

UNITED STATES
PATENT AND TRADEMARK OFFICE





MEETING SERIES

Patent basics presentation

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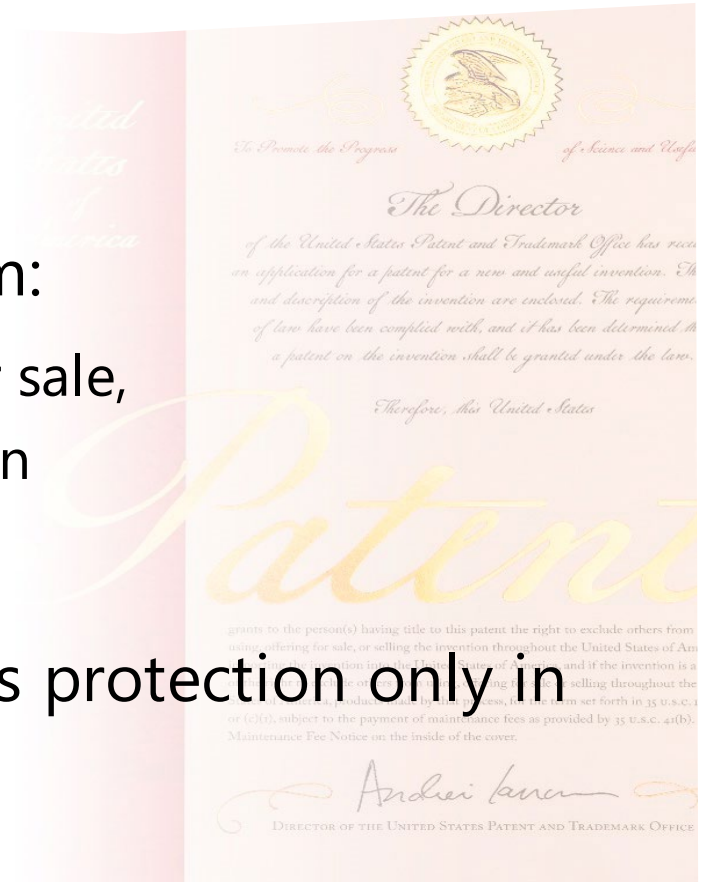
UNITED STATES
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Learning objectives

- Recall the three types of patents.
- Understand the features of a patent.
- List three differences between a patent and a trade secret.
- Determine the patent term of a continuation or divisional patent application

What is a patent?

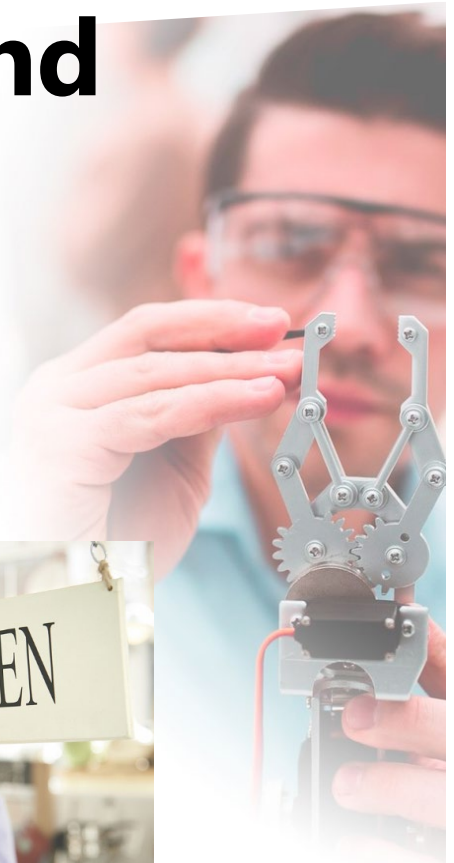
- The right to **exclude others** from:
 - making, using, selling, offering for sale, or importing the claimed invention
- Limited term
- Territorial: A U.S. patent provides protection **only in the United States**
 - No worldwide patents



Why invention matters and what this means to you

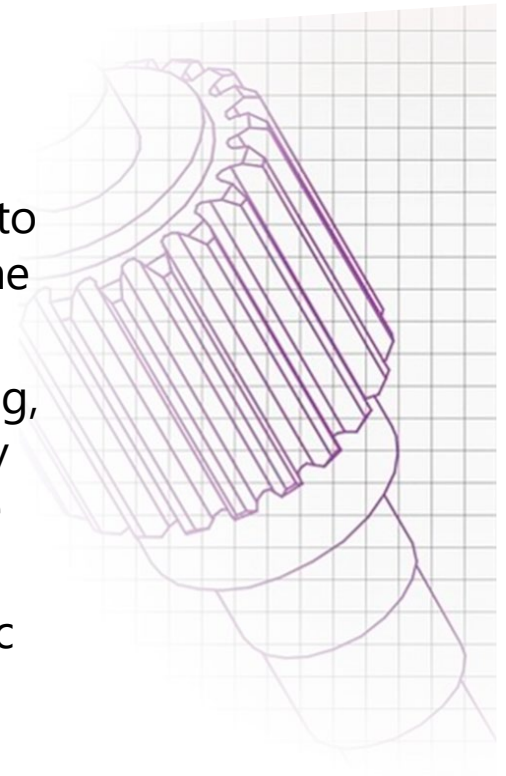
Patents can:

- Promote innovation and help safeguard inventions
- Help companies grow
- Benefit the community by making new goods and services available
- Be licensed to others so that the invention can be more widely used



The patent bargain

- Utility and design patents give the patent owner the right to exclude others from making, using, importing, or selling the invention for a limited time period.
- A plant patent precludes others from asexually reproducing, selling, offering for sale, or using the patented plant or any of its parts in the United States or importing them into the United States.
- The inventor must fully disclose the invention so the public can benefit from it and expand on it.

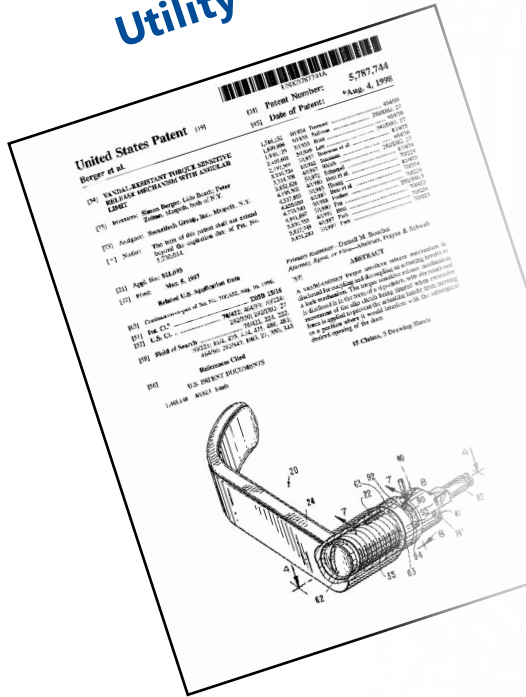


35 U.S.C. § 112

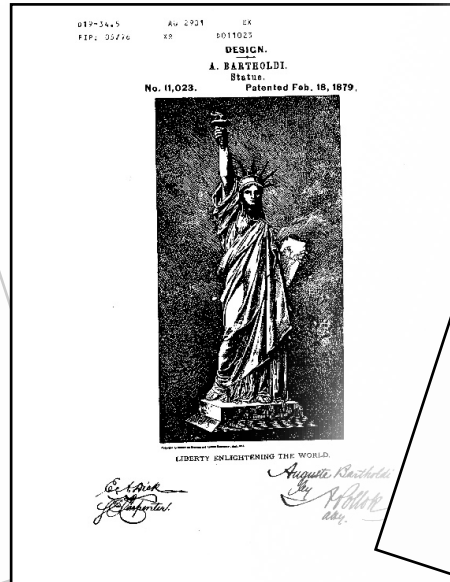


Types of patents

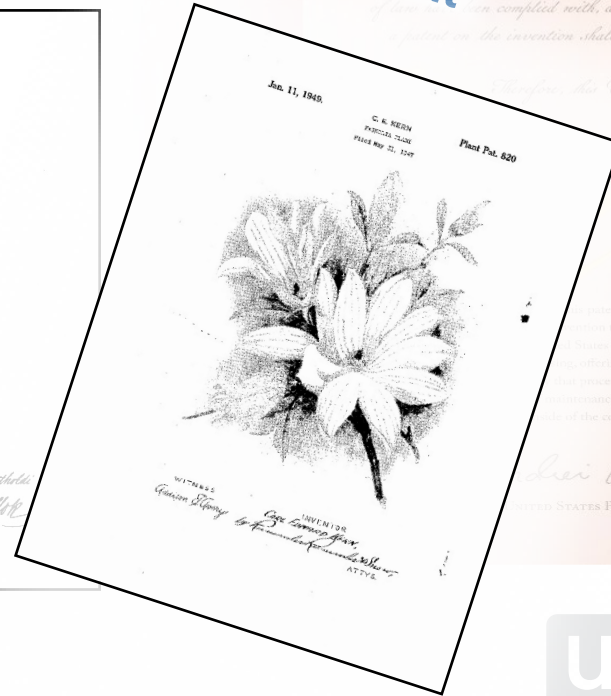
Utility



Design



Plant



Is the invention eligible for utility patent protection?



35 U.S.C. § 101

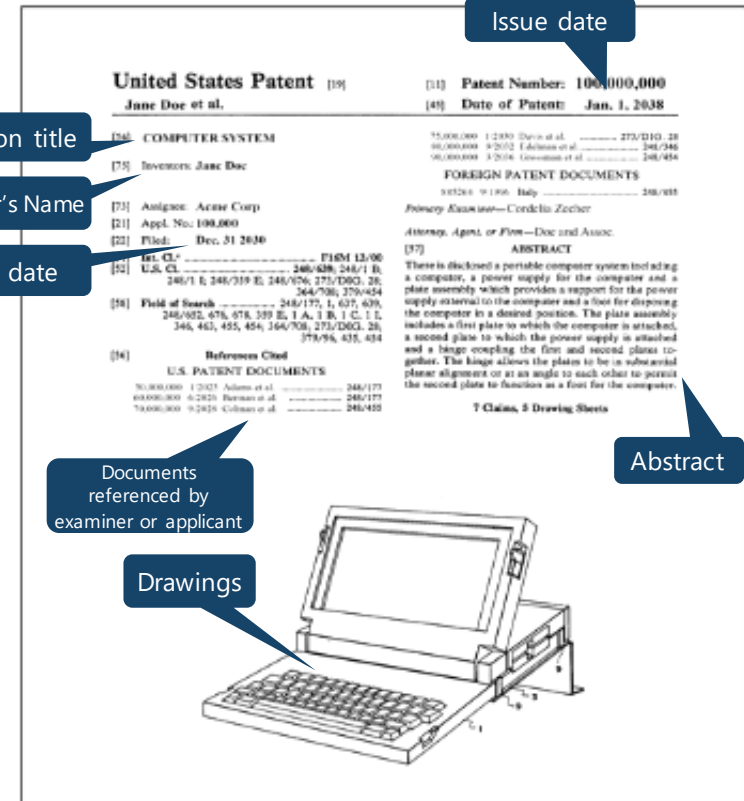


Protections for plants

- Plant patents: asexually propagated plants except for edible tubers
- Utility patents: genes, traits, methods, plant parts, or varieties
- Plant variety protections: seed, tuber, and asexually propagated plants (issued by Plant Variety Protection Office, USDA)

Anatomy of a patent

- **Abstract**
 - A short summary of the invention
- **Written description**
 - How does it work?
How is it made or used?
- **Drawings**
 - What does it look like?
- **Claims**
 - The claim(s) define(s) the legal boundaries of the invention, similar to a deed to a property.



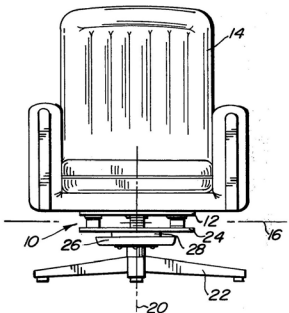
*Example only – not a real patent

Sample claim

Claim 1. A chair comprising:

- a seat,
- a back support attached to the seat,
- support arms attached to the seat and back support, and
- a base comprising a plurality of legs attached to the seat.

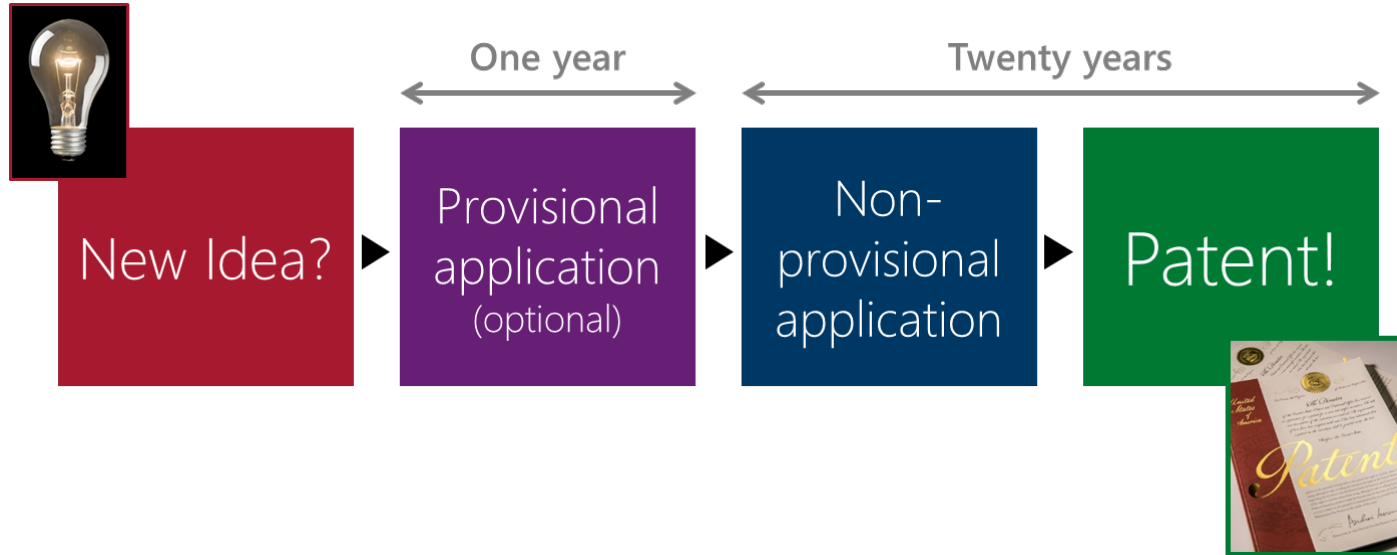
United States Patent [19]		[11] 100,000,000
Doe		[45] January 1, 2040
[54] SWIVEL CHAIR	[56]	References Cited
		U.S. PATENT DOCUMENTS
[75] Inventor: Jane Doe	366,862,842 6/1904 Adams	248/625
	565,951,357 6/1930 Baker	248/628
	675,258,147 11/1959 Cooper	248/628
	765,654,123 12/1959 Duville	248/625
[73] Assignee: Acme Manufacturing	876,456,321 12/1961 Erikson	248/628
	963,852,741 10/1978 Williamson	297/268
		FOREIGN PATENT DOCUMENTS
[21] Appl. No.: 1,000,000	6/1963 Canada	248/580
[22] Filed: January 1, 2035		<i>Primary Examiner— Cordilia Zecher</i> <i>Attorney, Agent, or Firm— Doe and Assoc.</i>
[51] Int. Cl.:	A47C 3/02	[57] ABSTRACT
[52] U.S. Cl.	248/628; 297/264; 248/567	A leaf-spring supported, free-floating rocker undercarriage for a swivel chair wherein the spring flexural axis corresponds to and the swivel axis intersects with the rocking axis of the chair for support of the same.
[58] Field of Search	248/580, 582, 583, 567, 248/603, 604, 626, 628, 625; 297/264, 265, 268, 314	2 Claims, 5 Drawing Figures



*Example only– not a real patent

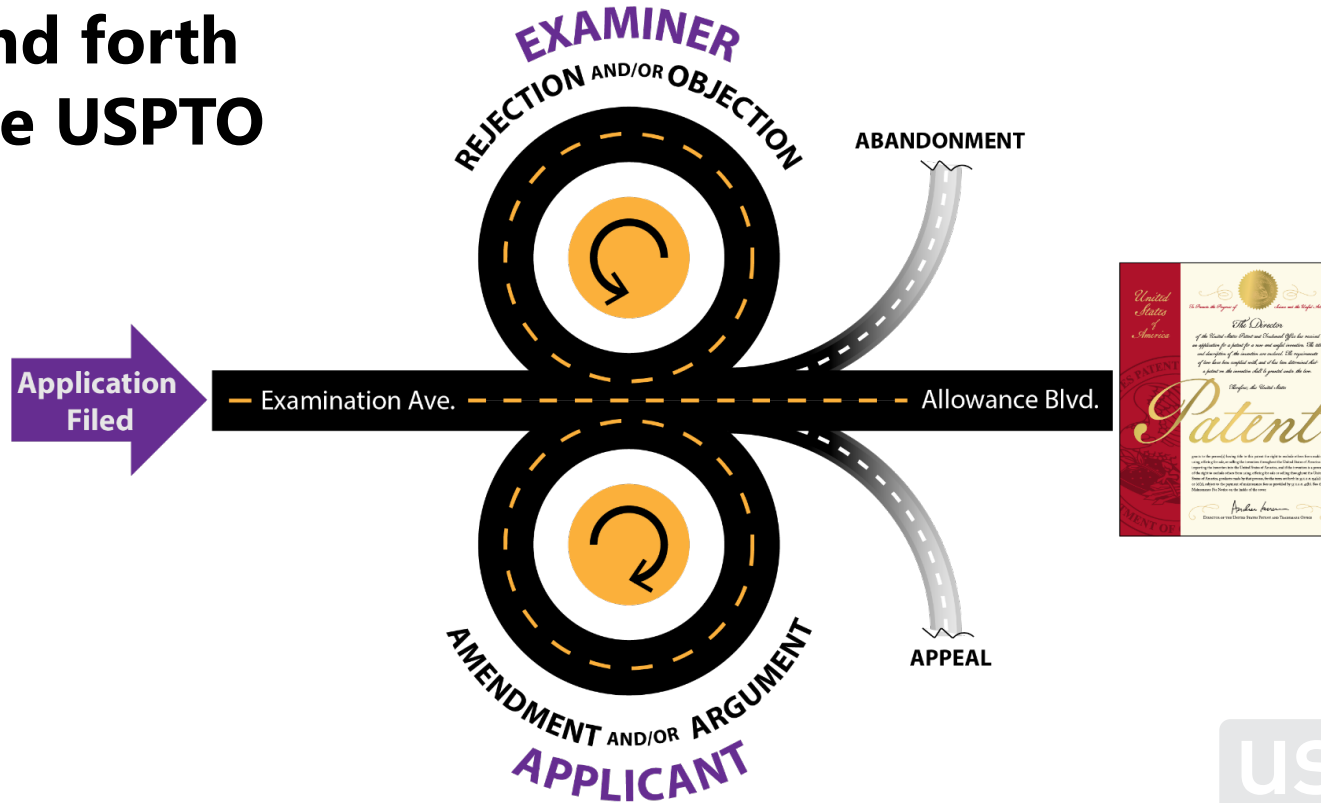


The path to a patent



The patent application roadmap

Back and forth with the USPTO



How long does a patent last?

Patent term = up to 20 years
from **earliest filing date of
non-provisional application**

Patent term adjustment – the 20-year term may be **adjusted** as a result of **delays by the USPTO** to examine the application

Patent term extension - the term may be further **extended** as a result of the **regulatory review process** before a product can be commercially marketed



Three main options

Inventors have several options when they invent something:

- Apply for a patent
- Keep their invention as a trade secret
- Disclose their invention without a patent application, which makes it public and therefore, prior art. Examples of disclosure:
 - Marketing and selling
 - Sharing videos online
 - Publishing
 - Using the invention in public spaces



Let's talk Trade Secrets!



What is a trade secret?

- A trade secret is information that:
 - Has actual or potential independent economic value because it is generally unknown to others
 - Is valuable to others who can't legitimately obtain the information, and
 - Is maintained as secret through reasonable efforts taken by the trade secret owner.

What is a trade secret?

- A trade secret can be formulas or recipes, product designs, customer lists, pricing schedules, manufacturing techniques, and marketing strategies.

Why use a trade secret?

Trade secret basics:

- Protect commercially valuable proprietary information, e.g., formulas or business information that gives a competitive advantage
- Trade secrets are not generally known and must be subject to reasonable efforts to preserve confidentiality

Common ways to lose a trade secret:

- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development



Trade secret examples

Some famous products are or were subject to claims of trade secret protection:

- Coca-Cola
- WD-40
- Kentucky Fried Chicken
- Lena Blackburne Rubbing Mud
- Twinkies
- New York Times Best Sellers list



Some of the claimed trade secrets at the hearts of these products have been secret for a long time, demonstrating the long-term benefits trade secret protection can provide owners who vigilantly guard their trade secrets.

Patents vs trade secrets

Patents

- Information is published and, after expiration of the patent term, is in the public domain
- Require an application process, which will not always result in a granted patent
- A key remedy for violation of patent rights is a suit for patent infringement

Trade secrets

- Can remain a secret indefinitely
- Do not require filing of an application
- A key remedy for violations of trade secret rights is a suit for misappropriation of trade secrets



Let's talk about patents



Patent disclosure

- A patent application can disclose multiple inventions but only one will be examined per application.
- Continuing or divisional patent applications may be used to claim additional features or inventions disclosed in the earlier application.

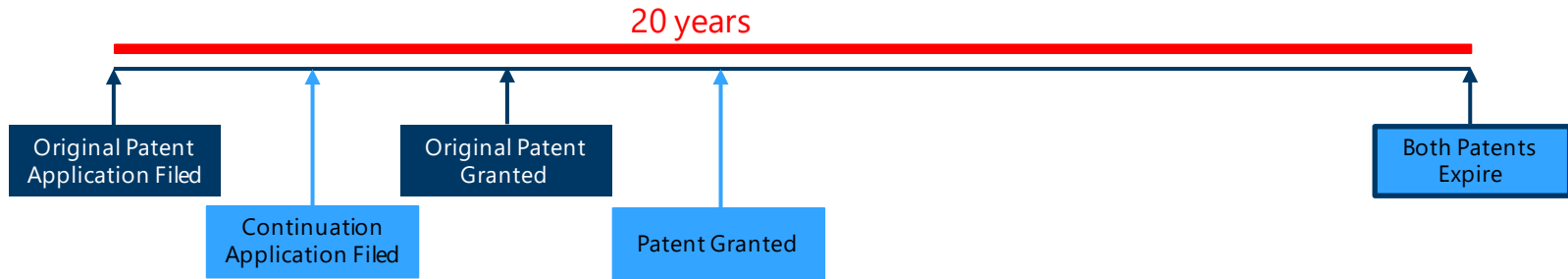


Multiple inventions per product



Important fact

Continuation applications do not extend the term of protection on an invention

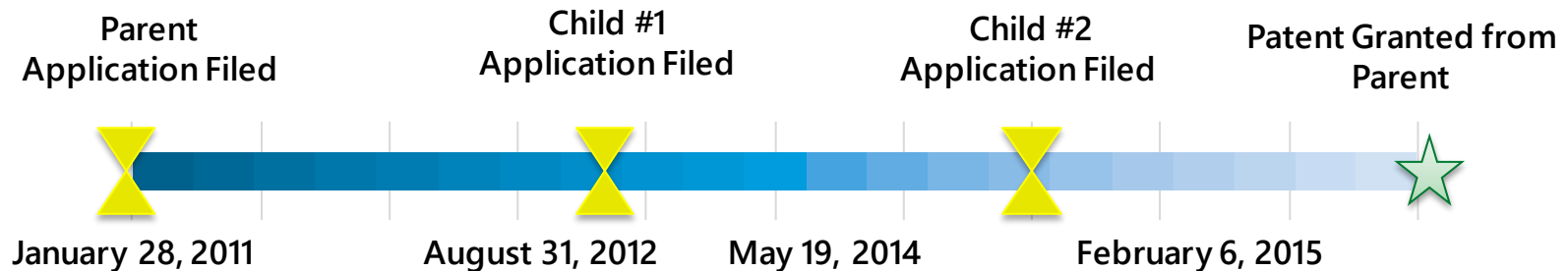


Continuing and divisional applications

- A continuation application is an application for the invention(s) disclosed in a prior-filed co-pending application
- The disclosure presented in the continuation must not include any new subject matter
- Patents on continuation and divisional applications do not extend the term of patent protection of an invention (both patents expire 20 years from the earliest filing date)

Later-filed applications

Later-filed continuation or divisional applications (“child” application) may claim the benefit of earlier application (“parent” application) if the parent application is still pending



Continuum of innovation

Later **improvements** on a patented invention may be entitled to a **new patent**

Later-filed patent applications that are **new and non-obvious** over previously patented inventions, and are not a continuation or divisional of a previously filed application, **could lead to a new patent term.**

Example: addition of a coffee grinder to a coffee machine



Thank you!

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