### **T – Nebel IP protections**

#### **Interpretation – the Aff may not specify a specific type of IP protection**

#### **Intellectual property protections is a generic bare plural**

**Leslie and Lerner 16** [Sarah-Jane Leslie (Ph.D., Princeton, 2007) is the dean of the Graduate School and Class of 1943 Professor of Philosophy. She has previously served as the vice dean for faculty development in the Office of the Dean of the Faculty, director of the Program in Linguistics, and founding director of the Program in Cognitive Science at Princeton University. She is also affiliated faculty in the Department of Psychology, the University Center for Human Values, the Program in Gender and Sexuality Studies, and the Kahneman-Treisman Center for Behavioral Science and Public Policy], and Adam Lerner, Ph.D, Postgraduate Research Associate in the Department of Philosophy at Princeton University, 4-24-2016, accessed 9-4-2021, "Generic Generalizations (Stanford Encyclopedia of Philosophy)," <https://plato.stanford.edu/entries/generics/>] HWIC

There are some tests that are helpful in distinguishing these two readings. For example, **the existential interpretation is upward entailing**, meaning that **the statement will always remain true if we replace the subject term with a more inclusive term**. Consider our examples above. In ([1b](https://plato.stanford.edu/entries/generics/#ex1b)), we can replace “tiger” with “animal” salva veritate, but in ([1a](https://plato.stanford.edu/entries/generics/#ex1a)) we cannot. **If “tigers are on the lawn” is true, then “animals are on the lawn” must be true. However, “tigers are striped” is true, yet “animals are striped” is false**. ([1a](https://plato.stanford.edu/entries/generics/#ex1a)) does not entail that animals are striped, but ([1b](https://plato.stanford.edu/entries/generics/#ex1b)) entails that animals are on the front lawn (Lawler 1973; Laca 1990; Krifka et al. 1995).

**Another test concerns whether we can insert an adverb of quantification with minimal change of meaning** (Krifka et al. 1995). For example, **inserting “usually” in the sentences in (**[**1a**](https://plato.stanford.edu/entries/generics/#ex1a)**) (e.g., “tigers are usually striped”) produces only a small change in meaning**, while **inserting “usually” in (**[**1b**](https://plato.stanford.edu/entries/generics/#ex1b)**) dramatically alters the meaning of the sentence (e.g., “tigers are usually on the front lawn”).** (For generics such as “mosquitoes carry malaria”, the adverb “sometimes” is perhaps better used than “usually” to mark off the generic reading.)

It applies to medicines:

1. Upward entailment test – spec fails the upward entailment test because saying that nations ought to reduce IPP for one medicine does not entail that those nations ought to reduce IPP for all medicines

2. Adverb test – adding “usually” to the res doesn’t substantially change its meaning because a reduction is universal and permanent

Vote neg:

1. Semantics outweigh:

a. T is a constitutive rule of the activity and a basic aff burden – they agreed to debate the topic when they came here

b. Jurisdiction – you can’t vote aff if they haven’t affirmed the resolution

c. It’s the only stasis point we know before the round so it controls the internal link to engagement – there’s no way to use ground if debaters aren’t prepared to defend it

2. Ground – spec guts core generics like innovation that rely on reducing IP for all medicines because individual medicines don’t affect the pharmaceutical industry broadly – also means there is no universal DA to spec affs

3. TVA solves – read as an advantage to whole rez

Paradigm issues:

1. Drop the debater – their abusive advocacy skewed the debate from the start

2. Comes before 1AR theory – NC abuse is responsive to them not being topical

3. Competing interps – reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation

4. No RVIs – fairness and education are a priori burdens – and encourages baiting – outweighs because if T is frivolous, they can beat it quickly. Illogical

5. Fairness is a voter – necessary to determine the better debater

6. Education is a voter – why schools fund debate

7. T first- Arguments only function under the current topic. So we need to comprehend the topic first before other arguments like theory. We only have 2 months to talk about the topic but we have unlimited time to debate theory T o/w on time frame

## **Opioids CP**

#### **CP Text: States ought to ban the prescription of opioids.**

Same strcutures- no other drugs. Opiods is adv.

#### **Solves case – if there aren’t opioids medically prescribed then people can’t overdose on them. Even if people can get them illegally that isn’t a solvency deficit because in the aff they could do that too.**

### **Mrna CP**

#### **CP Text: The member nations of the WTO should grant a TRIPS waiver for all COVID vaccines except those that use mRNA technology and**

* **Declare support for a direct support model for future pandemics (if they have a future pandemics impact)**

#### **The WHO guarantees the plan mostly increases mRNA vaccine production**

**WHO 4/21—**WHO, 4-21-2021, “Establishment of a COVID-19 mRNA vaccine technology transfer hub to scale up global manufacturing,” <https://www.who.int/news-room/articles-detail/establishment-of-a-covid-19-mrna-vaccine-technology-transfer-hub-to-scale-up-global-manufacturing>. (AG DebateDrills)

WHO and its partners are seeking to expand the capacity of low- and middle-income countries (LMICs) to produce COVID-19 vaccines and scale up manufacturing to increase global access to these critical tools to bring the pandemic under control.

**WHO will facilitate the establishment of one (or more, as appropriate) technology transfer hub(s) that will use a hub and spoke model (REF) to transfer a comprehensive technology package and provide appropriate training to interested manufacturers in LMICs. This initiative will initially prioritize the mRNA-vaccine technology2 but could expand to other technologies in the future.**

The intention is for these hubs to enable the establishment of production process at an industrial or semi-industrial level permitting training and provision of all necessary standard operating procedures for production and quality control. **It is essential that the technology used is either free of intellectual property constraints in LMICs, or that such rights are made available to the technology hub and the future recipients of the technology through non-exclusive licenses to produce, export and distribute the COVID-19 vaccine in LMICs, including through the COVAX facility**. Preference will be given to applicants who have already generated clinical data in humans, as such clinical data will contribute to accelerated approval of the vaccines in LMICs.

#### **Limiting waiver to non-mRNA guarantees use of those vaccines—they’re more effective at fighting COVID in developing countries, turning case. 3 warrants:**

#### **First logistics, mRNA cooling requirements and cost make them far harder to distribute in developing countries with inadequate infrastructure**

**Mahase 20**-- Mahase, Elisabeth. "Covid-19: What do we know about the late stage vaccine candidates?." British Medical Journal. (2020). (AG DebateDrills)

Pfizer and BioNTech’s BNT162b2 is the first vaccine candidate to be submitted to the US Food and Drug Administration (FDA) for emergency use authorisation.2 The submission was filed on 20 November, after the conclusion of a phase III trial. The results, released by press release, evaluated 170 confirmed cases of covid-19 and reported that the vaccine was 95% effective 28 days after the first dose. Nine out of 10 severe covid-19 cases in the trial were in the placebo group. **Pfizer said the vaccine could be available to high risk populations in the US by the end of December 2020.** The UK government has agreed a deal for 40 million doses (enough for 20 million people) and expects to have 10 million doses by the end of 2020. Meanwhile, the EU has secured a deal for 200 million doses, with an optional 100 million extra doses. Globally, 50 million doses are expected in 2020 and up to 1.3 billion doses by the end of 2021. The companies have started submission processes in Australia, Canada, Europe, and Japan. **The vaccine is estimated to cost around £15 per dose—much higher than the Oxford-AstraZeneca vaccine. Concerns have also been raised over logistics, as the vaccine must be stored at −70°C. Moderna and US National Institutes of Health vaccine The mRNA-1273 vaccine, developed by US biotech company Moderna in partnership with the US National Institutes of Health (NIH), is 94.5% effective according to the interim findings of US based phase III trial results.**3 The analysis was based on 95 covid-19 cases, of which 90 (11 severe) were observed in the placebo group and five were reported in the vaccine group. The trial enrolled more than 30 000 US participants, including 7000 aged over 65 and 5000 under 65 with high risk chronic diseases. More than one third (37%, 11 000) of the trial participants were from “communities of colour.” Of the 95 cases, 15 were adults over 65, and 20 identified as being from diverse communities (12 Hispanic, four black, three Asian American, and one multiracial). Moderna intends to submit the interim safety and efficacy data to the FDA for emergency use authorisation soon, following a final analysis of 151 cases and a median follow-up of more than two months. The US has agreed a deal for 100 million doses, while the UK government has secured five million doses of the vaccine candidate. If approved by the medicines regulator, the vaccine could be delivered to the UK in spring 2021. **Moderna’s vaccine can be stored in a household fridge for 30 days, at room temperature for up to 12 hours, and at −20°C for up to six months. However, compared with the Oxford-AstraZeneca and Pfizer vaccines, Moderna’s candidate is much more expensive at approximately £25 per dose.**

#### **Second, the requirement for 2 doses means vaccination campaign takes much longer. J&J does not have this requirement**

#### **Third, developing countries already have production capacity for traditional vaccines, mRNA development shifts resources and takes time to get off the ground**

**Iacobucci 21**-- Iacobucci, Gareth. “Covid-19: How will a waiver on vaccine patents affect global supply?,” BMJ : British Medical Journal (Online); London Vol. 373, (May 10, 2021). DOI:10.1136/bmj.n1182. (AG DebateDrills)

**“You simply cannot achieve this kind of capacity expansion by waiving patents and hoping that hitherto unknown factories around the world will turn their hand to the complex process of vaccine manufacture,” she said. “A waiver risks diverting raw materials and supplies away from well established, effective supply chains to less efficient manufacturing sites where productivity and quality may be an issue.** It opens the door to counterfeit vaccines entering the supply chain around the world.” Javier Guzman, technical director of the Medicines, Technologies, and Pharmaceutical Services programme at Management Sciences for Health, a global non-profit organisation, told The BMJ that **some middle income countries did have the capabilities to make vaccines and some were already producing covid vaccines. He cited the voluntary licensing agreements made by AstraZeneca with Indian and Brazilian manufacturers.** But he added, **“It is important to distinguish between viral vectors (such as the AstraZeneca vaccine) and mRNA vaccines (Pfizer and Moderna) and between producing the liquid vaccine solution (the active ingredient) and filling and capping sterile vials (known as “fill-and-finish”). More manufacturers in low and middle income countries are in the position to manufacture viral vectors and/or contribute with the fill-and-finish stage of the process.”**

### **Addiction DA**

#### **Increasing access to addictive medicines means an increase in addiction – previous legalization proves.**

**DuPont** [Robert L., M.D. (member, Rivermend Health Scientific Advisory Board, President, Institute for Behavior and Health Inc. First Director, National Institute on Drug Abuse) “Marijuana Legalization Has Led to More Use and Addiction While Illegal Market Continues to Thrive”, Rivermend Health, https://www.rivermendhealth.com/resources/marijuana-legalization-led-use-addiction-illegal-market-continues-thrive/] //DebateDrills LC

It comes as no surprise that **the prevalence of marijuana use has**[**significantly increased**](https://archpsyc.jamanetwork.com/article.aspx?articleid=2464591)**over the last decade.** With marijuana legal for recreational use in four states and the District of Columbia and for medical use in an additional 31 states, the **public perception about marijuana has shifted, with more people reporting that they**[**support legalization**](https://www.pewresearch.org/fact-tank/2015/04/14/6-facts-about-marijuana/). However, **there is little public awareness**, and close to zero media attention**, to the near-doubling of past year marijuana use nationally among adults** age 18 and older and the corresponding increase in [problems](https://www.rmhidta.org/html/2015%20FINAL%20LEGALIZATION%20OF%20MARIJUANA%20IN%20COLORADO%20THE%20IMPACT.pdf) related to its use. Because the addiction rate for marijuana remains stable—with about one in three past year marijuana users experiencing a marijuana use disorder—**the total number of Americans with marijuana use disorders also has significantly**[**increased**](https://archpsyc.jamanetwork.com/article.aspx?articleid=2464591).

**It is** particularly **disturbing that the public is unaware of the fact that of all**[**Americans with substance use disorders**](https://www.rivermendhealth.com/resources/www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.htm)**due to drugs other than alcohol**, nearly [60 percent](https://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.htm#fig31) are due to marijuana. That means that **more Americans are addicted to marijuana than any other drug**, including heroin, cocaine, methamphetamine, and the nonmedical use of prescription drugs.

Stores in Colorado and Washington with commercialized marijuana sell innovative marijuana products offering users record-high levels of THC potency. **Enticing forms of marijuana**, including hash oil used in discreet vaporizer pens and edibles like cookies, candy and soda **are attractive to users of all ages, particularly those underage**. The **legal marijuana producers are creatively and avidly embracing these new trends in marijuana product development, all of which encourage not only more users but also more intense marijuana use.**

Yet despite the expansion of state legal marijuana markets, **the illegal market for marijuana remains robust**, leaving state regulators two uncomfortable choices: either a ban can be placed on the highest potency—and most enticing—marijuana products which will push the legal market back to products with more moderate levels of THC, or the current evolution to ever-more potent and more attractive products can be considered acceptable **despite its considerable negative health and safety consequences**. If tighter regulations are the chosen option, **the illegal market will continue to exploit the desire of marijuana users to consume more potent and attractive products. If state governments let the market have its way, there will be no limit to the potency of legally marketed addicting marijuana products.**

#### **Cannabis addiction has drastic and unknown impacts.**

**CDC 21** [“Addiction (Marijuana or Cannabis Use Disorder)”, Centers for Disease Control, https://www.cdc.gov/marijuana/health-effects/addiction.html] //DebateDrills LC

**People who have marijuana use disorder may also be at a higher risk of other negative consequences, such as problems with attention, memory, and learning.**

Some **people who have marijuana use disorder may need to use more and more marijuana or greater concentrations of marijuana over time to experience a “high**.” **The greater the amount of** tetrahydrocannabinol (**THC**) in marijuana (in other words, the concentration or strength), **the stronger the effects the marijuana may have on the brain**.5,6 The amount of THC in marijuana has increased over the past few decades.6

In a study of cannabis research samples over time, the average delta-9 THC (the main form of THC in the cannabis plant) concentration almost doubled, from 9% in 2008 to 17% in 2017.7 **Products from dispensaries often offer much higher concentrations** than seen in this study. In a study of products available in online dispensaries in 3 states with legal non-medical adult marijuana use, the average THC concentration was 22%, with a range of 0% to 45%.8 In addition, some methods of using marijuana (for example, dabbing and vaping concentrates) may deliver very high levels of THC to the user.6,9

**Researchers do not yet know the full extent of the consequences when the body and brain are exposed to high concentrations of THC** or how recent increases in concentrations affect the risk of someone developing marijuana use disorder.6

#### **Cannabis is also a gateway drug, leading to increased use of other, more dangerous drugs.**

**National Institute on Drug Abuse** [(lead federal agency supporting scientific research on drug use and its consequences) National Institutes of Health, <https://www.drugabuse.gov/publications/research-reports/marijuana/marijuana-gateway-drug>] //DebateDrills LC

Some **research suggests that marijuana use is likely to precede use of other licit and illicit substances**[45](https://www.drugabuse.gov/node/1398) and the development of addiction to other substances. For instance, a study using longitudinal data from the National Epidemiological Study of Alcohol Use and Related Disorders found that **adults who reported marijuana use during the first wave of the survey were more likely than adults who did not use marijuana to develop an alcohol use disorder within 3 years**; people who used marijuana and already had an alcohol use disorder at the outset were at greater risk of their alcohol use disorder worsening.[46](https://www.drugabuse.gov/node/1398) **Marijuana use is also linked to other substance use disorders including nicotine addiction.**

Early exposure to cannabinoids in adolescent rodents decreases the reactivity of brain dopamine reward centers later in adulthood.[47](https://www.drugabuse.gov/node/1398) To the extent that these findings generalize to humans, this could help explain the increased vulnerability for addiction to other substances of misuse later in life that most epidemiological studies have reported for people who begin marijuana use early in life.[48](https://www.drugabuse.gov/node/1398) **It is also consistent with animal experiments showing THC’s ability to "prime" the brain for enhanced responses to other drugs**.[49](https://www.drugabuse.gov/node/1398) For example, **rats previously administered THC show heightened behavioral response not only when further exposed to THC but also when exposed to other drugs such as morphine**—a phenomenon called cross-sensitization.[50](https://www.drugabuse.gov/node/1398)

#### **On case**

Dont reject neg turns- obviously analytics aren’t big pharma

And this is heiugely unfair cuz it jsufites them getting 100% strnmetgh of link without any neg ability to respond

**[] Strength of link – they’re only freeing up patents on medicinal cannabis which doesn’t have as large of a market as recreational – they don’t solve for their impacts because there’s still going to be large monopolies on recreational weed. If they defend recreational, they’re extra topical which is a voter for limits – otherwise they could defend an infinite number of things that people use to relieve pain like hot water.**

#### **[] Patents don’t cover the growth of a plant from a seed and its medicinal use – people who want weed can still grow it. Applies to poppy plants**

**South and Shortell, 20** (Clinton South and Brian Shortell, Clinton South is an associate in the Intellectual Property Department and member of the Chemical and Pharmaceutical practice teams in Ballard Spahr’s Patents Group. Clint’s practice focuses on drafting and prosecuting domestic and foreign patent applications, opinion work, client counseling, intellectual property litigation, and proceedings at the USPTO—including post-grant and inter partes review proceedings., Brian Shortell leads the chemical and pharmaceutical practice team at Ballard Spahr, LLP, and is a member of the mechanical technologies team, in the Patents Group. Brian concentrates on patent prosecution, client counseling, and opinion work, and intellectual property litigation. He also has significant experience in reexamination and due diligence matters. Recently, he was called upon as a subject matter expert for chemistry and patent law in an arbitration regarding hydrogen fuel cell technology., 2-7-2020, accessed on 9-12-2021, IPWatchdog.com | Patents & Patent Law, "Patenting Cannabis: Possibilities and Pitfalls", https://www.ipwatchdog.com/2020/02/07/patenting-cannabis-possibilities-pitfalls/id=118615/)//st

One route comes from legislation enacted around the time that cannabis became illegal in the U.S.—the **Plant Patent Act** of 1930. **Prior to this** legislation, **plants were** largely **beyond the reach of patent protection** both because they were thought to be unpatentable products of nature and because it was thought that plants could not be adequately described with words (a requirement of U.S. patent law). **The Plant Act** eliminated those obstacles and **declared asexually-reproduced plants (plants reproduced by means other than from seeds) eligible for patenting**. The Act relaxed the written description requirement in favor of a “description . . . as complete as is reasonably possible.” Despite being a logical option for patenting cannabis, **plant patents offer limited protection in practice. To prove infringement** of a plant patent, **the patent holder must show that the accused infringer asexually-reproduced the plant, i.e., created the plant from part of another plant without using seeds.** While asexual reproduction is the only way a breeder can ensure that a reproduced plant is genetically identical to its parent**, sexual reproduction offers would-be infringers an easy out.** Perhaps for this reason, **less than 1% of currently active cannabis patents are plant patents.** The first of which, U.S. Patent No. PP27,475, issued in December 2016. Titled “Cannabis plant named ‘Ecuadorian Sativa,’” the patent provides a colorful history of cannabis cultivation dating back to 6,000 B.C. and details the inventor’s discovery of a novel cannabis variety, motivated by a desire to develop a strain with “psychoactive properties that motivated and energized, rather than creating lethargy, sleepiness, and increased food consumption.” Although limited in scope, plant patents such as the P’475 patent undoubtedly contribute to the body of cannabis knowledge, an important objective of U.S. patent laws. PVPA Certificates A second avenue is through the Plant Variety Protection Act of 1970 (PVPA), implemented by the U.S. Department of Agriculture (USDA). The PVPA provides a breeder with protection for sexually-reproduced plants that parallels that afforded by plant patents. The downside to the PVPA—and perhaps the reason why the USDA has yet to issue a PVPA certificate for a cannabis plant—is that the Act requires applicants to submit at least 3,000 seeds to a depository at Fort Collins, Colorado. Notwithstanding Colorado’s lenient stance on cannabis, the plant remains a Schedule I drug under federal law, and the risk of handing such a substance to a federal agency may be too great for the cannabis breeder. **Utility Patents** Utility patents offer protection for both sexually and asexually reproduced cannabis plants, in addition to formulations and other products made from the plant. **Although utility patents** **provide broader protection than** that afforded by **plant patents** or PVPA certificates, **they** come with additional challenges. Unlike plant patents, a utility patent **must satisfy a more rigorous written description requirement and must enable those skilled in the art to make and use the invention. The** so-called **enablement requirement is** particularly **difficult to satisfy for plant parts,** tissues, cells, **and clones of cannabis varieties. This difficulty was illustrated during the prosecution of U.S. Patent No. 9,095,554**, a patent owned by BioTech Institute LLC of Westlake Village, California. The USPTO initially **rejected** claims of the ’554 patent **for failing to satisfy the enablement requirement,** explaining that **the patent application did not “disclose a repeatable process to obtain the exact same plant in each occurrence and it is not apparent that** such a **plant is readily available to the public.”** Because **it can be difficult to enable those skilled in the art to “make” a plant**, the patent laws permit an applicant to deposit biological material, such as seeds, at a publicly-accessible depository recognized by the USPTO. This permits the public to obtain a sample of the deposited material and reproduce the invention once the patent expires. The ’554 patent applicant pursued this route, but **cannabis’s status as a Schedule I drug made it impossible to deposit material at a United States depository**. As a result, the applicant deposited cannabis seeds at the National Collections of Industrial, Food and Marine Bacteria Ltd (NCIMB) center in Aberdeen, Scotland, a depository that the USPTO is obligated to recognize under the Budapest Treaty of 1977. The number of viable seeds required by the USPTO—at least 2,500—also posed a problem. Even in legal cannabis states, federal regulations limit large scale cannabis cultivation, which forced the applicant of the ’554 patent to request an additional two growing seasons to complete the 2,500 seed deposit. After some back-and-forth, the USPTO ultimately accepted a smaller 250-seed deposit along with the applicant’s assurance that the remaining seeds would be deposited after issuance of the patent. Aside from enablement, convincing the USPTO **that a cannabis invention is eligible for patenting—and not** simply **an ineligible product of nature—poses another difficult challenge**. According to guidance from the USPTO**, a substance derived from a natural product must have “markedly different characteristics” from that found in nature.** Examples from the USPTO suggest that while a species of naturally-occurring cannabis may be ineligible for patenting, “a beverage composition comprising cannabinoids isolated from cannabis and an effective amount of an added preservative” would satisfy the subject-matter eligibility requirement. The Colorado federal court tasked with resolving the first cannabis-related patent infringement lawsuit provides additional guidance on the subject-matter eligibility of cannabis claims. The claims asserted in the lawsuit recite a “liquid cannabinoid formulation” having certain percentages of specified cannabinoids. In opposition to a motion for summary judgment that the asserted claims are directed solely to a natural product and thus ineligible for patenting, the patent holder persuaded the court that the liquid formulation recited in the asserted claims has “markedly different physiological characteristics” than cannabinoid resins found in nature. Thus, for one federal court, the combination of specific cannabinoid concentrations and a liquid formulation is enough to meet the subject-matter eligibility threshold, at least at the summary judgment stage.

#### **Medicinal cannabis can be smoked, boiled, eaten, or injected which patents don’t cover since it’s part of a physical phenomenon – there’s no reason why patented inventions are needed to solve their impacts.**

**UpCounsel, 20** (UpCounsel, legal website that connects lawyers and clients, 6-24-2020, accessed on 9-12-2021, UpCounsel, "Can You Patent a Process: Everything You Need to Know", https://www.upcounsel.com/can-you-patent-a-process)//st

Bilski had filed to challenge the refusal of his patent application. He sought to patent both the idea of hedging risk and the method by which it could apply to energy markets. However, since abstract ideas can't be patentable, the courts ruled that his concept wasn't eligible. The Federal Circuit Court of Appeals maintained that the process is only patentable if it transforms a specific article into a different thing or state, or it is linked to a specific apparatus or machine. The case later went to the Supreme Court, where the rejection was upheld. However, the grounds for rejection were very different from those provided by the Federal Circuit Court of Appeals. **Under the Patent Act,** section 101**, whoever is the inventor or discoverer of a** useful and **new** manufacture, **process,** composition of matter, or machine **is eligible to receive a patent**. The precedent set by **the Supreme Court outlined three exceptions to section 101 of the Patent Act: Physical phenomena [AND] Laws of nature Abstract ideas** The courts felt they needed to set a high bar in such situations to avoid giving people monopolies over things that could damage innovation and competition. They also felt, however, that there wasn't an ordinary and common use interpretation of the wording of patent law that would exclude methods. In the end, though Bilski wasn't able to patent his idea, his case did ensure that other metrics can now be used when determining whether a process is eligible to be patented. His idea was an invention claiming to be a process.