

PHARMA Patents

The U.S. patent system seeks to do more than simply encourage the introduction of new products into American markets. There are costs associated with granting monopolies to patent holders and removing information from the public domain. To properly balance those costs against the social and economic benefits of the introduction of new technology, the Framers understood the Intellectual Property Clause to embody certain limitations. Patents may not be granted to non-inventors, and inventions in the public domain may not be removed from the public domain.²² Modern patent law reflects those understandings by granting patent protection only to inventors who have “invent[ed] or discover[ed]” technologies²³ that are useful,²⁴ novel,²⁵ non-obvious,²⁶