



Industry & Invention
Patent

Utility Patents Nonobviousness

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Nonobviousness

Nonobviousness how-to

SCOTUS in *Graham v. John Deere* says:

- Determine the scope and content of the prior art
- Note the differences between the prior art and the claimed invention
- Determine the level of ordinary skill in the art
- Consider secondary factors as well (the “Graham factors”)

Graham factors

- Commercial success
- Long-felt but unsolved need
- Failure of others
- Copying of inventor
- Unexpected results
- Skepticism of experts
- Acquiescence
- Adoption by industry

“[W]hen a patent ‘simply arranges old elements with each performing the same function it had been known to perform’ and yields no more than one would expect from such an arrangement, the combination is obvious.”

KSR v. Teleflex (U.S. 2007) (quoting *Sakraida v. Ag Pro* (U.S. 1976))