University of Bayreuth
Chair ZR VIII (Prof. Dr. Ansgar Ohly, LL.M.)
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Teaching Patent Law — Between Natural Sciences and Law

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Queen Mary, University of London
European Intellectual Property Teachers‘ Network
London, 20 July 2009

Teaching Patent Law

Technology-specific law problems

- Advanced learners
- Examples: gene patents
  nanotechnology

Parameters

- Law: national and EPC
- Listeners: law students
- Subject: „core“ patent law (substantive law: patentability requirements, scope of protection)

Three Steps

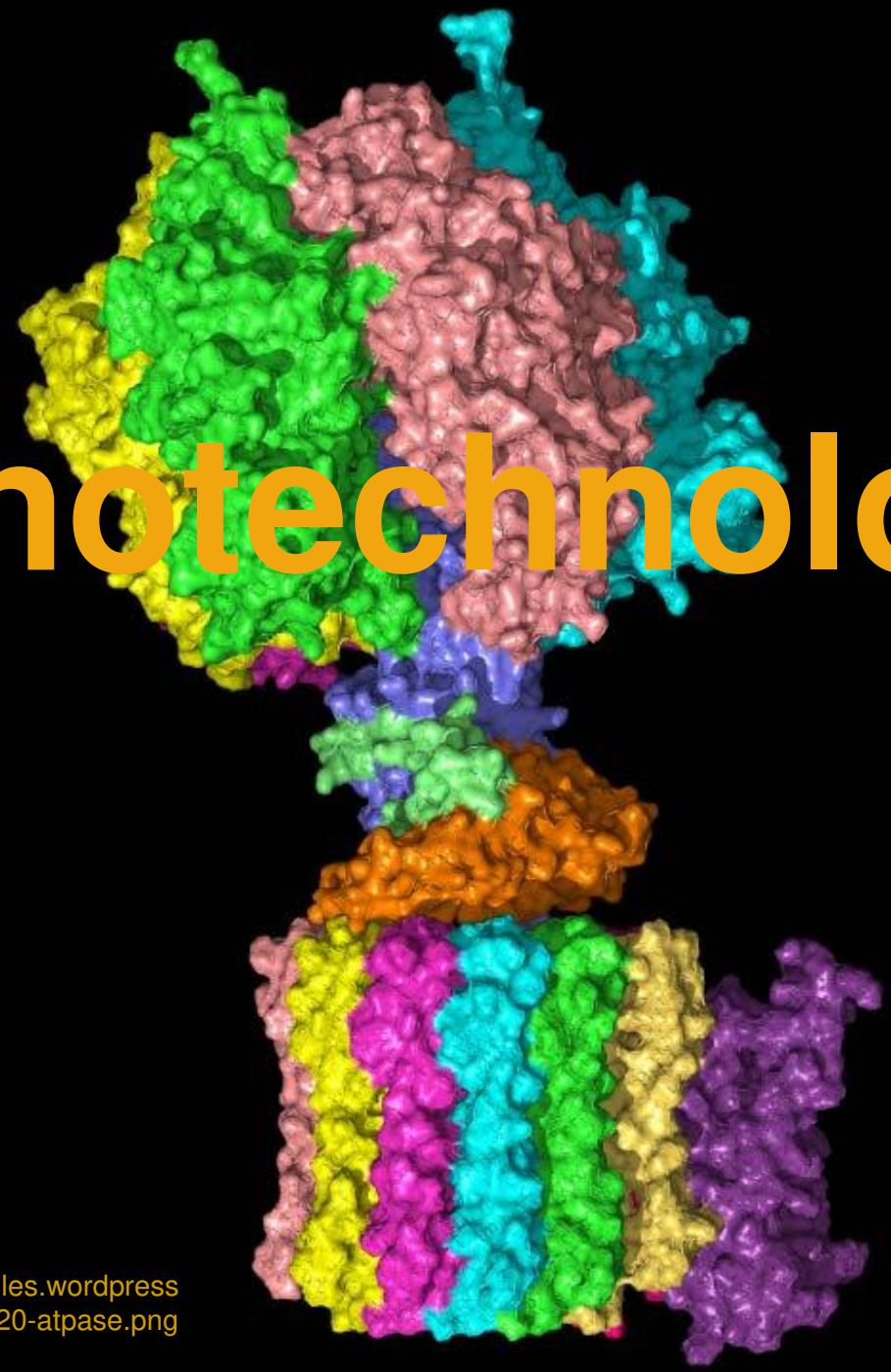
- Technology



- Legal principles

- Legal problems

Nanotechnology

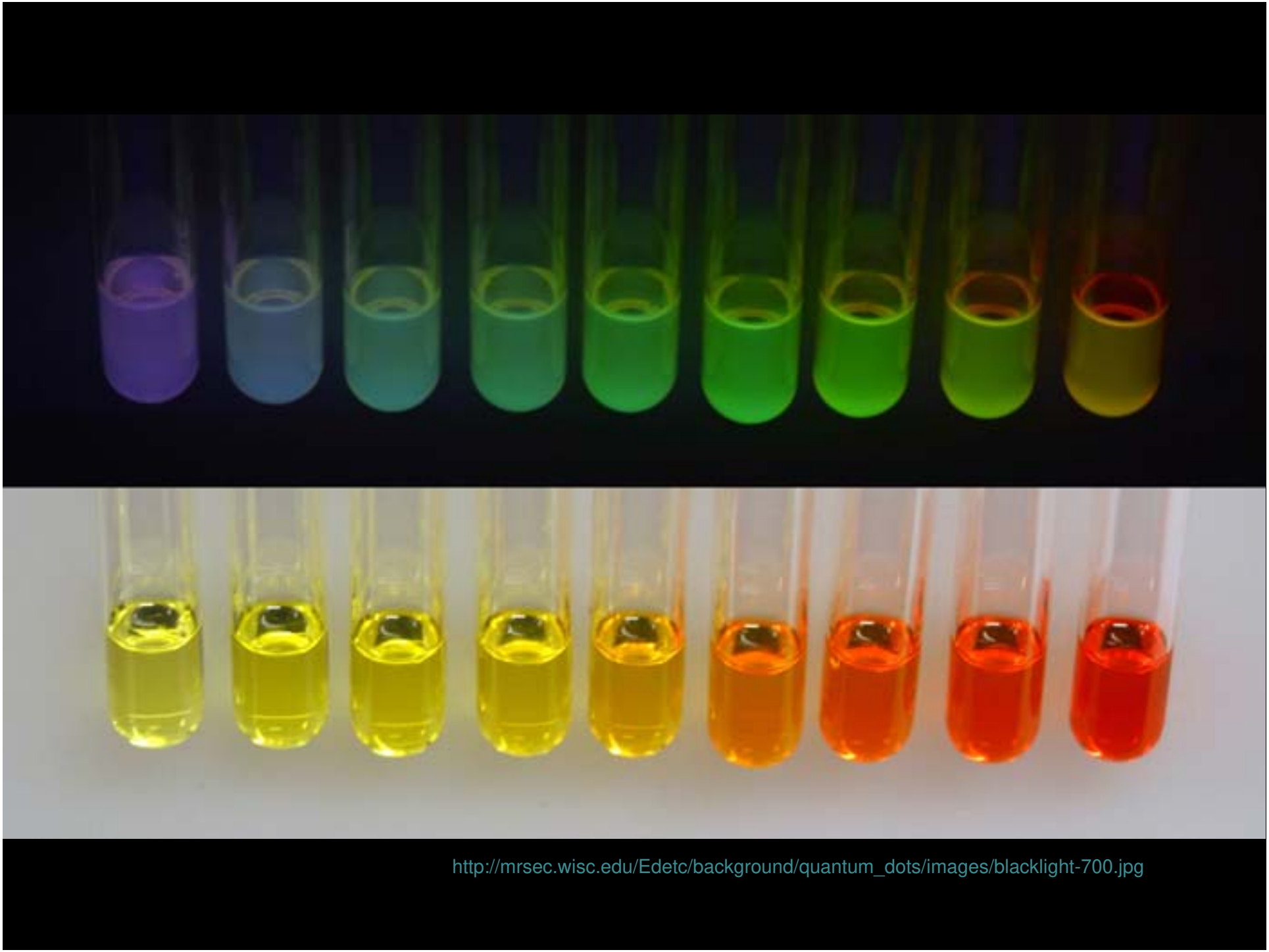


http://giantshoulders.files.wordpress
.com/2007/10/20071020-atpase.png

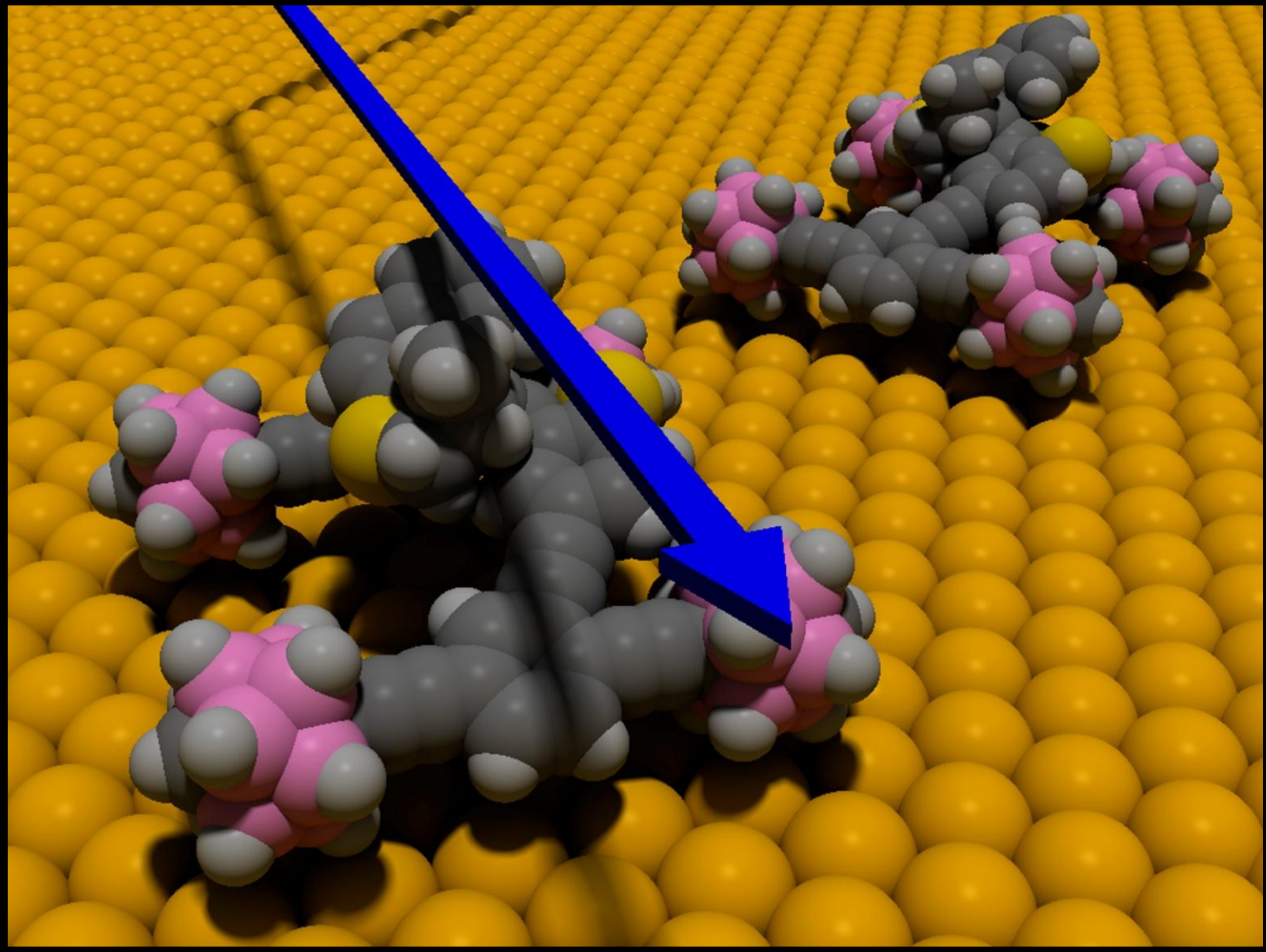
What is Nanotechnology?

[...] the term nanotechnology covers entities with a controlled geometrical size of at least one functional component below 100 nanometers (nm) in one or more dimensions susceptible to make physical, chemical or biological effects available which are intrinsic to that size.

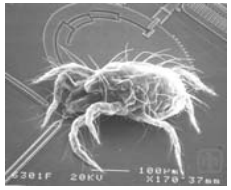
(EPO, Classification Y01N)



http://mrsec.wisc.edu/Edetc/background/quantum_dots/images/blacklight-700.jpg



www.jmtour.com/images/Nanocars/MotorizedNanocar3Dimage600dpi.jpg



Dust mite

200 μm



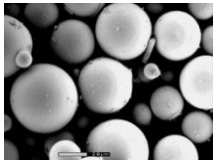
Ant

~ 5 mm



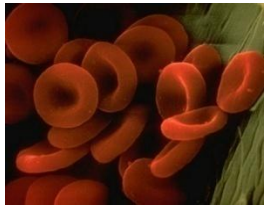
Human hair

~ 60-120 μm wide



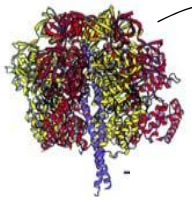
Fly ash

~ 10-20 μm

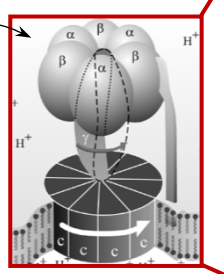


Red blood cells

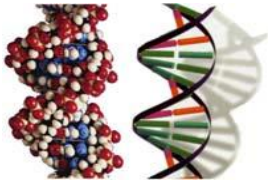
(~7-8 μm)



~10 nm diameter

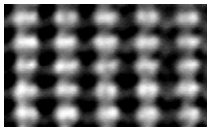


ATP synthase



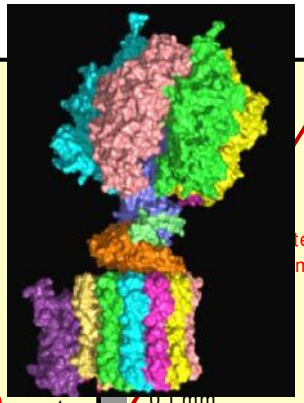
DNA

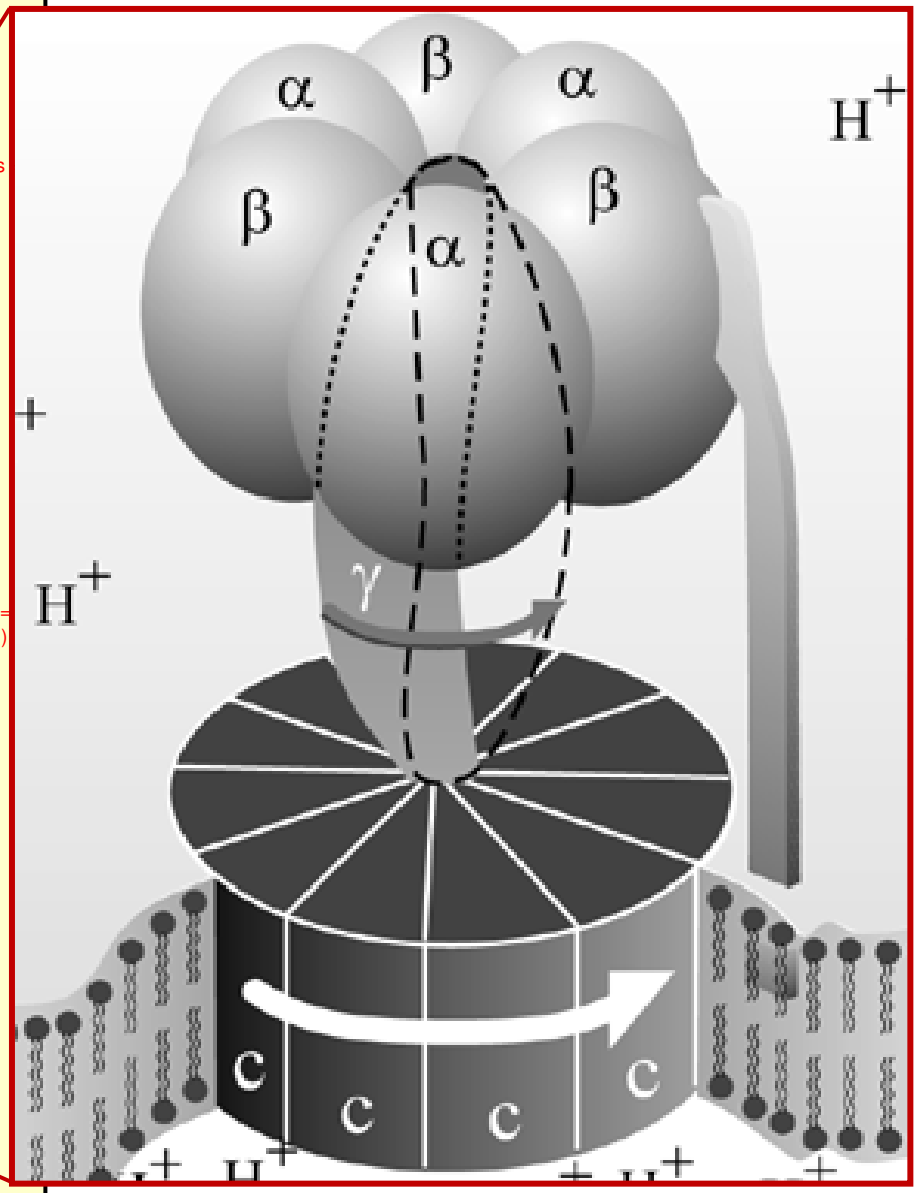
~2-1/2 nm diameter



Atoms of silicon

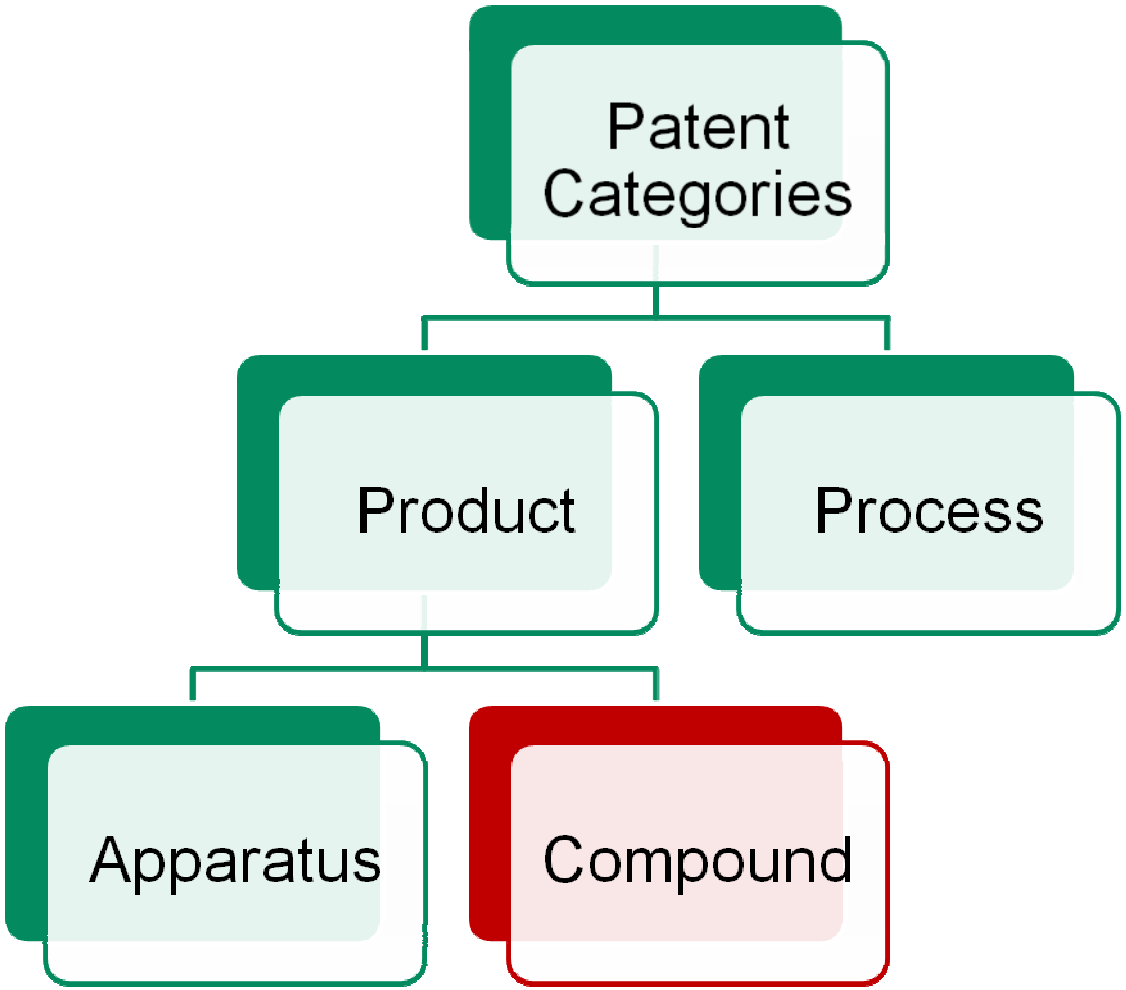
spacing 0.078 nm





Office of Basic Energy Sciences
Office of Science, U.S. DOE
Version 05-26-06, pmd

Basic: Claim Categories



cf Art. 64 (2) EPC

cf Art. 53 lit. c EPC

Problem: Compound versus Apparatus Claims

Art. 53 EPC
Exceptions to patentability

European patents shall not be granted in respect of:
(…)
(c) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods.

Art. 54 EPC
Novelty

(…)
(4) Paragraphs 2 and 3 shall not exclude the patentability of any substance or composition, comprised in the state of the art, for use in a method referred to in Article 53(c), provided that its use for any such method is not comprised in the state of the art.
(5) Paragraphs 2 and 3 shall also not exclude the patentability of any substance or composition referred to in paragraph 4 for any specific use in a method referred to in Article 53(c), provided that such use is not comprised in the state of the art.

Teaching Patent Law

Technology-specific law problems

- Show students current research topics
- Stir students' interest in patent law
- Are fun!

Three steps

- Give law students useful background knowledge
- Repeat basic legal knowledge
- Consolidate legal knowledge by discussing legal problems

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Thank you for your attention!