Topic 9:

Common Pitfalls in Patent Drafting:

*Lessons from the Exercises*

James Snaith
Recap – patent claims

- Define the scope of protection
- Single sentence: clear, concise and self-contained
- Inventive step: represent an advantage, solution to a problem, or provide an alternative
- Novelty: avoid the prior art
Recap – our independent claim

An tablet dispenser comprising:
- of a housing and
- a dispenser compartment located within the housing, the dispenser compartment including a dispensing channel shaped to permit one or more items to be dispensed, and
- spring-lever mechanism, and
- a stopper,

wherein the housing and the dispenser compartment are slidable relative to one another between an open position in which the dispensing channel is open for permitting dispensation of items, and a closed position where the housing closes the channel, the dispenser transporting a single tablet in the shaped channel via gravity pull,

the dispenser transporting a single tablet in the shaped channel via gravity pull,
the spring-lever mechanism pushes the tablet out of the container by pressing the dispenser compartment and returned automatically after releasing the dispenser compartment wherein the dispenser compartment is biased towards the closed position,
the stopper configured to prevent the tablet from dispensing out the container and contain single tablet chamber dispenser compartment.
Independent claims

■ Broadest definition of the invention
■ Essential features only

1. A container comprising an enclosure and a dispenser, the dispenser comprising a chamber for holding small items, a channel for facilitating the movement of the items, and a spring lever working with the enclosure to allow the automatic single dispensation of such small items.
Independent claims

- Broadest definition of the invention
- Essential features only

1. A container comprising an enclosure and a dispenser, the dispenser comprising a chamber for holding small items, a channel for facilitating the movement of the items, and a spring lever working with the enclosure to allow the automatic single dispensation of such small items.
Independent claims

Avoid “floating” features

1. An item dispenser, comprising:
   a container
   a press bar, and
   a spring lever.
Independent claims

Avoid “floating” features

1. An item dispenser, comprising:
   
a container
   
a press bar, and
   
a spring lever.
Independent claims

- Avoid “floating” features – link everything together

1. An item dispenser comprising:

   a **housing** and

   a **dispenser compartment** located within the **housing**..., and

   wherein the **housing** and the **dispenser compartment** are slidable relative to one another...
Independent claims

Be precise when linking features

1. An item dispenser, comprising a container and a press bar with spring lever to automatically dispense one item at a time.
Be precise when linking features

1. An item dispenser, comprising a container and a press bar with a spring lever to automatically dispense one item at a time.
Be precise when linking features

1. An item dispenser, comprising a container and a press bar with a spring lever to bias the device towards a closed position…
Independent claims

Specify any positions relative to something (or remove altogether) – \textcolor{red}{\textbf{spot 3!}}

1. A dispensing device comprising:

   an outer container the outer container is open at the top and partly open at the bottom, and

   an inner container, whilst the inner container has an opening on the smaller side, the inner container slides up and down on the inside of the outer container...
Independent claims

Specify any positions relative to something (or remove altogether)

1. A dispensing device comprising:

   - an outer container the outer container is open at the top and partly open at the bottom, and

   - an inner container, whilst the inner container has an opening on the smaller side, the inner container slides up and down on the inside of the outer container…
Independent claims

Check for antecedent basis issues – spot 5!

1. A retractable candy dispenser comprised of two parts:
   
   the outer container, and
   
   the inner mechanism,

   that dispenses one candy at a time by pushing the inner part downward thus allowing the candy to go through the candy funnel that passes through the hole…
Independent claims

Check for antecedent basis issues

1. A retractable candy dispenser comprised of two parts:
   - the outer container, and
   - the inner mechanism,

   that dispenses one candy at a time by pushing the inner part downward thus allowing the candy to go through the candy funnel that passes through the hole…
Independent claims

Check for antecedent basis issues

1. A retractable candy dispenser comprised of two parts:

   an outer container, and

   an inner mechanism,

   that dispenses one candy at a time by pushing the inner mechanism part downward thus allowing the candy to go through a candy funnel that passes through a hole…
Independent claims

- Check for antecedent basis issues

  1. A process of adhesion between two substrates wherein:

     a first substrate contains hooks, and a second substrate contains loops, the method comprising of attaching…
Independent claims

Check for antecedent basis issues

1. A process of adhesion between two substrates wherein:

   a first substrate contains hooks, and a second substrate contains loops, the method comprising of attaching…

2. A process in Claim 1, further comprising mechanically separating the two substrates by applying at least one tensile force on either substrates.
Dependent claims

- Advantageous implementations
- Fall-back positions
- Not limiting on the scope of independent claims
- Progressively focus on "embodiments"
Dependent claims

- Introduce one feature at a time – spot at least 4!

2. The fastening device of claim 1 wherein the first substrate and the second substrate is made of long chain synthetic polymeric amide.
Dependent claims

- Introduce one feature at a time

2. The fastening device of claim 1 wherein the first substrate and the second substrate are made of long chain synthetic polymeric amide.
Dependent claims

“long chain synthetic polymeric amide”

2. The fastening device of claim 1 wherein the first substrate and the second substrate comprise a synthetic material.

3. The fastening device of claim 2 wherein the synthetic material is a polymeric material.

4. The fastening device of claim 3 wherein the polymeric material is a polyamide.

5. The fastening device of claim 3 or 4, wherein the polymeric material is a long chain polymeric material.
Dependent claims

“long chain synthetic polymeric amide”

2. The fastening device of claim 1 wherein the first substrate or the second substrate comprise a synthetic material.

3. The fastening device of claim 2 wherein the synthetic material is a polymeric material.

4. The fastening device of claim 3 wherein the polymeric material is a polyamide.

5. The fastening device of claim 3 or 4, wherein the polymeric material is a long chain polymeric material.
Avoid ambiguous or unclear terms

5. *The fastening device of claim 3 or 4, wherein the polymeric material is a long chain polymeric material.*
Avoid ambiguous or unclear terms

5. The fastening device of claim 3 or 4, wherein the polymeric material is a long chain polymeric material.

5. The fastening device of claim 3 or 4, wherein the polymeric material has at least 50 repeat units of an amide moiety having the formula:

\[
\left( \begin{array}{c} 
O \\
N \quad N \\
\end{array} \right) 
\]
Dependent claims

- Purpose is not only to explain claim 1
- Must introduce a new feature or specify an existing feature
- …otherwise it implies claim 1 doesn’t have the feature(s)

5. The fastening device of claim 1 form a reusable adhesive structure.
Dependent claims

- Take care with the preamble

1. A process of adhesion between two substrates wherein:
   a first substrate contains hooks, and a second substrate contains loops...

2. A process in Claim 1, wherein the adhesion of the two substrates is non-permanent.
Dependent claims

Take care with the preamble

1. A process of adhesion between two substrates wherein:
   a first substrate contains hooks, and a second substrate contains loops...

2. The process in Claim 1, wherein the adhesion of the two substrates is non-permanent.
Thank you

James Snaith
Associate
(UK and European Patent Attorney)
jsnaith@kilburnstrode.com

Kilburn & Strode LLP
Lacon London, 84 Theobalds Road,
London, WC1X 8NL
+44 (0) 20 7539 4200
www.kilburnstrode.com

Patent and Trade Mark Attorneys
Dependent claims
Dependent claims

1. A method of brewing tea, comprising steeping tea leaves in water.

2. The method according to claim 1, wherein the tea leaves are provided in a tea bag.

3. The method according to claim 2, wherein the bag is of pyramidal shape.
1. A method of brewing tea, comprising steeping tea leaves in water.

2. The method according to claim 1, wherein the tea leaves are provided in a tea bag.

3. The method according to claim 2, wherein the bag is of pyramidal shape.
Purpose of claim sets

1. A method of brewing tea, comprising steeping tea leaves in water.

2. The method according to claim 1, wherein the tea leaves are provided in a tea bag.

3. The method according to claim 2, wherein the bag is of pyramidal shape.
Purpose of claim sets

1. A method of brewing tea, comprising steeping tea leaves in water, **wherein the tea leaves are provided in a tea bag**.

2. The method according to claim 1, wherein the tea leaves are provided in a tea bag.

3. 2. The method according to claim 2, wherein the bag is of pyramidal shape.
Purpose of claim sets

1. A method of brewing tea, comprising steeping tea leaves in water, wherein the tea leaves are provided in a tea bag.

2. The method according to claim 1, wherein the bag is of pyramidal shape.
1. A method of brewing tea, comprising steeping tea leaves in water, wherein the tea leaves are provided in a tea bag, and wherein the bag is of pyramidal shape.

2. The method according to claim 1, wherein the bag is of pyramidal shape.
Q & A
Thank you

James Snaith
Associate
(UK and European Patent Attorney)
jsnaith@kilburnstrode.com

Kilburn & Strode LLP
Lacon London, 84 Theobalds Road,
London, WC1X 8NL
+44 (0) 20 7539 4200
www.kilburnstrode.com

Patent and Trade Mark Attorneys