

Appendix 36.B: More in-depth patent information from patent specialist [Arleen Zank](#)

On patent terms — a patent's term is 20 years from the filing date. Since patent prosecution generally takes between 24 to 36 months the general rule of thumb is the inventor has protection for about 18 years once the patent is granted. Design patents which deal with the look of an article are valid for 14 years.

**Patent prior art** cites patent and non-patent literature. Non-patent literature is where the scientific and scholarly works live.

Patent citations include both patents and patent applications. The patents are more straightforward when dealing with both backward and forward citations.

Any US patent or patent application has must have an English language version to be eligible for examination.

Patents and non-patent literature cited by **examiner** have an interesting impact. Work cited by the examiner is work NOT cited by the inventor. If a scholarly article is relevant prior art and both the inventor and the examiner believe it is a valid prior art, the citation will appear on the patent but will NOT indicate that was cited by the examiner.

When patents and scholarly papers/articles are cited over and over again by an examiner it indicates seminal work in the area or at least work an individual examiner believes is foundational to the art they examine. Some patent people view the presence of many "cited by examiner" references as an indication that the inventor may not understand the art or, worse, that the examiner doesn't understand the invention. In the latter case it may be in truly novel innovation that sits outside of the norm of patented art. (That's what it's all supposed to be but...)

One of the things I do is look how often a work or patent is cited by the examiner to get an understanding of how important a piece of prior art work is in a particular patent classification. Cited by examiner gives researchers insight into another aspect of the Office's view on certain important scientific discoveries.

[RAP NOTE: There are similarities in the analysis of patents with scholarly articles. In analyzing journal articles, we look at metrics such as citation half – life and self-citations.]

An interesting patent and non-patent citation characteristic to look at is how long did it take before an older patent or scholarly article started appearing within a patent. This is a measure of both scientific dispersion and of emergence of innovative trends. One metric in this area is Technology Cycle Time (TCT) — the median age of citations on a patent.

Another element that appears on academic works is self-citation. Self-citation is a double-edged sword in the academic patent world. Some analysts look at it as a way to look at a continuum of academic work from a group of inventors or a university. Others view it as problematic because it means the inventors are unaware of other developments in their scientific space.