



Balancing Innovation and Competition: Thomas Jefferson’s View of Obviousness for Mechanical Inventions

Jefferson’s letter to [Isaac] McPherson showed that he weighed the marginal contribution of an invention against basic, foundational technologies, keeping in mind that a mere change of form—like changing fashions—should not be patentable.

You cannot get a patent for an invention if it would have been obvious to a person of ordinary skill in the art at the time. This is as true today as it was at the founding of our nation. The reason for this rule is clear—the obviousness-bar is necessary to balance rewarding innovation with free and fair competition. The Supreme Court has observed, alluding to the Constitution’s authorization for federal patents, “[w]ere it otherwise, patents might stifle, rather than promote, the progress of useful arts.” [KSR Int’l Co. v. Teleflex, Inc.](#), 550 U.S. 398, 427 (2007).

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