

(see Section 29.2.3). When the patent office examines the patent to see if the invention is new, they will normally only consider publications earlier than the priority date for that material.

The names of the inventors (72) and the name of the applicant (71) are also printed on the front page. Generally the applicant is a company, and if the patent concerns chocolate you may well recognise them as a competitor or supplier. The applicant listed on the patent may not own the patent now as they might have sold it to another company. On United States patents the name of the company is not always given, but looking at other patents in the patent family may reveal another patent where the company is named.

The patent's title may help you understand what the patent is about, but they can be quite general such as "Confectionery Item". There may also be an abstract and a reproduction of one of the drawings from the patent on the front page.

**Claims.** The claims are very important as they define exactly what the patent protects. The claims in US and European patents are towards the end of the patent. They take the form of a numbered list of paragraphs headed by text such as "Claims" or "What is claimed is". The rules require that each claim is a single sentence, so if the claims are long they can be difficult to read. You may find it helpful to mentally insert the words "What is claimed is" before each claim when reading them.

When reading claims it can also be helpful to break them into sections. Sometimes the patent writer has done this for you, as in the granted version of the patent whose front page is shown in Figure 29.2. The first two claims of that patent EP 0 925 720 B1 are reproduced below:

1. *A system for the production of shells of fat-containing, chocolate-like masses, in particular for chocolate articles,*  
*comprising more than one mould cavity (3, 3', 3'') to receive the mass (5, 5', 5''),*  
*more than one core member (6, 6', 6'') to be immersed into the mass,*  
*characterized in that the core members are independently suspended from a holding device (7).*
2. *A system according to claim 1, comprising means adapted to guide a vertical travel of the independently suspended core members (6, 6', 6'') in relation to the holding device (7).*

(The numbers in brackets in the claims refer to numbered items in the drawings, found elsewhere in the patent.)

Make a note of any key words to check exactly what they mean in this patent. Do not assume you know what they mean as they may have been defined in a special way earlier in the patent. For example, the term *chocolate* may not be restricted to what can legally be labelled as chocolate. For these claims you might also want to check the meaning of *chocolate-like mass* and *independently suspended*.

When used in patent claims, the word "comprising" has a very specific meaning. Under most patent laws it means that the claim covers all the elements listed, but does not exclude additional unnamed elements. In the above

example, the claim covers a system with *more than one mould cavity* and with *more than one core member*, but the system could also have additional components.

The contrasting term would be “consisting of”. This gives the claim more limited scope and if it had been used in the above example in place of “comprising” it would mean that the claimed system could have *more than one mould cavity* and *more than one core member*, but nothing else.

Another type of phrase with special significance is used to separate two parts of a claim. Examples of such separating phrases include “wherein” or, in the example above, “characterised in that”. In Europe, the words before “characterised in that” describe what was already known and the words after “characterised in that” describe the improvement that the invention brings. In this case the improvement is that *the core members are independently suspended from a holding device*. This two-part structure for claims is common in European patents.

The second claim in the example refers back to the first claim using the words “according to claim 1”. This is known as a *dependent claim*, in contrast to claim 1 which is an *independent claim*. Dependent claims are always narrower in scope than the independent claim they are based on. They provide a “fall-back” position to a more specific claim in case the patent examiner does not allow the broader independent claim. Having a narrower claim may also be useful when suing someone for infringement in court; the more closely your claim relates to what the other person is doing, the harder it is for them to argue that their actions fall outside your claim.

The differences between the scope of two claims in the same application may be quite subtle, but there will be differences. If you initially think two claims cover exactly the same things just in different words then this should act as a warning that you have not understood them properly. Claim interpretation is complex, and may take years of study and experience to master. Legal decisions over the years have established specific meanings for some words and structures in claims which are not at all obvious. As a non-specialist reading a patent, your aim should be to get a general understanding of what the patent covers but know when to seek help.

**Main text.** The main text is split into sections and it is worth flicking through the patent to see where they start and end. Sometimes the different sections are indicated with titles which is helpful to the reader. The first section will describe what was generally known about this subject at the date the patent was written. This can provide a useful review of the technology in the area, but remember that the patent was written to convince the patent office that this specific idea is new and inventive over what has gone before rather than to provide a totally objective review of the wider technology area.

Generally the text will then go on to explain what the problem is that the patent sets out to solve, why this invention is needed and why the previous technology was unsatisfactory. The word “surprisingly” is often used to emphasise