Determining Obviousness

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Q **When is a claimed invention "obvious"?**

A In the patent world, a claim is considered obvious (and therefore rejected or invalidated) if it recites nothing inventive to a hypothetical person of ordinary skill in the art at the time of the invention, who is familiar with the prior art (such as technical publications and other historic, public material) in the field. In general, obviousness weighs four factors: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations, such as the invention's commercial success, or the failure of others faced with the same problem. An experienced patent attorney can help you sort through the analysis in your particular situation.