

Class 5: Patent Intro And Subject Matter

Administrative

Next Time: 164-84

Remember to check the website!

News Wednesdays

Paris Hilton v. Hallmark 🌐

Patent Reform Bill passes House

NTP sues AT&T, Sprint, Verizon

Back in 2006, nearly brought Blackberry network down; settled for \$612M!

Man burns salt water 🌐

Last Time

Non-Compete K's

Kai-Fu Lee (Microsoft to Google)

Numbers were off: but he was paid over \$1M/year by MS and asked Google for a multi-year package worth \$10 M

Defined

Three State Regimes

Reasonableness Tests — Virginia (90)

Limited to situations where TS likely to be used or disclosed.

New York (91-92)
Colorado

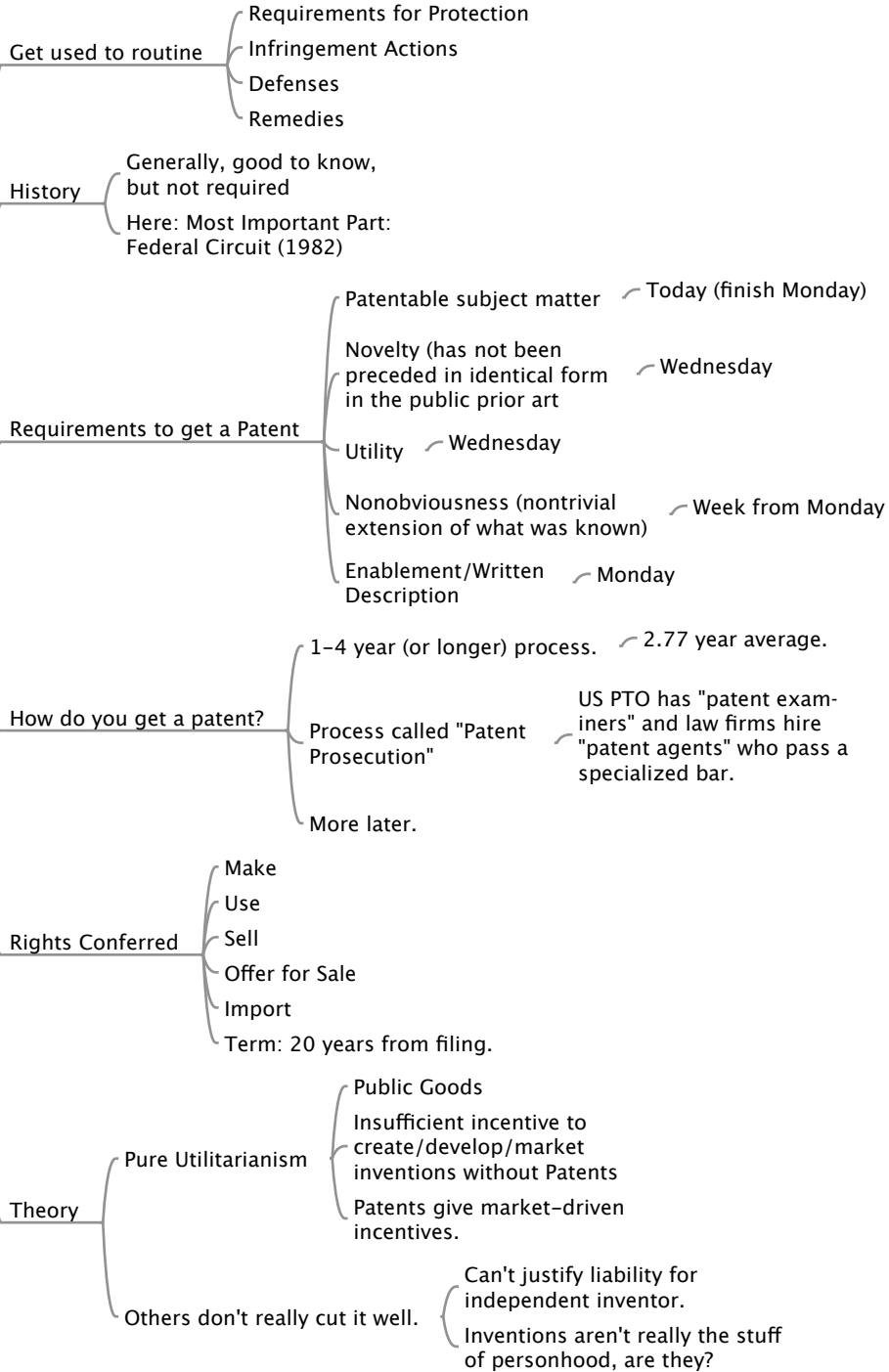
Forbidden — California (92-93)
Also: AL, FL, LA, MT, ND, DE, MA, TN

Colorado 🌐

Competing Policy Interests

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Patent Overview



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Patentable Subject Matter

Clearly patentable

Section 101

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.

- Processes
- Machines
- Manufactures
- Compositions of Matter

1952 Congressional Report: Anything under the sun that is made by man.

Clearly Unpatentable

- Laws of Nature
- Physical Phenomena
- Abstract Ideas

Patenting Living Things

How to square these cases:

- Legislative History on 131: Mineral created wholly by nature unassisted by man [is not patentable.]
- Chakrabarty
- Funk → Bacteria A + Bacteria B = Mixture
- Parke-Davis

Chakrabarty

Basic Facts

- Microbiologist (working or GE) genetically engineered bacterium for treatment of oil spills
- Three types of claims (as above)
- Odd procedural history: PTO rejected and PTO Board of Appeals affirmed. ⊕
- PTO Commissioner himself sought cert.

Supremes 1980

Software Patents

State Street Bank (Fed Cir 1998)

Invention: Data Processing System for Hub and Spoke Financial Services Configuration. (Signature is assignee of patent; State Street is would-be licensee, until talks failed).

- Lots of details on 1048
- Several mutual funds pool investment funds into one
- Key: Means for daily allocation of assets for two or more spokes.
- Lots of calculations (by computer) to compute daily investment numbers quickly and accurately.

Fed Circuit

Useful, Concrete and Tangible result ⊕

Business Methods

Old rule against patentability of business methods "laid to rest" in State Street. Methods for doing business patentable. ⊕

Tax Strategies

- Pat#6567790 🌐
- Pat #6292788 🌐

Metabolite

- Pat#4940658 🌐 ⊕
- Breyer for Stevens and Souter in Dissent of DIG ⊕