

Foreword

For more than 125 years, the American Bar Association Section of Intellectual Property Law (ABA-IPL) has advanced the development of intellectual property laws and their fair and just administration. Since 1894, as the forum for analytical viewpoints and balanced insight on the full spectrum of intellectual property law, the Section has contributed significantly to the nation's intellectual property system through the critical thinking and rich perspectives of its members. The Section continues to serve within the ABA as a highly respected voice for the intellectual property profession before policy makers, and with the public.

We are pleased to advance the ABA-IPL mission by presenting *Drafting Patents for Litigation and Licensing, Fourth Edition*. This treatise and its annual supplements represent the collaborative effort of many Section members. Their combined expertise has produced an up-to-date resource for intellectual property professionals who provide prosecution services and risk analyses to clients in evolving litigation environments.

The U.S. Supreme Court has described a patent application as one of the single most difficult legal documents to draft. The preparation of an application is a critical and challenging endeavor and the prosecution of that application is key to obtaining claims that withstand challenge and adequately protect the underlying invention. It takes knowledge of the patent law to provide inventors and patent owners with the scope and breadth of coverage necessary for commercial development and success. This book and its annual updates collect that knowledge and apply lessons from the case law to help patent practitioners secure the broadest possible patent rights capable of surviving a validity challenge.

The Leahy-Smith America Invents Act—now in the tenth year since first becoming law—has brought significant reform to patent practice with extensive implementation and rulemaking initiatives, and the lower court rulings they spawn for interpretation. Additional impact from the legislation, particularly in the form of decisions by the U.S. Patent and Trademark Office Patent Trial and Appeal Board on issues of claim scope and validity, requires further guidance for practitioners in understanding the law. In addition, recent Supreme Court decisions on patent eligibility and enforcement have led to significant confusion and inconsistency in application of the case law in claim drafting and claim interpretation.

Drafting Patents for Litigation and Licensing, Fourth Edition provides an organized review of these initiatives and court lessons together with practical guidance for applying them. The new edition analyzes the key developments since the Third Edition, including discussions of important court decisions that affect the scope and validity of patents and the impact of recent Supreme Court opinions. It also serves as a valuable benefit to patent practitioners by providing insight into further legislative and judicial advancements in the patent system. As the attention to further patent law reform generates additional activity in Congress and the courts, this treatise and its supplements will continue to present ongoing information for navigating change.

ABA-IPL is grateful to its many members who contributed to this book. We express our appreciation to the editor in chief, H. Wayne Porter, for championing this important project; and to each of the chapter authors for sharing their wide-ranging experience and expertise.

On behalf of the ABA-IPL, we are once again proud to provide a new edition of this practical treatise.

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