

Invention

Sec.2(1)(j) of patent Act 1970,

“Invention” means a new product or process involving an inventive step and capable of industrial application.

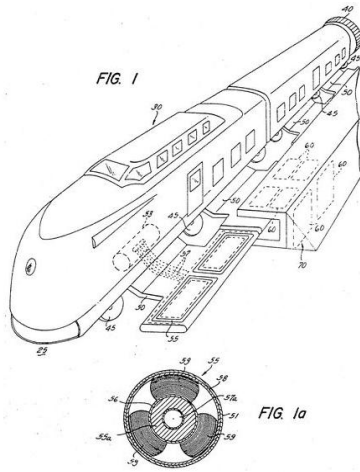
One of the prerequisites for granting a patent for an invention is that the invention must be new or novel.

Invention must

- **relates to a Process or Product or both**
- **be new(Novel)**
- **involves an inventive step**
- **be Capable of industrial application**

Invention must not be

- **Published in India or elsewhere**
- **In prior public knowledge or prior public use with in India**
- **Claimed before in any specification in India**



Basic criteria of patentability

The 3 basic criteria which any invention must meet in order to deserve a patent:

1. Novelty

Novelty means the **newness of the information that is generally unused or unknown and that gives its owner a competitive advantage in a business field. It is considered as the "*sweet spot*" to assess the patentability of an invention.**

2. Non-obviousness

Even if a new invention differs in one or more ways from another patented invention, a patent may still be refused **if the differences would be obvious**. Non-obviousness is defined as a sufficient difference from what has been used or described before that a person having ordinary skill in the area of technology related to the invention would not find it obvious to make the change.

3. Industrial application

Industrial application means Invention is capable of being made or used in any kind of industry

This essentially means that the invention cannot exist in abstract. It must be capable of being applied in any industry, which means that the invention must have practical utility in order to be patentable.

What is not Patentable

- **Inventions falling within the scope of Sec. (3) of Patents Act, 1970.**
- **Inventions falling within the scope of Sec. (1) of Sub-sec. 20 of Atomic Energy Act, 1962**

For Example : Inventions relating to Compounds of – Uranium, Beryllium, Thorium, Plutonium, Radium, Graphite, Lithium and more as notified by Central Govt. from time to time

Sec. (3) of Patents Act, 1970.

3(a): frivolous or anything obviously contrary to well established natural laws

3(b): contrary public order or morality serious prejudice to human, animal or plant life or health or to the environment

3(c): the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substances occurring in nature

3(d): the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance

3(e): a substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substances;

3(f): the mere arrangement or re-arrangement or duplication of known devices each functioning independently of one another in a known way

3(h): a method of agriculture or horticulture

3(k): a mathematical or business method or a computer programme per se or algorithms

3(l): a literary, dramatic, musical or artistic work or any other aesthetic creation