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Chapter 1 : Free Ebook: The Inventor's Bible, Fourth Edition: How to Market and License Your Brilliant Ideas

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Book review by Bill Bazik, Inventors Connection of Greater Cleveland Inventors Connection of Greater Cleveland If you have developed your invention to the stage where it is "proven to be functional and is sound from an engineering standpoint", how do you license a company to manufacture and market it? This book may provide you with the information needed for you to license your invention. The author points out that while every case is unique, generally speaking, licensing an invention is an easier route to go than outright sale or attempting to manufacture your product yourself. He explains how your "know how" may be an important ingredient in your licensing deal. In fact, you may make more money from consulting fees than from the patent itself. Docie stresses the importance of using common sense and that communicating effectively is vital to your success. He points out there is a vast amount of information out there that can be had -- and often at very low cost. Emphasis is placed on the value of locating the key people in the industry that would use your invention and of finding "champions" within the companies who will support your efforts to license your invention. Each industry has its own system of distribution. You can and must determine how your invention fits into the scheme of distribution. Also, understanding how the needs of catalog or mail-order markets differ from retail channels can be a key bit of knowledge. Attending trade shows can yield important information as to who the key decision makers are at various companies. Docie gives tips as to how attending these trade shows can be done on a surprisingly low budget. Once you have determined possible licensees, which are the ones to contact? He gives an 8-point check list for selecting potential licensees and a list of 7 cautions to guide you in your first conversations with the key decision makers. This is followed by a list of 26 questions regarding market information such as how a company has worked with outside inventors , what their manufacturing capabilities are and company background questions. He cautions you must clearly explain your invention but at the same time not give away any trade secrets or confidential information. A disclosure agreement form that has served him well is reproduced. The book suggests ways to realistically calculate manufacturing costs and why "approaching the engineering department may be the kiss of death". The pros and cons of the new patent office system of provisional patent applications are given. An example of an actual submission letter used by Docie Marketing is reproduced. A sample of a non-exclusive license contract is also reproduced. Various licensing strategies, factors and how to negotiate licensing agreements are discussed. The author does not pull any punches. He includes in the "rip-off" category some patent attorneys who fail to point out to their clients that their patent claims may be so weak as to make their patent commercially worthless. He lists 13 factors inventors should consider in selecting an evaluation service firm. Three case histories give, in detail, examples of the chills, fevers and glories that can take place when you go down the road negotiating a license to your invention. For example, how should you deal with the shock of a patent office rejection of your application for a patent? How would you deal with 18 companies copying your item? The author found himself in exactly that situation and came up with a solution. How do you decide when or if your patience and persistence are stretched to the point of violating common sense? The author suggests many inventors could learn a lot from television detective Columbo -- ask a lot of questions, listen and say no more than necessary. The last chapter has 11 pages of up-to-date resources available to inventors. Reading this book, or any book, will not make you a licensing expert, but it will alert you to many of the landmines out there. The pretentious vocabulary some writers seem prone to is avoided.

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The data for Trinidad and Tobago are given only to illustrate the situation of a small, developing country. Arguments for patent protection Arguments to justify the patent system have been based on natural law , on moral requirements, or on economic considerations. Economic considerations weigh the objectives which patent protection is to serve, the benefits which society is likely to obtain, the excess of these benefits over social cost, and the superiority of the patent device over alternative means to the same end. The public-relations schemeâ€™ admitted to be such by Stanislas de BoufBer when he proposed it in introducing the French patent bill of â€™was successful. It persuaded the public to regard patent protection not as a government intervention designed for a purpose but, rather, as an integral part of the institution of private property; not as an enforcement of a monopoly granted by the state but, rather, as a prevention of theft. The moral obligation to reward inventors The moral argument for patents assumes that the system is the best possible way in which society can meet its moral obligation to secure to each inventor his just reward. Critics of this position have questioned whether justice calls for such material rewards and also whether the patent system is the best method of securing them. The critics contend that the development of technology is largely a cumulative process to which manyâ€™ scientists, technicians, and tinkerersâ€™ contribute in succession until a particularly lucky one happens to put the finishing touch to a novel art. Classical economists, especially Bentham and J. Mill, argued that the material reward which a patent can secure for the inventor is fair and just in that it is proportional to the service the inventor has rendered to society. Critics deny that the rewards are commensurate with the achievement. Some of the greatest inventions are ahead of their time and, since their practical application will be deferred, no earnings can be expected from their use within the period of patent protection. Even where inventions can be used without delay, no close relationship, let alone a proportional one, can be expected between the earnings from their exclusive use and the benefits accruing to society. The earnings are associated with the optimum restriction on use rather than with the social optimum of utilization. The profits derived from a patent monopoly cannot be indicative of the social benefits derived from the invention it covers. This does not mean that expert appraisers estimating the social contribution of inventions would be more successful. Criticisms leveled against the moral argument for patents need not apply to the various economicincentive arguments. Incentives, to be effective, need not be just: Compensation for disclosure of secrets One of the economic arguments for patents emphasizes the benefits society can derive from the disclosure of secret technological information made public through the patents. Rogers , among others, on the ground that it is a rather poor bargain for society. The contract theory held that protection of exclusive use for 14 to 20 years was justified because supposedly this was the average length of time during which a user of a secret technology could expect to keep it secret. The critics objected that this average duration of secrecy becomes a sham if each inventor has the choice of taking the patent or keeping his secret, for he will patent only what he cannot expect to keep secret. Society thus fails to secure disclosure of safe secrets but agrees to grant monopolies restricting the use of technologies that could be found out and made available for general use. The argument for patent protection as an incentive to disclose technological secrets also includes another effect of early disclosure: Other versions of the argument stress the indirect effects of disclosure. Early disclosure may give other inventors new ideas, not for alternative techniques of making the same products but for entirely different processes or products, perhaps in different industries. In addition, the dissemination of technological information in the descriptions of inventions may serve to bolster general technical knowledge and curiosity. Critics have asked whether such benefits could not obtained at lower cost by other institutions or methods. Another aspect of this argument deserves consideration: How important this is, no one knows. Incentives for inventive activity The classical, traditional argument for patents stresses that the promise of patent monopolies is an incentive to engage in inventive activity. The argument presupposes 1

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that without government intervention society would undertake less inventive activity than was good for it and 2 that patent protection is the best possible form such intervention can take. Differently defined, however, perfect competition allows for natural delays and normal friction, and so does not imply immediate imitation. The innovator may then have a natural head start in the practical application of a new invention even without patent, for it takes time until competitors can examine the product, detect the technology used, build the plant and equipment required to produce it themselves, and bring their competing product to the market. In the meantime the first user may have made enough profits to pay for his efforts. This was the counterargument made by Schaffle. Competition, moreover, is seldom perfect, even in the absence of patent monopolies. Those who recognize that the state should promote invention may nevertheless reject the assumption that patents are the best method for the purpose. They may hold that prizes and bonuses for important inventions, or subsidies and government contracts for research and development, can serve the purpose more efficiently and at lower cost to society. These alternative methods can do what the patent system cannot, namely, promote technological progress in selected areas. Arnold Plant and others have said that the patent system serves chiefly to steer inventive efforts into different channels, away from industries in which improvements rarely take the form of patentable inventions and toward industries that are favored by the requirements of patentability. Only by coincidence will these be the industries in which inventive efforts would be most productive for society. Selective promotion of technological advance through direct government support of research and development has therefore become the principal approach to the problem, at least in the United States. The need for and effectiveness of patent protection as incentive to inventive activity has been questioned for economies in which large corporations employ salaried inventors in large laboratories. It is held, however—“for example, by John Jewkes—that the patent system still serves its traditional purpose in protecting independent inventors and small producers who could not survive without this protection Jewkes et al. Incentives for development and investment The cost of postinventive development has become so large relative to the cost of strictly inventive activity that the arguments for patent protection have changed. The emphasis has been shifted from promotion of invention to promotion of development and innovative investment. Patent protection, it is now said, serves less as an incentive to engage in inventive activity than as an incentive to undertake the large investments needed to develop inventions, make them usable in mass production, construct pilot plants, create mass markets, and build the productive facilities to supply the goods. These outlays are said to be so large and so risky that they would not be undertaken without patent protection against competition. Critics of this argument point to large innovative investments in many industries in which there are no important patents. One cannot deny, of course, that there may be investments which would not be made without the hope of monopoly profits derived from patent protection. The question is whether these investments are more productive or socially more beneficial than other investments. Why should investments that are made attractive only by patent protection be more productive, from the point of view of society, than alternative investments which, if they were not placed at a disadvantage by the incidence of patent protection, would be the highest bidders for available funds? There is no reason why it should be socially desirable to divert investment funds from industries without patents to industries with patents. The theory of a general lack of investment opportunities has also been adduced to support the argument that patent protection is needed as an incentive to invest. Investable funds might go begging, it is said, and savings might find no outlets, if it were not for the profit opportunities afforded by patents. Sources of investable funds Another argument for patent protection is that firms sheltered from competition will, thanks to their higher profits, have larger funds available for investment than will firms exposed to competition. The contradiction disappears if the alleged scarcity is meant to relate to a desired rate of progress, for one may hold that progress is accelerated if firms have more funds as well as more opportunities to invest. Monopoly positions due to existing patents afford a larger flow of funds to firms, which will be induced to use these funds for activities that will, by leading to additional patents, perpetuate and strengthen their monopoly positions and, in the process, enhance technological progress. This theory as Schumpeter observed in a short discussion in *Capitalism, Socialism,*

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and Democracy ,may justify not only patent protection but also other restrictions on competition. Excess of social over private benefits Most economic arguments for patents can be formulated as applications of the standard justification of government intervention in a competitive market economy: Where the private marginal product of an activity is smaller than its social marginal product, while private marginal cost is not correspondingly below social marginal cost, the state can increase total welfare by promoting the allocation of additional resources to that activity. If a new process or product can be imitated by competitors without delay, and output is not limited by any monopolistic restrictions, the market price of the product of the new technology will soon fall to the level of its production cost. They are sunk costs; they do not increase as the use of the new technology is increased. Thus, under unlimited competition, output will increase and price will fall to the competitive level, which does not allow recovery of sunk costs. But its private value will approach zero if it can be used without restriction. Thus, while consumers will benefit, the inventors, developers, innovators, and their financiers may get insufficient returns on their investments of time and money. Intervention attempts to compensate for the shortfall of the private below the social marginal productivity of inventive and innovative activities. This is a cogent argument for promoting invention, but not necessarily for patent protection; other methods of encouraging, subsidizing, or financing inventive activity may well be more efficient or less costly. The bias inherent in the patent system in favor of technologies that happen to satisfy the requirements of patentability is one of the defects of the system. Another is that the system tries to promote the creation of technical knowledge by restricting its use. What is wanted is a system that does not discriminate between types of technology or operate by restricting the application of the inventions that it stimulates. The patentee may succeed in extending the scope and strength of the monopoly beyond the limits consistent with the social objectives of the system—especially, beyond the control of the use of a single invention supposedly in competition with other inventions—to achieve control of an entire industry or of the markets of other goods not covered by the patent. Control sometimes is extended to markets for products not covered by the patent through the use of tying clauses in licensing agreements, chiefly in order to increase monopoly revenues by means of price discrimination [See Monopoly]. For example, by selling a material that must be used on a patented machine at a monopoly price, the seller collects more from those who make heavy use of the machine than from those who make less use of it, although the cost of making and using the machine is the same no matter who uses it. Patent pooling arrangements, sometimes necessary in order to permit the efficient use of complementary inventions controlled by different firms, have often been the vehicles for highly restrictive cartel agreements. Indignant complaints have been raised against the use of patents to oppress weaker firms by harassing litigation or threat of litigation and against the use of license agreements to bind competitors or customers not to contest the validity of dubious patents. Nonworking and insufficient working Nonworking of patented inventions has been high on the list of grievances against patent protection. In the first category are inventions of nonmarketable articles, inventions of processes that are inoperable or too expensive, and inventions of alternative processes, instruments, or products that are not superior or perhaps are inferior to those in actual use. Neither the patentees nor anyone else may want to use such inventions. If others do want licenses that a producer holding the patent refuses to grant, although he himself does not use the invention, one may suspect a case of suppression. This prima facie indication could be rebutted by showing that the applicants would not use the invention either, if they could freely choose among all known technologies, including the ones used by the producer who refused to license. In the absence of any applications for licenses, suppression of inventions is difficult to prove: The proof might be feasible for cost-saving inventions, but hardly for product-improving ones; after all, cost calculations can be checked, but demand estimates are mere conjectures. Compulsory working—a threat of revoking patents not worked after a few years—may operate like a protective tariff, leading to uneconomic uses of resources. For this reason, compulsory working was replaced, as a remedy for domestic nonuse of patented inventions, by compulsory licensing of the patents to those interested in taking up production. In Germany such actions have been taken to facilitate the use of dependent patents, that is, of patents covering inventions that could not be worked

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without license under a patent held by someone else. In the United States compulsory licensing has sometimes been ordered by the courts in cases in which patentees have used their patents in violation of the antitrust laws. This is difficult, for institutions are rarely eliminated without something else taking their place. If there were no patent system, what would be done to protect industrial secrets; to prevent the raiding of personnel with special know-how; to maintain, strengthen, or weaken the market positions of the technologically most progressive firms; or to support research and development by trade associations, by government bureaus, and by individual firms? Thus, should one analyze the benefits and costs of the patent system on the assumption that there would be other ways of promoting technological progress or that there would be nothing of the sort? Obviously, arbitrary assumptions cannot be avoided. Social benefits One may attribute to the patent system all additions to the national product that are obtained through the use of such technology as is invented, developed, or put to use thanks only to patent protection, actual or expected. Not all inventions actually covered by patents owe their existence or utilization to the patent system. Many inventions would have been made in any case. On the other hand, some inventions not covered by patents may have been inspired by patented technology or stimulated by the hope for patents. Per contra, the patent system may have prevented some inventions from being made or used; for example, if the strong patent position of one firm discourages others from working in the particular field. The most important distinctions are between 1 inventions which, without patent protection, would never have been made or used; 2 inventions which, without patents, would have been made or used only at a later time; and 3 inventions which would have been made or used at the same time. The additions to national product that are due to the third category of invention cannot be credited to the patent system; and those due to inventions of the second category can be credited only for the years of earlier use.

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Chapter 3 : The Patent Guide: How You Can Protect and Profit from Patents, 2nd Edition - Free eBooks D

Related Book Epub Books Patent It Yourself 4th Ed How To Protect Patent And Market Your Inventions: The Virgin Of Guadalupe Art And Legend - Mashed Beyond The Potato.

For information on pharmaceutical pricing and state funding, manufacturing, marketing, clinical trials, advertising, labelling, and product recall and liability, visit Medicinal product regulation and product liability in Germany: What are the legal conditions to obtain a patent and which legislation applies? Which products, substances and processes can be protected by patents and what types cannot be patent protected? Conditions and legislation Patent protection for Germany can be obtained through different national and international routes. However, irrespective of the selected route, a medicinal product is only suitable for patent protection if it is or involves an invention, and the invention is new, involves an inventive step and is capable of industrial application. Further, clear and complete disclosure of the invention is mandatory. A national German patent can be obtained under the Patent Act Patentgesetz and a number of national ordinances Verordnungen , providing in particular further details on the filing and application requirements. The Patent Act governs in particular the aspects of patentability, opposition, infringement and invalidity proceedings, as well as licensing. The GPPH will significantly reduce the duration of patent applications in the currently 25 participating patent offices. In Germany, inventions can also be protected as utility models under the Utility Model Act Gebrauchsmustergesetz. A utility model is similar to a patent. A utility model also requires an invention, novelty of the invention, an inventive step, and the invention must be capable of industrial applicability. It can be obtained a lot faster and cheaper than patent protection. The main reasons are that the requirements mentioned will not be reviewed during the application procedure. Further, the term of protection is shorter up to ten years. Often, the owners of inventions apply for both utility model and patent protection in order to obtain protection quickly and so that it is long-lasting. Most inventions, especially when it comes to medicinal products, are made by employees in the context of their employment. Germany provides for an Employee Invention Act Arbeitnehmererfindergesetz which needs to be considered in that context. Under the Employee Invention Act all commercial rights as to a relevant invention transfer from the employee to the employer, unless the employer rejects the transfer within four months after proper notification of the invention. In case of a transfer, an employee, in addition to its regular salary claim, has a separate compensation claim against its employer. The calculation of the compensation claim is governed by official guidelines. To be able to comply with the Employee Invention Act, companies are strongly advised to set-up an employee invention programme. Patent protection for Germany can also be obtained through international routes, in particular under the European Patent Convention EPC. The EPC is an international treaty. It allows applicants to obtain patent protection in the 38 EPC member states by filing a single patent application. However, at the end of the application process the applicant does not become the proprietor of one single patent valid for up to 38 member states. An EPC patent only gives its proprietor the same rights as conferred by a national patent granted in a specific EPC member state. Therefore national law, in Germany the Patent Act, is the relevant legal basis when it comes, for example, to an infringement or a revocation of an EPC patent in a specific EPC member state. By filing only one PCT patent application, applicants can start the process to seek national patent protection in up to countries, including Germany. After decades of controversy, in most EU member states had agreed to create and implement a ground-breaking European patent system consisting of the European patent with unitary effect Unitary Patent , and a corresponding new court system, the Unified Patent Court UPC. In June and June , however, two obstacles occurred which currently put on hold the entire process: The two regulations are already in force. However, they only apply as of the date of entry into force of the UPC Agreement. As of the first quarter of , 15 member states, including France, have already ratified the UPC Agreement. The Unitary Patent will be a further option for obtaining patent protection in Germany and many other EU member states, that is, the Unitary Patent will not replace any of

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the above options for obtaining patent protection. However, the Unitary Patent will be a single right for the participating EU member states, governed by the same set of rules in any of these countries. If patent holders do not want their patents to be Unitary Patents, there will be an option to opt-out from the exclusive competence of the UPC during a transitional period of seven years. Scope of protection Pharmaceutical inventions can be protected as product substance claims. Such claims can refer to, for example: An active ingredient of a medicinal product. A combination of active ingredients. A composition containing one or more active ingredients. An ancillary substance necessary for converting an active ingredient to a medicinal product. An interim production product. Methods for treatment of the human body by surgery or therapy and diagnostic methods practised on the human body are excluded from protection. However, products for use in any of these methods can, generally, be patented. Therefore, a product in the state of the art is still patentable for use or specific use in one of such methods, provided that its use for any such method is not in the state of the art "X for use in treating Y". In other words, first and second medical use patents are permissible. The manufacturing of an active ingredient or a medicinal product can be protected by a process claim. Process claims cover the process as such but also the direct product of a process. The options to obtain patent protection for biotechnological inventions are relatively limited. The human body, at the various stages of its development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, are not patentable. However, an element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, can be a patentable invention. Plant and animal varieties as well as essential biological processes for manufacturing plants and animals can, generally, not be patented. However, it is possible to patent inventions which concern either: Plants or animals, if the technical feasibility of the invention is not confined to a particular plant or animal variety. A microbiological or other technical process, or a product obtained by means of such a process. How is a patent obtained? Applications for an EPC patent can also be filed with the central intellectual property office or other competent authority of an EPC member state if the law of that country so permits or prescribes, that is, in Germany with the GPTO. It is very likely that the application proceeding will be the same for Unitary Patents. The WIPO website is available at www.wipo.int. Process and timing The GPTO reviews whether obvious obstacles to patenting exist, examines the substantive patentability and, if the application fulfils all requirements, grants the patent. The GPTO claims that the patenting procedure for national German patents takes about two and a half to three years on average, provided that the examination request has been filed within four months from the filing date and the examination fee has been paid. In practice, the duration of the proceeding very much depends on the technical sector and the complexity of the innovation and the patent. The EPC patent application process starts with an examination on filing followed by a formalities examination. At the same time a search report is prepared and sent to the applicant, together with a copy of any cited document and an initial opinion as to the compliance of the application with the EPC. The application is published often together with the search report 18 months after the date of filing or the priority date. Upon request of the applicant for a substantive examination or at least a confirmation of an earlier request, the substantive patentability is reviewed. If the EPC patent is granted most contracting states, for the patent to retain its protective effect and be enforceable in case of infringements, require that the patent must be validated in accordance with national law and requirements. The EPO says that the international part of the procedure takes about three to five years from filing of the application. The time required for the national validation in, for example Germany, needs to be added. How long does patent protection typically last? Can monopoly rights be extended by other means? Duration and renewal The maximum term for patent protection in Germany is 20 years for both national German and German parts of EPC patents. In each case annual renewal fees need to be paid after the third year. However, it is possible to obtain various SPCs to cover different member states. The SPC Regulation provides for a mechanism to extend protection for up to five years for medicinal products, and for up to five and a half years for medicinal products for paediatric use after the expiration of a respective patent. An SPC can be obtained if the filing deadlines and the other formal requirements of the application are met and: The

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active ingredient or combination of active ingredients of a medicinal product Product for which SPC protection is requested is protected by a patent in force. A valid marketing authorisation for the Product has been granted in accordance with the regulatory regime applicable for the medicinal product, and the marketing authorisation is the first one to place the Product on the market as a medicinal product. The Product has not already been the subject of a SPC. How can a patent be revoked? Both national German and EPC patents can be revoked in opposition proceedings and nullity actions. For national German patents, an opposition can be filed within nine months after the date of grant of the patent has been published. The opposition must be filed with the GPTO. An opposition against an EPC patent can be filed within the same deadline. The opposition must be filed with the EPO. Such actions can only be filed after the deadline for filing an opposition has expired. An exclusive list of grounds for an opposition and for an action for revocation of a patent exists, for both national German and European patents. Lack of patentability, for example, because the invention is not new, does not involve an inventive step, or is excluded from patent protection such as discoveries, scientific theories and mathematical methods. The patent does not disclose the invention in a sufficiently clear and complete way for it to be carried out by a skilled person. The patent extends beyond the content of its application. For oppositions against national German patents and for actions for revocation of national German and the German part of EPC patents, in case of an illegitimate usurpation, in particular if the essential content of the patent has been taken from third parties. How is a patent infringed? How is a claim for patent infringement made and what remedies are available? Conditions for infringement Infringement of a patent takes place if the relevant action falls into the protected scope of a German patent or the German part of a European patent. A patent can be literally infringed or it can be infringed under the doctrine of equivalence. A patent is literally infringed if the features of a product or process fall within the meaning of at least one of the patent claims. Even if this is not the case the patent might still be infringed under the doctrine of equivalence.

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Chapter 4 : The Patent Guide: How You Can Protect and Profit from Patents, 2nd Edition - Free eBooks D

Patent It Yourself (4th ed, How to Protect, Patent, and Market Your Inventions) by David Pressman, Stephen Elias. Nolo. Paperback. POOR. Noticeably used book. Heavy wear to cover.

It is a godsend! His own inventions are found in Wal-Mart and hundreds of other outlets internationally. He has testified in U. Congress on patent reform, and teaches continuing legal education classes to patent attorneys for Thompson Reuters. Docie lives in Athens, Ohio, and offers expert consultation and deal-making services for inventors and corporations. Most helpful customer reviews 0 of 0 people found the following review helpful. Maybe a book like this can help, either showing you there is a way forward or enabling you to critically examine the idea before you throw away too much time and money on a dead-end project, a problem that many inventors can face. This book, now in its fourth edition, can be a go-to book for both the inexperienced tinkerer and the more experienced inventor alike. There are many ways to possibly go forward, this book explains, looking at more recent innovations such as crowdfunding and crowdsourcing, as well as giving a considered opinion on the more traditional routes an inventor may take. Increasingly there is a market for private inventors to sell or licence the efforts of their endeavours to existing companies, even though this can be fraught with problems. This book seeks to refine this entire process through education, propelling the astute reader and inventor to handle things the right way, through the right person, saving everyone time, trouble and stress. Success is not guaranteed, of course, but the overall chance of success is improved if you aim the right solution at the right target with the right approach. In the introduction to this book, the author uses a great example to symbolise the whole meaning of inventing and success: Achieving success is like climbing a ladder. One step is finding and contracting with the manufacturers that will produce your invention. The next successful level is to have your invention distributed to the marketplace. Another step may be to actually receive royalties for your invention. Yet another step may be to receive more money for your invention than what you paid out. Ultimately, inventors would like to see their invention put in the hands of all those people who could use it. Others are wishing to scale right up to the top and then wonder if there is anything left to ascend. This book can serve all groups, and serve them quite well. Being an inventor requires ingenuity and application, thought and consideration. This book can help you, but you have to help yourself by immersing yourself in its text and applying its counsel to your own individual circumstance. Even if you have no plans to become an inventor but fancy an interesting random read, this book could still potentially learn you many new things that may have a positive impact on your professional and personal life if you apply them. A good find in other words. Well thought out By D. Stravitz As an inventor with over patents, this is a very informative book for beginners and seasoned inventors alike. See all 2 customer reviews

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Chapter 5 : Pharmaceutical IP and competition law in Germany: overview | Practical Law

Step by step, Patent It Yourself takes inventors through the entire process of obtaining a patent, explaining how to: file a provisional patent application- understand international patent protection- document the invention process- assign and license your invention to others- learn about the European Patent Office- understand the Patent.

The Provisional Patent Application A. How a Provisional Patent Application Works In , President Clinton signed a law that allows inventors to file a provisional patent application. This process offers an effective, fast, and cheap way to safeguard your place in line at the United States Patent and Trademark Office USPTO for up to one year until you file a regular patent application. A provisional patent application consists of text and drawings that describe how to make and use your invention. You do not need to hire a draftsman to prepare formal drawings; you can furnish informal drawings as long as they -- in conjunction with your written statement -- show how to make and use your invention. Once this is done, you have established an effective filing date for your invention and you can use the term "patent pending" on your invention -- at least for 12 months from the filing date. A provisional patent application will not, by itself, get you a patent. In order to patent your invention and obtain some of the benefits listed above, you must file a regular patent application -- a more complex document -- and the patent must be approved by the United States Patent and Trademark Office. The provisional patent application is a simple, inexpensive strategy for preserving your rights while you decide whether to file for a regular patent. But if you want that patent, you will have to file a regular application within a year after you file your provisional application. We discuss patent law in more detail in Chapter 2. Utility patents are granted for inventions. Patent and Trademark Office issues three types of patents -- utility patents, plant patents, and design patents. Utility patents protect what we commonly think of as "inventions. Utility patents protect a broad range of inventions -- mechanical devices, medical procedures, chemical formulas, methods of doing business, software programs, animal and plant life, and improvements on past inventions can all qualify for utility patents. Your invention must be new. A patent is a "license to sue. Think of your patent as a "hunting license" -- one that gives you the right to sue infringers for damages and other legal remedies. But you will lose the benefits we describe in this chapter -- for example, the earlier filing date and the right to claim "patent pending" status. You can still file a regular patent and acquire patent rights to your invention, as long as you did not publish information about your invention or offer it for sale more than a year before you filed the regular patent application. Patent It Yourself provides in-depth instructions for preparing provisional and regular patent applications as well as extensive information on topics such as commercializing your invention, drafting patent claims, and corresponding with the USPTO. The case, *New Railhead Mfg.* Both patents claimed the filing date of a provisional patent application. The lawsuit occurred when New Railhead Manufacturing, the company that owned the patents, pursued a company it believed was infringing. At the heart of both patents was an invention in which a drill bit was angled with respect to its housing known as a "sonde housing" and operated at a specific heel-to-toe ratio. The CAFC ruled that the underlying provisional patent application failed to adequately describe the angled structure of the drill bits, and therefore, the company that filed the patents could not get the benefit of the provisional filing date. The court wrote, "the provisional [patent application] never states that the drill bit is angled with respect to the sonde housing, does not mention or describe the toe or the heel, and does not mention or define the heel-toe ratio. Unfortunately, New Railhead Manufacturing had made offers for sale prior to filing its provisional applications and as a result of the one-year sale rule described in the *3M* case in this chapter , both patents were invalidated. The *New Railhead* case reinforces the principles described in this chapter -- if you want the benefit of the provisional filing date for a later patent, your provisional application must describe the invention in such full, clear, concise, and exact terms as to enable any person skilled in the art to make and use it. As we mention in "Preparing Your Provisional Patent Application," below, we recommend that you make clarity, not speed, your number one priority when preparing your provisional patent application. If, after preparing your

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provisional patent application, you are in doubt as to whether it meets the legal requirements, seek the advice of a patent professional. Information about locating an attorney can be found in Appendix E. The Provisional Patent Application B. Advantages of Filing a Provisional Patent Application Filing a provisional patent application confers a number of benefits: We discuss each of these benefits in detail in the sections that follow. On the day that he filed his patent application, a rival inventor, Elisha Gray, filed for the same invention. He believed as did his business partners and attorneys that the telephone was a novelty not worth pursuing. What if the invention is a commercial success but no patent protects it from being stolen by others? Inventors dutifully prepare and file patent applications as insurance against this possibility. Once you file the provisional patent application, you will have almost a year to assess the commercial potential of your invention before you have to prepare a patent application. Although 11 or so months may not give you enough time to obtain a firm commitment from a manufacturer or distributor -- many companies take months, if not years, to make such decisions -- it should be enough time to make a preliminary assessment about commercial potential. Klinger to help them get a one-year patent. As you know by now, the provisional patent application does not, by itself, get you a patent; it provides a record of your invention that you can rely on -- at least for 12 months -- to support a regular patent application. But misconceptions about provisional patent applications reappear with such frequency -- even in newspapers -- that a lot of inventors believe them. This marking often deters manufacturers from stealing your invention -- they do not want to pay for creating tooling or molds to produce the invention if they know you may get a patent for it. Nowadays, you can use the label once you have filed a provisional patent application. Using the terms "patent pending" or "patent applied for" without filing an application is a criminal offense. You cannot stop anyone from copying, selling, or using your invention during this period. Patent rights do not kick in until after your regular patent application is approved. The label simply lets the world know that you have staked a patent claim and are waiting for the patent to issue. As we explain in "Preserve Your Application in Confidence," below, under certain circumstances -- if you file a regular patent application that is published by the USPTO before the patent is granted -- you may be able to sue for damages during part of the pendency period. The patent laws establish your date of invention as either: You have reduced your invention to practice once you can demonstrate that it works. The key to beating out rival inventors who claim priority is to act quickly, before they can claim the prize. Once you conceive of an invention, make a record of it as described in "Hurdle 2," in Chapter 2. Having a brilliant idea is not enough -- you have to document and pursue your idea to protect your ownership rights. Alphonse Eugene Beau de Rochas conceived of the four-stroke internal combustion engine in But the patent went to Nikolaus Otto, who improved on the concept and was the first person to successfully build and test a working model of a four-stroke engine in De Rochas conceived of the engine but Otto conceived of an important improvement -- and reduced the engine to practice. The earlier you can build and test your invention, the better -- that guarantees you the earliest date of invention provided of course that your proof is documented and witnessed. But not all inventors can afford to create working prototypes and build and test their inventions. And not all inventors are diligent about maintaining witnessed notebooks to evidence the date of conception. Even if you believe your notebooks provide adequate documentation, a court may later disagree. An inventor filed a patent application for a biotech invention known as a fusion protein. The application was filed three months after a similar application. When a dispute arose, the inventor who filed later tried to prove he had reduced his invention to practice first, using his lab notebooks and witness testimony as evidence. A federal court of appeals ruled that his evidence was inconclusive because it failed to show that he had completed every step required to complete the fusion protein. For example, although Alexander Graham Bell had transmitted tones through wires, he had not transmitted speech. At the time he received his patent for the telephone in Even the Wright Brothers had not flown when they applied for their groundbreaking aeronautical patents. Their famed Kitty Hawk adventure occurred nine months later, on March 23, If you do a constructive reduction to practice, your date of invention is the date you filed your provisional patent application. There is a potential downside to using the provisional patent application for constructive reduction to practice as described above. Without a

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working prototype, you may not be able to convince others to license and manufacture your invention. If you really want to market your invention, you will probably have to create a prototype eventually.

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Description. Step by step, Patent It Yourself takes inventors through the entire process of obtaining a patent, explaining how to: file a provisional patent application- understand international patent protection- document the invention process- assign and license your invention to others- learn about the European Patent Office- understand the Patent Cooperation Treaty- understand.

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Patent It Yourself is the most highly recommended guide to patenting an invention. Dave is also co-author of How to Make Patent Drawings Yourself (with Jack Lo), Patent Pending In 24 Hours (with Rich Stim), and Patents For Beginners (with Rich Stim).