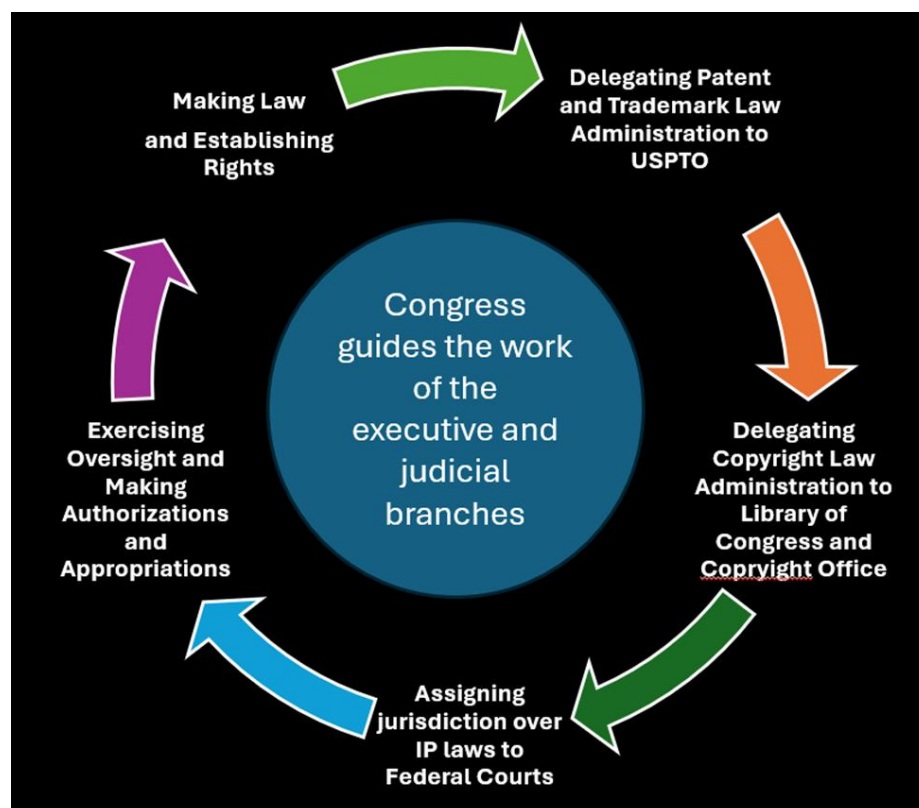


Key Concepts in IP Policy: Congress Sets the Rules/Administrations Implement Them

- Congress **makes laws** establishing IP property rights.
- Congress **authorizes and appropriates** for executive branch administration of statutory IP rights, including examination of applications and grant of titles.
- Congress establishes relevant **jurisdiction** in the federal courts.
- Congress authorizes executive branch participation in **international conventions**, approving and overseeing agreements.
- Congressional committees of jurisdiction **exercise oversight** of IP administration and Congress revises law as it deems necessary.



- Executive branch IP agencies are established and authorized in law.
- The U.S. Patent and Trademark Office administers trademarks and patents, including examination and issuance of title to rights.
- The U.S. Copyright Office, within the Library of Congress, administers copyright including examination and issuance of title to rights.
- Federal courts have been granted jurisdiction to adjudicate IP matters, including trade secrets disputes, alongside newer administrative adjudication functions.
- IP agencies work within inter-agency processes to negotiate and participate in international conventions.

Patent Application and Examination

Congress has exercised its constitutional authority to mandate that new inventions and discoveries—and “improvements thereto”—must go through a rigorous process of official review **before** a patent can be granted:

When a patent application is filed with the **U.S. Patent & Trademark Office**, “there are a number of legal requirements that must be met, including *novelty* (35 U.S.C. 102), *utility* and *eligibility* (35 U.S.C 101), *non-obviousness* (35 U.S.C. 103), and *written description* (35 U.S.C. 112)...”

- **Eligibility:** Does the claimed invention or discovery fit the statutory definition of a new and useful *process*, *machine*, *manufacture* or *composition of matter*, and avoid judicial carve-outs?
- **Patentability:** Has the claimed invention or discovery been shown to be *new*, *useful*, and *non-obvious* to a “Person of Ordinary Skill in the Art” (POSA)?
- **Enablement:** Was the invention adequately disclosed (described) in the application such that the POSA could follow the steps to re-create the invention?

A patent examiner, “review[s] the contents of the application to determine if it meets all legal requirements for a patent to be granted. The examination consists of a study for compliance with legal requirements... and a search through U.S. patents, publications of patent applications, foreign patent documents, and available literature.”

“This is to see if the claimed invention is new, useful, and non-obvious, and if the application meets patent statute requirements and rules of practice.”

U.S. Patent & Trademark Office - “Patent Process Overview”

