

Patent Litigation Strategies Handbook, Third Edition, 2013 Cumulative Supplement

ABA Section of Intellectual Property Law



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The 2013 Cumulative Supplement reflects recent changes to U.S. patent law, from the implementation of provisions of the America Invents Act, including: Post-grant proceedings before the U.S. Patent and Trademark Office, and their impact on patent litigation strategies, to help practitioners leverage these procedures Instructions for patent enforcers to use supplemental examination to consider, reconsider or correct information believed to be relevant to issued patents, to protect the patent portfolio from attack by third parties Relevant case law discussed in the Supplement includes: Association of Molecular Pathology v. Myriad Genetics, in which the Supreme Court held that naturally-occurring DNA sequences are not rendered patent-eligible by isolating them from other matter under 35 U.S.C. §101 CLS Bank International v. Alice Corp. Pty. Ltd., in which the Federal Circuit, en banc, considered patentable subject matter in light of the Supreme Court s decision in Bilski v. Kappos, and produced a per curium opinion that addressed the issue of patent-eligible subject matter under 35 U.S.C. §101, in connection with software-implemented methods Bowman v. Monsanto, in which the Supreme Court confirmed the limits of the patent exhaustion doctrine, holding that a first authorized sale of a patented invention does not give the purchaser the right to make copies of the patented invention Akamai Technologies v. Limelight Networks and McKesson Technologies v. Epic Systems, both dealing with liability for inducement of divided infringement, and the Court of Appeals for the Federal Circuit s en banc decision holding that liability is established if one party induces another to carry out one or more steps, whether or not the multiple actors conducting the infringement have an agency relationship

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