by the structure carrying the recited function

# PATENT CLAIM FORMAT

## FOR EXAMPLE:

1. An apparatus for cooking rice, comprising:
  - a means for holding rice; and
  - a heater configured to heat the rice-holding means.



# PATENT CLAIM FORMAT

## 5. CLAIM PUNCTUATION

- ❖ A comma separates the preamble from the transitional phrase
- ❖ A colon separates the transitional phrase from the body
- ❖ The small paragraphs that define and describe the logical elements are separated with semi colons



# PATENT CLAIM FORMAT

## EXAMPLE 1

Preamble, transitional phrase:

Element (#1);

Element (#2); and

Element (#3).

## EXAMPLE 2

Preamble, transitional phrase:

Element (#1);

Element (#2);

Element (#3), characterized in that,

Element (#4)

# PATENT CLAIM FORMAT

## EXAMPLE 1

1. An apparatus, comprising:
  - a plurality of printed pages;
  - a binding configured to hold the printed pages together; and
  - a cover attached to the binding.

# PATENT CLAIM FORMAT

## EXAMPLE 1

1. An apparatus, comprising:
  - a plurality of printed pages;
  - a binding configured to hold the printed pages together;
  - a cover attached to the binding,
  - characterized in that, the cover is detachable from the binding.

# PATENT CLAIM FORMAT

## 6. PROPER ANTECEDENT BASIS

- ❖ Elements in the patent claim must have correct antecedent basis
- ❖ Use indefinite article “a” or “an” when introducing an element for the first time
- ❖ Use definite article “the” or “said” when referring back to the introduced element





# PATENT CLAIM FORMAT

## 7. Reference numerals and Bracket expressions

**Claim1.**

**An apparatus (10), comprising:  
a plurality of printed pages (11);  
a binding (12) configured to hold the printed pages (11)  
together; and  
a cover(13) attached to the binding (12).**

# PATENT CLAIM FORMAT

## 8. Claim Phrases

- ❖ Use of special words such as “wherein”. “whereby”. “such that” to further define a structure or provide a function associated with a given structure

### Claim 1.

An apparatus, comprising:

a plurality of printed pages;

a binding configured to hold the printed pages together;  
and

a cover attached to the binding, **wherein the cover is detachable from the binding.**



# PATENT CLAIM FORMAT

## 9. Multiple Elements

- ❖ Many patent offices including the IPPHL require claims to recite at least two elements

**Example 1:**

**A computer, comprising:  
a processor.**

**Example 2:**

**A computer, comprising:  
a processor;  
a memory; and  
a bus configured to transmit data between the  
memory and the processor.**

# CLAIM SETS

## 1. INDEPENDENT CLAIM

- ❖ **BROADEST CLAIM**
- ❖ **STAND ALONE AND DOES NOT NEED A LIMITATION FROM ANOTHER CLAIM IN ORDER TO BE COMPLETE**
- ❖ **PATENT APPLICATION MAY HAVE MORE THAN ONE (1) INDEPENDENT CLAIM**

## 2. DEPENDENT CLAIM

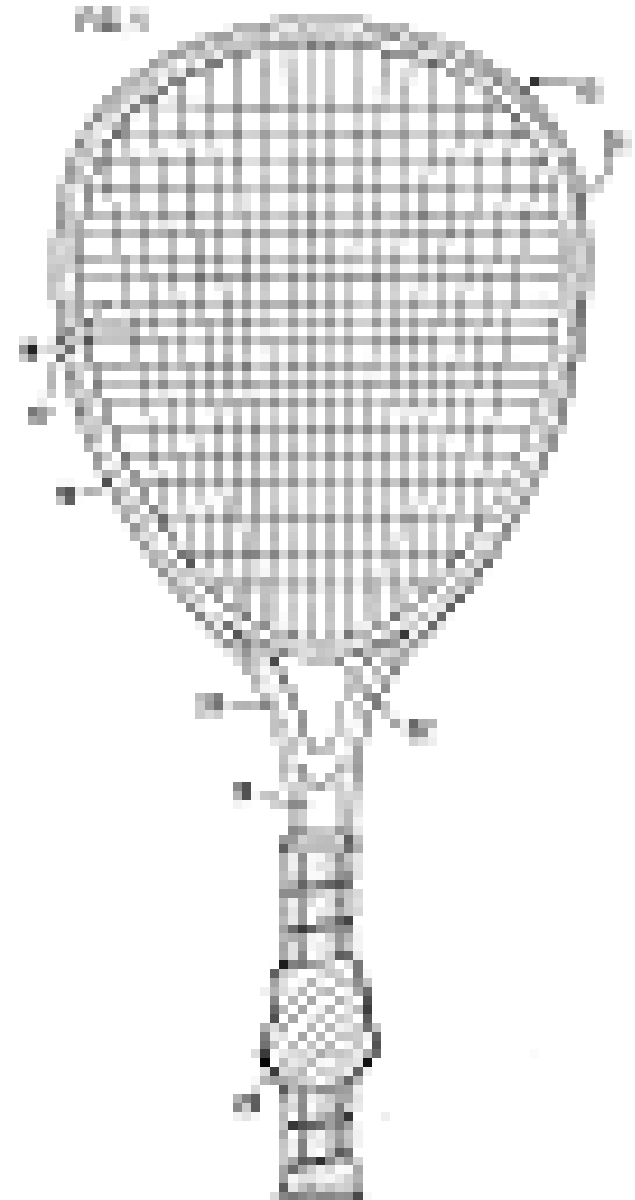
- ❖ **DEPENDS ON ANOTHER EITHER AN INDEPENDENT CLAIM OR DEPENDENT CLAIM**
- ❖ **MUST NOT EXTEND THE SCOPE OF THE SCOPE OF PROTECTION OF THE INVENTION DEFINED IN THE INDEPENDENT CLAIM/S**
- ❖ **“FALL BACK’ DURING EXAMINATION**

# Example

## CLAIM:

**1. A game device having a handle, a throat portion and a head portion connected to the throat portion, wherein the improvement comprises a protrusion secured to the handle.**

**2. A game device according to claim 1, wherein the protrusion is configured to receive the palm of the user.**



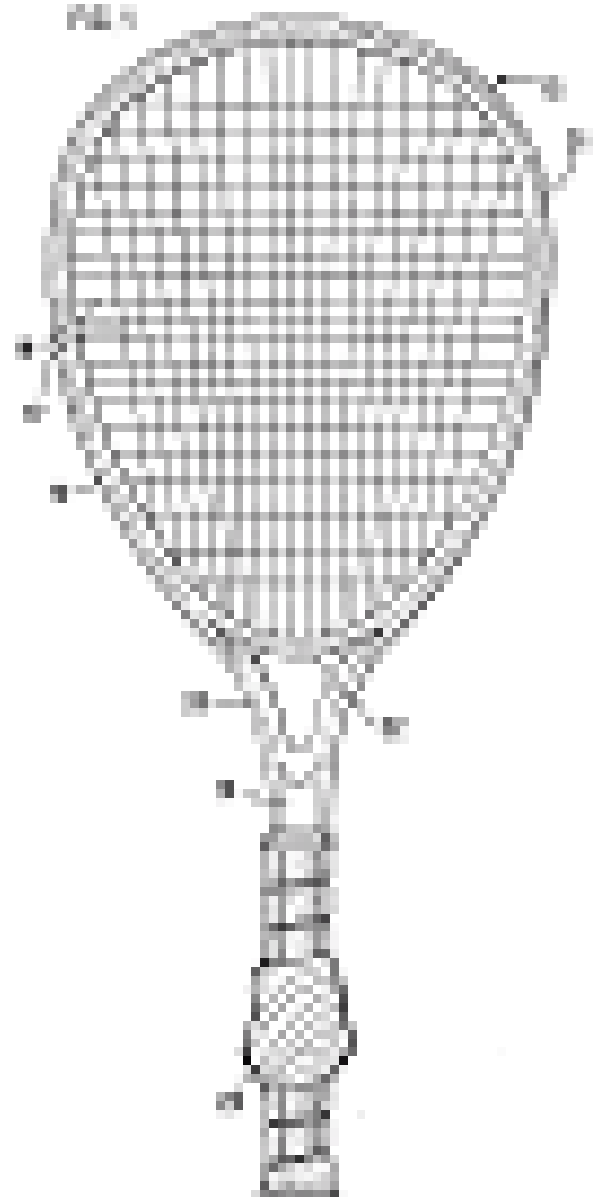
## Example version 1

### CLAIMS:

1. A game device, comprising a handle and a head portion connected to the handle, characterized in that, an anti-slippage means is secured to the handle.

2. A game device according to claim 1, characterized in that, the anti-slippage means is a protrusion disposed at the central portion of the handle.

3. A game device according to claim 2, characterized in that, the protrusion is configured to receive the palm of the user



## **Specific Claim Types**

- 1. Apparatus Claims**
- 2. Method Claims**
- 3. “Use” Claims**
- 4. Composition Claims**
- 5. Product-by-Process Claims**
- 6. Biotechnology Claims**
- 7. Software Claims**
- 8. Omnibus Claims**
- 9. Design Claims**

# Specific Claim Types

## 1. Apparatus Claims

- ❖ Protect an apparatus or device
- ❖ Recite in the preamble what the apparatus “is” and/or “what it does”
- ❖ Recite in the claim's body the essential inventive elements

# Specific Claim Types

## Example:

1. An apparatus for supporting a camera, comprising:
  - a pivotal mounting configured to hold the camera; and
  - a set of legs arranged to support the pivotal mounting.

# Specific Claim Types

## 2. Method Claims

- ❖ Recite a sequence of steps that complete a task or accomplish a result
- ❖ Active Steps may be recited in order of performance, but are usually interpreted as being performed in any order unless otherwise specified



# Specific Claim Types

**For example:**

- 1. A method of making tea, the method comprising:  
    boiling water;  
    adding sugar to the boiling water;  
    adding tea leaves to the boiling water to form a mixture;  
    filtering the mixture; and  
    adding milk to the mixture.**

## Specific Claim Types

### 3. “Use” Claims

#### ❖ Similar to method claims

1. The use of substance X as an insecticide ...
2. The use of a transistor in an amplifying circuit ...
3. May be interpreted as method claims
4. Not allowed in all jurisdictions

## Specific Claim Types

### Second Medical “Use” Claims

Suppose chemical compound XYZ is already known, and has been used to treat diabetes. Assume that Inventor A discovers that compound XYZ is an effective medicament for the treatment of malaria:

*1. The use of compound XYZ in the manufacture of a treatment for malaria.*

- Use claims - also known as Swiss-type claims – are helpful when substance is already known in the art
- Not all jurisdictions permit such types of claims

## Specific Claim Types

### 4. Composition claim

- ❖ Used where claimed invention pertains to the chemical nature of the materials or components used
- ❖ Claims a “thing” like a device claim

# Specific Claim Types

For example:

Claim for a zinc electroplating solution might be:

1. A copper electroplating solution comprising:
  - an alkaline solution of copper sulfate, from 30-50 grams per liter;
  - sulphuric acid, from 2-4 times the copper acetate solution; and
  - an aqueous solution of a PH-modifying substrate in an amount sufficient to adjust the PH to a value of from 3.5-5.

# Specific Claim Types

For example:

**1. A pharmaceutical composition comprising synergistic amounts of a hyaluronan or a salt thereof, and an interleukin-1 (IL-1) receptor antagonist (IL-1ra), wherein said IL-1ra comprises all or an IL-1 inhibitory fragment of an amino acid having a sequence of SEQ ID NO:2, or a sequence which is at least about 70% homologous to said amino acid sequence.**

## Specific Claim Types

### 5. Product-by-Process Claims

- ❖ Claims a product defined in terms of a process of manufacture
- ❖ Some jurisdictions treat as product claims
- ❖ Other jurisdictions treat as method claims
- ❖ Verify that a product-by-process claim is the best approach for protecting an invention before employing this type of claim

## **Example**

- 1. A metallic salt obtained by a process comprising the steps of ...**



## Specific Claim Types

### 6. Biotechnology Claim

- ❖ Relates to all practical uses of living organisms
- ❖ Either commercial or therapeutic uses
- ❖ May include c DNA, recombinant DNA, DNA fragments, protein, monoclonal antibodies, anti sense DNA and RNA, Recombinant vectors and Expression vectors

- ❖ **Where an invention involves a biological material, and the material has been deposited, then the patent agent may often claim the material deposited.**

**For Example:**

- 1. A seed of cotton cultivar designated PHY 78 Acala, wherein a representative sample of seed of said cultivar was deposited under ATCC Accession No. PTA-5666.**
- ❖ **The Budapest Treaty requires signatory countries to recognize a deposit with any depository which has been approved by WIPO.**

# Specific Claim Types

## 7. Software Claims

- ❖ Used where the claimed invention pertains to computer software and/or hardware
- ❖ Can use device and method claims to cover software inventions
- ❖ Can also use specialized claim formats to provide an additional scope of protection

## **Software claim type – “computer readable media” format**

- 1. A computer-readable storage medium storing instructions that when executed by a computer cause the computer to perform a method for using a computer system to [a specified function], the method comprising:  
[list the inventive method steps].**

## **Software claim type – “data structure” format**

**1. A memory for storing data for access by an application program being executed on a data processing system, comprising:**

**a data structure stored in the memory, the data structure including information resident in a database used by the application program and including:**

**a first data object configured to ...**

**a second data object configured to ...; and**

**a third data object configured to ....**

# Specific Claim Types

## 8. Omnibus Claims

- ❖ Refer to the description or the drawings without providing any specific limitations.
- ❖ Simple to write:
  1. An apparatus for harvesting corn as described in the description.
  2. A juice machine as shown in Figure 4.
- ❖ Not all patent offices allow omnibus claims.
- ❖ Include an omnibus claim where possible
- ❖ But pin your strategy on other claim types

# Specific Claim Types

## 9. Design claim

❖ Only one claim is typically permitted

**For example:**

**A design of an umbrella...**

**Claim might be:**

**1. The ornamental design  
for an umbrella substantially  
as shown.**

Fig. 1





**THANK YOU FOR YOUR KIND  
ATTENTION!!!**