

# **Five Winning Strategies for Crafting Claims in U.S. Patent Applications**

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The foundation for the modern patent system in the United States is established in the U.S. Constitution, which provides that “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”<sup>1</sup> Inventors are to be given exclusive rights, but only for limited times, thereby guaranteeing that the public will ultimately benefit from innovations that are granted exclusivity. Thus, a fundamental goal of the patent system is to give the public meaningful disclosure of inventions in exchange for the government grant of exclusive rights.

Since one of the first patent acts passed by Congress in 1793, the obligation to disclose in detail the features of the invention has been a critical part of ensuring that inventors meet their end of the bargain to obtain patent protection.<sup>2</sup> Although the practice had been informally required by the U.S. Patent and Trademark Office and the U.S. Supreme Court, Congress amended the Patent Act in 1952 to formally mandate that inventors detail with specificity the scope of the invention using discrete claims particularizing their inventions. In particular, 35 U.S.C. §112, ¶2, was added to require that: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.