

ARTIFICIAL
INTELLIGENCE
AND THE FUTURE
OF THE
INVENTIVE-STEP
IN PATENT LAW

INVENTIVE-STEP: EU

- Art. 52 EPC: European patents shall be granted for any inventions, in all fields of technology, provided that they are new, involve an inventive step and are susceptible of industrial application
- Art. 56 EPC: An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

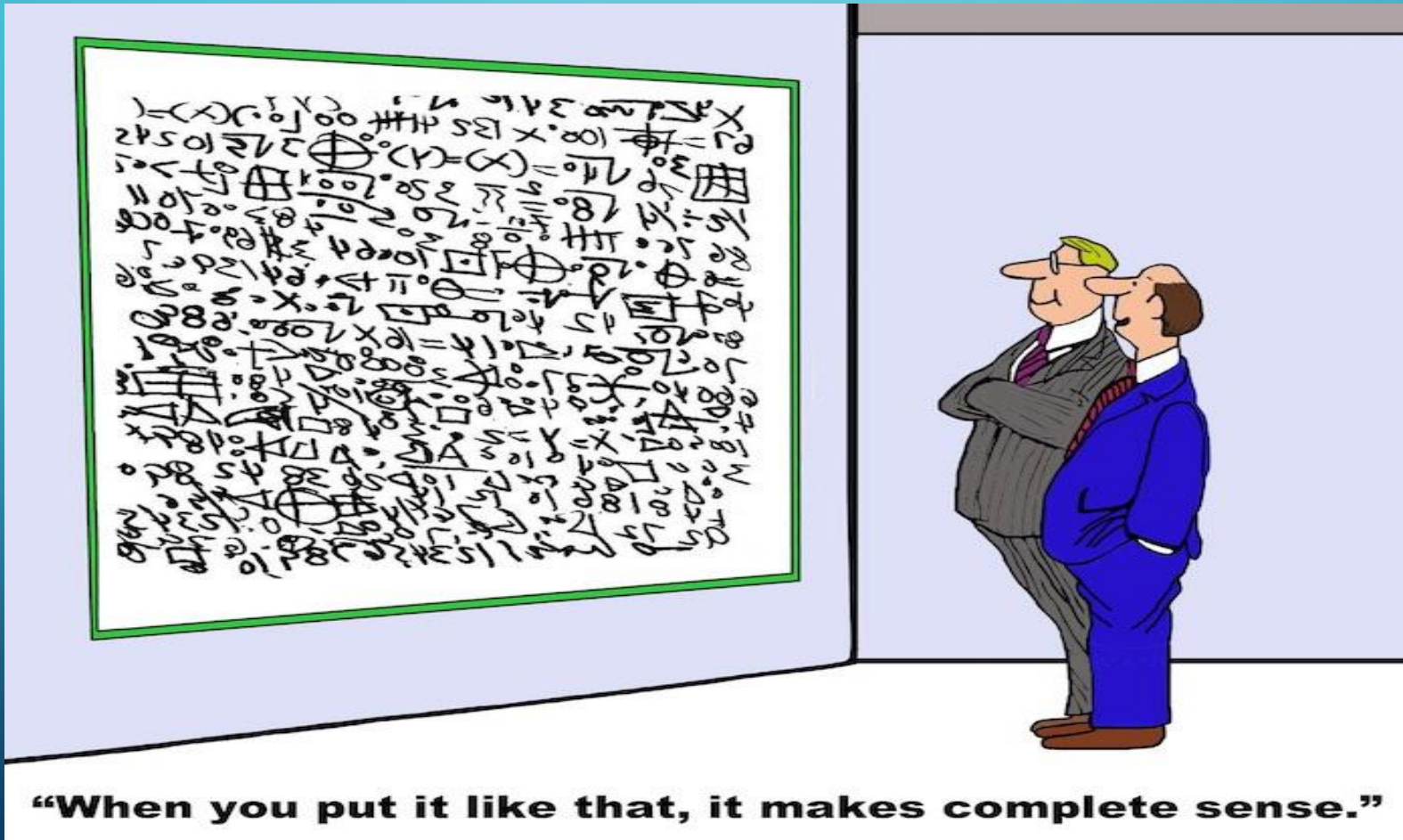
NON-OBVIOUSNESS: USA

- A patent may not be obtained [...] if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains

INVENTIVE LEVEL: RUSSIA

- II.4.1: The invention shall enjoy legal protection if it is novel, possesses an inventive level, and is industrially applicable. [...] The invention shall be deemed to have an inventive level, if it is evident to a specialist that the invention does not come from the technological level.

PHOSITA = PERSON HAVING ORDINARY SKILL IN THE ART

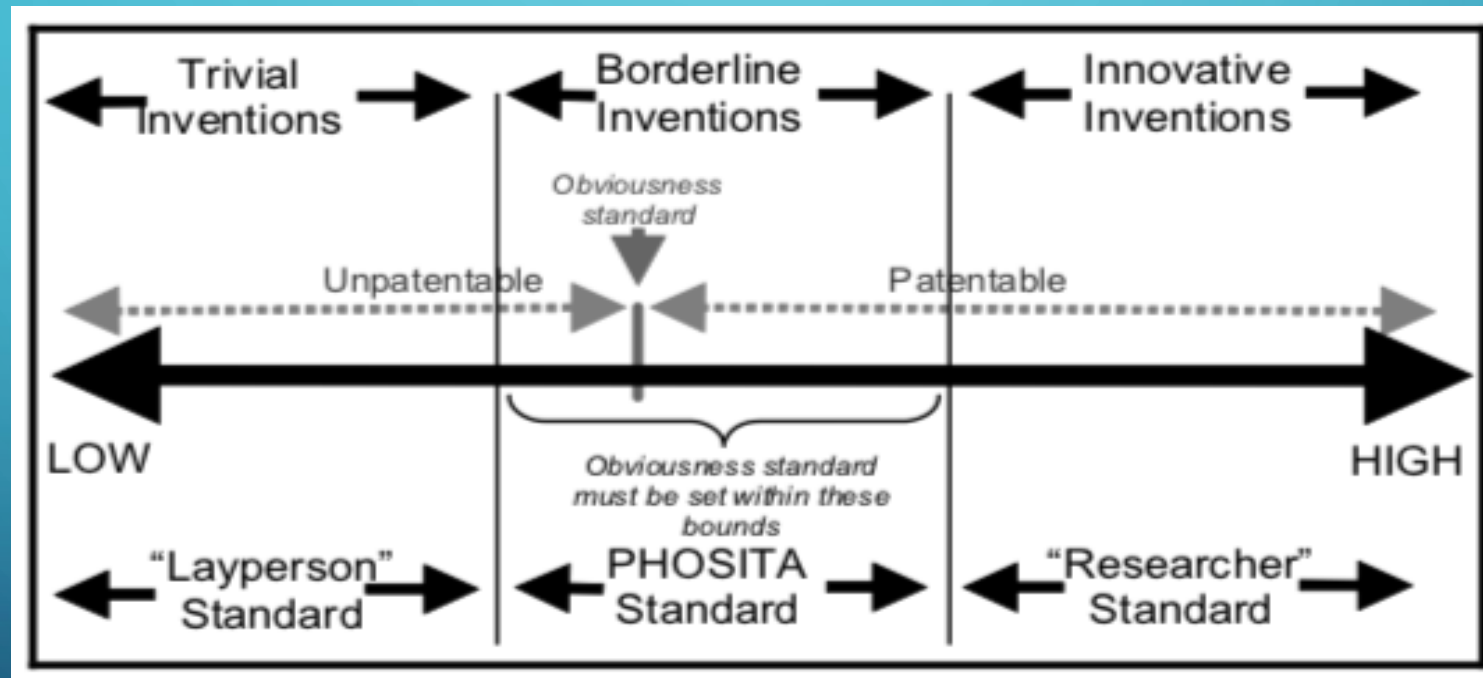


PHOSITA STANDARD

- the “person skilled in the art” should be presumed to be a skilled practitioner in the relevant field of technology, who is possessed of average knowledge and ability and is aware of what was common general knowledge in the art at the relevant date

(Epo, GUIDELINES FOR EXAMINATION, Part G, Chapter VII)


INVENTIVENESS THRESHOLD



FROM PHOSITA TO MOSITA?



EXAMPLE: DRUGS DEVELOPMENT



Atomwise
Better medicines faster.

Atomwise Launches Ebola Initiative

Atomwise and IBM are rapidly seeking new treatments for Ebola and analyzing all existing human medicines for their potential against the virus.



BenevolentAI | **AstraZeneca**

Identifying New Treatments for Chronic Kidney Disease & Idiopathic Pulmonary Fibrosis



Life Sciences

IBM and Pfizer to Accelerate Immunology Research with Watson for Drug Discovery

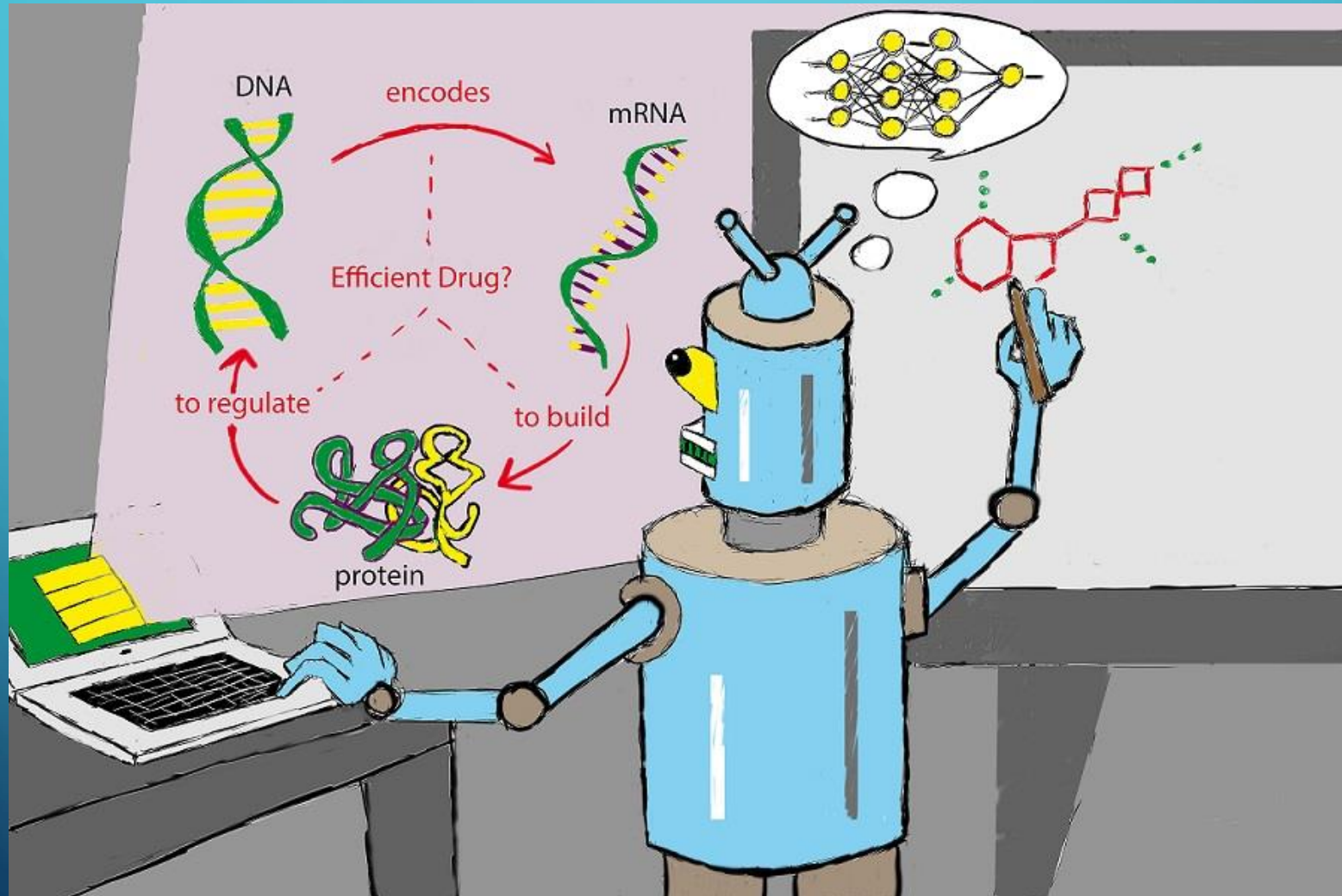


Revivestill

Unlocking the value of metabolomics through Artificial Intelligence

We are Passionate about Translating Metabolomic Data into the Right Therapeutics for the Right Patients

EXAMPLE: PHARMACEUTICAL INVENTIONS



SECONDARY CONSIDERATIONS

- Graham v. John Deere, 383 U.S. 1 (1966)
- EPO Guidelines for examination, G-VII.10
- Russia ?

EXAMPLE: LONG-FELT BUT UNSOLVED NEED

