

According to the US Patent Laws, a device or an apparatus or a product is patentable based on its structure and not upon its function or method of operation. However, recent trend in allowable subject matter in patents for a product or apparatus is towards functional or method of operation features. This drift is mainly due to the new classification systems which are heavily leaning on functional or operational details.

An example to this is filters used in fluid separation. The filters are classified structurally in B01D, but functionally in C02F (water treatment) and other places. The European style classification of applications often result in completely missing the structural classifications.

Another problem is with the claim languages used to camouflage the functional limitation as structural limitations, such as by usage of terms like “configured”, “arranged”, “composed”, “constructed”, “adapted”, “tailored”, “conformed”, “programmed”, etc.

I believe that the general trend towards allowances based on functional features is causing a general quality decline.

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