

Introduction to Reading Patent Claims

Background

A patent document is generally divided into two broad sections: the **Claims** and the **Specification**.

The Claims define the actual scope of a patent's protection. Broad protection is generally desirable, but claims must be narrow enough to be *new* and *non-obvious* to be allowable over the prior art (anything patented, described, or already known in the world). Most patents include both broad and narrow claims.

The Specification constitutes the remainder of the document, which includes both text and drawings. The Specification provides definitions, details, and specific examples such that a person having ordinary skill in the art could practice the claimed invention. Providing specific examples does not usually limit the scope of the patent.

Reading the Claims

There are two types of claims: **Independent** and **Dependent**.

Independent claims do not reference any other claims and, thus, stand alone. **Independent claims define the broadest scope of protection.**

A dependent claim is one that references another claim, adding further limitations to the claim it depends upon. Therefore, for any limitation added in a *dependent* claim, the claim it depends upon does *not* usually require that limitation. Dependent claims also provide backup protection if a broader claim is later held to be invalid.

Claims begin with preambles, which can add context. If the preamble ends with "comprising," the claim covers anything having at least the elements listed. In contrast, "consisting" is closed-ended. Thus, a 3rd party device having all claimed elements, but also *more*, infringes a claim ending with "comprising," but not one ending with "consisting."

Example

Claim 1: A wagon, the wagon comprising four sides, a handle, and wheels.

Claim 1 is independent, not referencing any other claims. It is open-ended based on using "comprising."

Claim 2: The wagon according to claim 1, wherein the wheels are four air-filled tires.

Claim 2 references (thus, depends upon) claim 1. Claim 2 claims another wagon like claim 1, but adds that "wheels" means four wheels, and specifically air-filled tires.



Claim 1 does not limit the number or type of wheels, thus any number or type is potentially covered. Since the wagon claimed in claim 2 limits these to four and air-filled, claim 1 is not limited to four or air-filled. Thus, without explicitly claiming it, claim 1 also covers the six wheeled, solid version shown above. Likewise, claim 1 covers wagons having more than those with four sides, a handle, and wheels, such as those with an added seat.