

# Functional Claiming

## In Software/Electrical Applications

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May 2017

# Key Dates in Functional Claiming

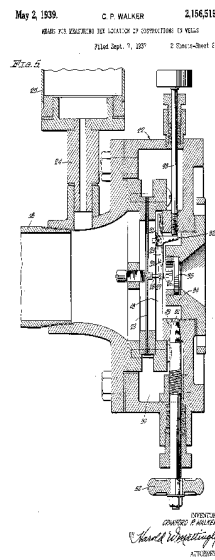
**1853**

*O'Reilly  
v. Morse*



**1946**

*Halliburton  
v. Walker*



**1952 - Present**



# Nonce Words

Mystery List A	Mystery List B
Mechanism for	Circuit for
Module for	Detent mechanism
Device for	Digital detector for
Unit for	Reciprocating member
Component for	Connector assembly
Element for	Perforation
Member for	Sealingly connected joints
Apparatus for	Eyeglass hanger member
Machine for	
System for	

# Nonce Words (cont'd)



A) Invoke Paragraph 6 (MPEP 2181)	B) Does <u>NOT</u> Invoke Paragraph 6
Mechanism for	Circuit for
Module for	Detent mechanism
Device for	Digital detector for
Unit for	Reciprocating member
Component for	Connector assembly
Element for	Perforation
Member for	Sealingly connected joints
Apparatus for	Eyeglass hanger member
Machine for	
System for	

# Example 1

- “security system control panel” a nonce term?



## Example 2

- Distributed learning control module



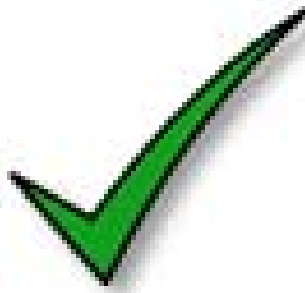
## Example 3

- Compliance mechanism



# Example 4

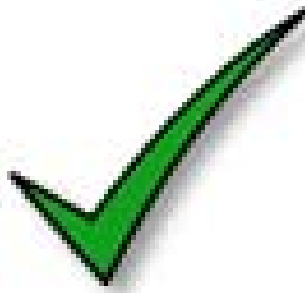
- Code segment





# Example 5

- Processor



# Practical Tips in Drafting

- ✓ Disclosure should show how a computer would perform each function claimed (for computer-implemented claims)
- ✓ Detailed flow chart, even in non-software specifications
- ✓ Disclose as many embodiments, variants and equivalents as possible for the invention
- ✓ Include inputs and outputs for each structure in your claim
- ✓ Include structure in claim (if you do not intend 112(6) treatment)
  - Description of memory, ports, etc.
  - However you may want to take advantage of doctrine of equivalents by providing equivalents in the specification

# Final Thoughts

No need to avoid functional claiming. Functional claiming allows the drafter to control the scope of the claim (through the specification).

- Functional claiming allows the prosecutor to maintain some degree of equivalents for elements amended for reasons of patentability

# Questions or Comments?



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