

# Drafting Claims (and Their Specifications) That Will Be Infringed

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1

## I. Minimize the Likelihood of Avoiding Literal Infringement

### A. Draft the broadest claim the prior art allows

- Recite the feature that distinguishes over the prior art and then wrap the rest of the invention around the distinguishing feature in the broadest possible terms
- Consider the possibility of claiming a broader subcombination, including replacement and repair parts
- Eliminate unnecessary words



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2

2

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### B. Start with the Target (point of novelty)

1. A copying machine comprising:
  - a photosensitive element having a surface of amorphous silicon;
  - an optical system disposed to create an image of an original on the photosensitive element; and
  - a transfer system disposed to transfer the image on the photosensitive element to a sheet.

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2. A copy machine comprising:
  - a photosensitive element;
  - an optical system disposed to create a pattern of charges on the photosensitive element corresponding to original;
  - a developer disposed to apply toner to the photosensitive element to create a visible image on the photosensitive element, the developer including at least three rollers; and
  - a transfer system disposed to transfer the visible image to a sheet.

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- C. Consider subcombinations, including replacement and repair parts
- 3. A photosensitive member comprising:
  - a base: and
  - a layer of amorphous silicon disposed on the base.
- 4. A developer comprising:
  - a container for holding toner;
  - a first roller;
  - a second roller; and
  - a third roller, the first, second and third rollers being disposed to transfer toner from the container.

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### D. Consider Functional Language

- 1. Consider functional, e.g., “an effective amount” sort of language.
- 2. “An effective amount” is useful in chemical inventions.
- 3. Consider how the Federal Circuit has interpreted functional claim language.

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