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Patentrecht

6. Auflage



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Injunctions in Patent Law Jorge L. Contreras, Martin Husovec, 2022-05-12 Patents are important tools for innovation policy. They incentivize the creation and dissemination of new technical solutions and help to disclose their working to the public in exchange for limited exclusivity. Injunctions are important tools of their enforcement. Much has been written about different aspects of the patent system but the issue of injunctions is largely neglected in the comparative legal literature. This book explains how the drafting, tailoring and enforcement of injunctions in patent law works in several leading jurisdictions: Europe, the United States, Canada and Israel. The chapters provide in depth explanation of how and why national judges provide for or reject flexibility and tailoring of injunctive relief. With its transatlantic and intra-European comparisons as well as a policy and theoretical synthesis, this is the most comprehensive overview available for practicing attorneys and scholars in patent law. This book is also available as Open Access on Cambridge Core. *Patent Enforcement Worldwide* Christopher Heath, 2015-11-19 This book features 15 country reports on the patent enforcement practice of the world's most litigated countries in Europe, Asia and the Americas. Litigation strategies for both right owners and alleged infringers are explained against the background of case law on types of action, standing to sue, jurisdiction, obtaining evidence, provisional and final measures, trial practice, types of infringement, remedies and counterclaims, costs and issues of retrial, threats and wrongful enforcement. Special chapters cover the Trade-Related Aspects of Intellectual Property Agreement provisions on enforcement, enforcement issues in the European Community, international cross-border litigation and border measures. The reports are written by patent practitioners or academic experts in the field and the homogenous structure of the country reports allows for an easy identification of best practices and strategic considerations on the choice of jurisdiction. **European Patent Law** Stefan Luginbuehl, 2011-01-01 The book explains in detail the current discussion regarding the unification of European patent law. It explains the current national legal practices in Europe, describing the legal and factual issues and the different approaches to achieve unification. The book manages to show the complex situation and the different opinions from the beginning of the discussion in a clear and comprehensive manner without requiring previous knowledge of the reader and is therefore to be recommended for everyone interested. Jochen Pagenberg LL.M. Harvard President EPLAW Germany and Thomas Schachl LL.M. Attorney at law Germany. In his detailed study, Stefan Luginbuehl critically examines the latest efforts to establish a common European and EU patent litigation system and suggests possible alternatives to such a system. Due to the lack of a European patent court, both the EPO and national judges interpret European patents and European patent law. This results in diverging interpretation across Europe and costly litigation for patent holders. Stefan Luginbuehl's proposals to promote the goal of a uniform interpretation of patent law and ease the difficulties are timely and highly insightful. Dealing with important legal and political issues related to European patent litigation and the establishment of a common patent litigation system, this book will appeal to practitioners, patent litigators, patent attorneys and judges.

specialised in patent litigation Academics teaching and learning IP patent law private international law or international civil procedure will find this study interesting as the book deals with important aspects of national and international patent litigation as well as procedural and structural questions related to the establishment of a patent court for Europe

European Patent Law Duncan Matthews, Paul Torremans, 2023-10-04 This book provides a comprehensive overview of European Patent Law It presents a critical analysis of the European patent law system and the proposed changes to it The book explores the strengths and weaknesses of the European Patent Convention and the interaction between the national and the European level as well as across borders

Patent Law in Greater China Stefan Luginbuehl, Peter Ganea, 2014-08-29 This book provides a comprehensive introduction to patent policy law and practice in Greater China and will be a go to book for patent practitioners who have client interests in that region Features Introduction to Chinese patent

Intellectual Property Law in Romania Alexandru Cristian Strenc, Gheorghe Gheorghiu, Gheorghe Bucsa, 2024-06-17 Derived from the renowned multi volume International Encyclopaedia of Laws this monograph provides a survey and analysis of the rules concerning intellectual property rights in Romania It covers every type of intellectual property right in depth copyright and neighbouring rights patents utility models trademarks trade names industrial designs plant variety protection chip protection trade secrets and confidential information Particular attention is paid throughout to recent developments and trends The analysis approaches each right in terms of its sources in law and in legislation and proceeds to such legal issues as subject matter of protection conditions of protection ownership transfer of rights licences scope of exclusive rights limitations exemptions duration of protection infringement available remedies and overlapping with other intellectual property rights The book provides a clear overview of intellectual property legislation and policy and at the same time offers practical guidance on which sound preliminary decisions may be based Lawyers representing parties with interests in Romania will welcome this very useful guide and academics and researchers will appreciate its value in the study of comparative intellectual property law

Employees, Trade Secrets and Restrictive Covenants Christopher Heath, Anselm Kamperman Sanders, 2016-11-24 Trade secrets and post contractual non compete clauses restrictive covenants are intrinsically linked issues when analysed in the context of past and present employment While trade secrets have been the object of legislation in a number of major jurisdictions during the last couple of years post employment restrictive covenants have been left out of such legislative activity Still they have come under increasing scrutiny of economists and may well come into legislative focus in the near future As the chapters of this book highlight in detail the approach to the protection of trade secrets the conditions under which an employer can protect trade secrets and other business interests by way of a restrictive covenant and the scope within which former employees by using the skills and knowledge can compete with a former employer hugely differ from jurisdiction to jurisdiction This is not only so for the effective scope but also for the underlying doctrinal reasons making a country by country comparison difficult and a common structure of the chapters a challenge After

all the topic involves international law Paris Convention TRIPS domestic labour law domestic sui generis protection and most importantly domestic competition and unfair competition law a field that up to now has defied all attempts of harmonisation beyond those categories as identified by Friedrich Zoll and implemented as Art 10bis in the Paris Convention This book features both comparative and country specific chapters The latter cover the major jurisdictions of Europe and Asia while the former provide a subject matter analysis by taking into account legislation and case law in a global context

Comparative Patent Remedies Prof. Thomas F. Cotter, 2013-03-06 In *B Comparative Patent Remedies* Thomas Cotter provides a critical and comparative analysis of patent enforcement in the United States and other major patent systems including the European Union Japan Canada Australia China South Korea Taiwan and India

Intellectual Property Law in Turkey Ergun Özsunay, Murat R. Özsunay, 2024-02-18 Derived from the renowned multi volume International Encyclopaedia of Laws this monograph provides a survey and analysis of the rules concerning intellectual property rights in Turkey It covers every type of intellectual property right in depth copyright and neighbouring rights patents utility models trademarks trade names industrial designs plant variety protection chip protection trade secrets and confidential information Particular attention is paid throughout to recent developments and trends The analysis approaches each right in terms of its sources in law and in legislation and proceeds to such legal issues as subject matter of protection conditions of protection ownership transfer of rights licences scope of exclusive rights limitations exemptions duration of protection infringement available remedies and overlapping with other intellectual property rights The book provides a clear overview of intellectual property legislation and policy and at the same time offers practical guidance on which sound preliminary decisions may be based Lawyers representing parties with interests in Turkey will welcome this very useful guide and academics and researchers will appreciate its value in the study of comparative intellectual property law

Patent Remedies and Complex Products C. Bradford Biddle, Jorge L. Contreras, Brian J. Love, Norman V. Siebrasse, 2019-06-27 Through a collaboration among twenty legal scholars from North America Europe and Asia this book presents an international consensus on the use of patent remedies for complex products such as smartphones computer networks and the Internet of Things This title is also available as Open Access on Cambridge Core

Global Patents Marketa Trimble, 2012-02-14 *Global Patents Limits of Transnational Enforcement* explains why a global patent does not exist It identifies the barriers to its creation from both historical and current perspectives and discusses the difficulties that arise as inventors investors and businesses strive to protect their inventions in the widest territory possible The author analyzes the options available to patent holders and explains how a country's patent law may be used to stop or limit the exploitation of an invention patented in that country and even in other countries where the invention is not patented

Blocking Patents in European Competition Law Angelika S. Murer, 2021-12-03 In practice and jurisprudence in European competition law it is especially difficult to define the boundaries of patent abuse as an offence In this thoroughly researched book the author answers the question of when and

how an application for a blocking patent can amount to an abuse of a dominant position under Article 102 TFEU Drawing on legal literature and European Union EU case law the presentation analyses a constellation of blocking patenting strategies and proposes potential remedies where abuse is involved With detailed descriptions of the characteristics of potentially abusive and non abusive behaviour regarding applications for blocking patents the book provides the following and more a comprehensive analysis of the case law of the EU courts on the abuse of a dominant position in cases which involve intellectual property rights insights on how patenting strategies affect competition with a particular focus on the application of blocking patents an overview of the developments in doctrine and practice which led to the current understanding of the seemingly conflictual goals of competition and intellectual property law and insights on the difficulties of defining relevant markets and establishing whether an undertaking holds a dominant position The book illustrates the mechanisms of blocking patenting strategies with examples from the pharmaceutical industry because blocking strategies have particular relevance in applying for patents in that context A test scheme for analysing the application of a blocking patent under Article 102 TFEU is included Additionally the book provides an outlook on the topic of patents and shortages of supply in light of the COVID pandemic Practitioners and policymakers requiring an understanding of the conceptual framework of the abuse concept within EU competition law and how it relates to patent strategies will welcome this invaluable book They will not only be able to set the conduct of applying for blocking patents into the Article 102 TFEU context but also have decisive tools to approach questions on the intersection of patent law and competition law in the EU

Marktmachtmissbrauch auf Ersatzteilmärkten im deutschen, europäischen und US-amerikanischen Markt Eva Berns, 2013 *Das Europäische Patentrecht und seine Harmonisierungswirkungen in der nationalen Rechtsprechung der Schweiz* Rudolf A.

Rentsch, 2016-02-29 Das schweizerische Patentrecht ist vor dem Hintergrund europäischer Patentrechtsentwicklungen zu verstehen und steht mit diesen sp testens seit dem Strassburger Patent bereinkommen von 1963 in wechselseitiger Beeinflussung Mit Inkrafttreten des Europäischen Patent bereinkommens vor vierzig Jahren wurde der Vorrang des Abkommensrechts gegenüber nationalen Patentgesetzen vorgesehen Ausgehend von einer umfassenden Rechtsprechungsanalyse und statistischem Datenmaterial geht die vorliegende Untersuchung vertieft der Frage nach inwieweit in der Rechtsprechung der Schweizer Gerichte mit Fokus auf die Praxis der Beschwerdekammern des EPA tatsächlich harmonisiertes Recht gesprochen wird Es wird aufgezeigt dass Rechtsharmonisierung nicht nur eine legislatorische Aufgabe sondern vornehmlich eine Rechtsprechungsaufgabe ist Beleuchtet werden Fragen der Auslegung von Einheitsrecht methodologische Fragen der Anwendung patentrechtlicher Bestimmungen insbesondere zentraler Normen des EP sowie Auswirkungen der sog kalten Harmonisierung

Die Einschränkung des patentrechtlichen

Unterlassungsanspruchs im Einzelfall Marcus Sonnenberg, 2014-07-08 Der patentrechtliche Unterlassungsanspruch verleiht dem Inhaber ein weitreichendes Ausschließlichkeitsrecht dessen Ausübung grundsätzlich unbeschränkt ausgestaltet ist

Dies bereitet dann Schwierigkeiten wenn die Rechtsdurchsetzung im Einzelfall in Konflikt zu den Schutzzwecken der Rechtsgewährung von Patentrechten tritt. So kann die Geltendmachung des Unterlassungsanspruchs durch Rechtsinhaber die ihr Patentrecht nicht zur Entwicklung, Herstellung, Kennzeichnung oder Absatzförderung von Produkten einsetzen problematisch sein. Dies gilt insbesondere dann wenn der Unterlassungsanspruch ausschließlich als Drohmittel eingesetzt wird um möglichst hohe Erlöse zu erzielen. Dem entgegen steht der Charakter von Patenten die auch als verkehrsfähige Wirtschaftsgüter fungieren sollen. Hierbei erfüllen gerade Patentinhaber in Gestalt von Verwertungsgesellschaften eine sehr wichtige wirtschaftliche Funktion. Das Buch arbeitet solche problematischen Fallkonstellationen heraus und untersucht unter welchen Voraussetzungen eine Einschränkung des patentrechtlichen Unterlassungsanspruchs auch im Hinblick auf die Zwecke und Funktionen dieses Rechts nach internationalen europäischen und nationalen Vorgaben möglich und geboten ist. Dabei wird auch aufgrund der besonderen Bedeutung solcher Fallkonstellationen in den USA die US-amerikanische Rechtslage vergleichend hinzugezogen. **Europäisches Immaterialgüterrecht** Reto M. Hilty, Thomas Jaeger, 2018-07-05. Das Buch folgt der Ausgangsvermutung dass die EU nach wie vor keine kohärente Immaterialgüterrechtspolitik verfolgt sondern eher punktuelle meist anlassbezogene Maßnahmen ergreift. Die Schutzrechte erfüllen die ihnen zugeordneten Funktionen damit oft nicht. Vor allem entfalten sie nicht ihr volles Potenzial für den Binnenmarkt. Untersucht wird inwieweit die Regelungen der einzelnen Schutzrechte in sich selbst im Verhältnis zu einander sowie zum sie umgebenden Wettbewerbsrecht aber auch zum nationalen Recht funktionsadäquat sind. Dieser breit angelegte Gesamtblick auf den *Acquis Communautaire* erlaubt es aufzuzeigen wo Handlungsbedarf besteht wie alternative Regelungen aussehen könnten und welche Mechanismen dafür zur Verfügung stehen. Der vertragsüberschreitende Gebrauch im Patentrechts Lukas Bartke, 2024-08-09. Die wirtschaftliche Bedeutung der Patentrechts nimmt weiter zu und mit ihr auch die Fälle des vertragsüberschreitenden Gebrauchs in denen vermeintliche Lizenznehmer patentgemäße Handlungen vornehmen die nicht mehr von der Vereinbarung mit dem Patentinhaber gedeckt sind. Damit stellt sich die Frage ob der Patentinhaber auch gegen redliche Dritte vorgehen kann die ohne seine Zustimmung in Verkehr gebrachte Waren abgenommen und genutzt haben. Lukas Bartke sucht eine Lösung für dieses Problem im Zusammenspiel zwischen Vertragsrecht, patentrechtlichem Sonderdeliktsrecht und dem das Verbot des Erschöpfungsgrundsatz. Seine Neukonzeption zeigt dass schon das geltende Recht eine differenzierte und interessengerechte Lösung bereithält. Sie ermöglicht zudem eine Antwort auf die Frage nach den Folgen eines nichtigen Lizenzvertrags aufgrund eines zunächst unerkannten Kartellrechtsverstosses. *Der Unverhältnismäßigkeitseinwand im Lichte der FRAND-Rechtsprechung* Malte Pieper, 2024-10-16. Die Dissertationsschrift behandelt das Verhältnis des in 139 Abs 1 S 3 PatG kodifizierten Unverhältnismäßigkeitseinwands zum kartellrechtlichen Zwangslizenz einwand bei standardessentiellen Patenten (SEP). Vor dem Hintergrund der sogenannten FRAND Rechtsprechung geht sie der Frage nach inwiefern sich ein Patentnutzer im Patentverletzungsprozess zusätzlich zum

kartellrechtlichen FRAND Einwand mit Hilfe des Unverhältnismäßigkeits Einwands gegen den patentrechtlichen Unterlassungsanspruch verteidigen kann. Die Arbeit nimmt dabei eine eingehende Analyse der herkömmlichen patent und prozessrechtlichen sowie der kartellrechtlichen Möglichkeiten zur Einschränkung der Durchsetzung des Unterlassungsanspruchs vor. Sodann untersucht sie die Vorgeschichte, die Genese und den Inhalt des 2021 in Kraft getretenen 139 Abs 1 S 3 PatG und seine Interpretation in der Rechtsprechung. Darauf aufbauend wird die Anwendbarkeit und Auslegung des Unverhältnismäßigkeits Einwands in SEP Fällen im Verhältnis zum kartellrechtlichen Zwangslizenz einwand in den Blick genommen und die Bedeutung der Kriterien zur Bemessung der Unverhältnismäßigkeit einer patentrechtlichen Inanspruchnahme im FRAND Kontext beleuchtet. **Direito Comercial - 5a Edição** António Menezes Cordeiro, 2023-05-31

O Direito comercial tem raízes antigas na cultura lusófona. As primeiras leis dos Reis de Portugal tinham a ver com o tráfico mercantil. Ao longo dos séculos, ele acompanhou o desenvolvimento do comércio e da indústria adaptando-se à realidade atual. A complexidade das sociedades pessoais industriais levou à autonomização no seu seio de múltiplas disciplinas: Direito das sociedades, Direito bancário, Direito dos seguros, Direito intelectual, Direito da concorrência, Direito da insolvência, Direito dos transportes e Direito do comércio internacional. Reduzido a um núcleo duro de princípios e versando realidades básicas como as dos atos de comércio, das firmas, do registo comercial e dos contratos comerciais, o Direito comercial mantém-se como o sábio companheiro do Direito civil. Além disso, opera como repositório de uma cultura privatística lusófona que não deve perder-se. A presente obra, agora em 5ª edição revista e atualizada, estuda e divulga o Direito comercial nuclear, incluindo os traços gerais do regime da insolvência. A jurisprudência e os recentes avanços europeus são postos à disposição dos estudiosos e do público interessado.

Auslandsprioritäten im Patentrecht Zora Graef, 2025-01-29 Wie nutzen Patentanmelder die Anmelde-möglichkeiten des Patentsystems aus? Wichtigstes Instrument im Anmeldeprozess ist das Prioritätsrecht. Das bereits im Jahr 1883 durch die Pariser Verbandsvereinbarung eingeführte Recht erfreut sich bei Patentanmeldern großer Beliebtheit. Grund dafür ist seine rangsichernde Funktion, die ermöglicht, den Zeitrang einer früheren nationalen europäischen oder internationalen Anmeldung in Anspruch zu nehmen. Zora Graef erläutert die Grundlagen der Inanspruchnahme von Auslandsprioritäten und arbeitet die Zwecke des Prioritätsrechts heraus. Im Mittelpunkt steht eine empirische Analyse der tatsächlichen Nutzung von Prioritätsrechten. Anhand von Anmeldezahlen, Patentanmeldungen und Prioritätsstreitigkeiten untersucht die Autorin, wie sich Patentanmelder das Prioritätsrecht in strategischer Hinsicht zunutze machen. Für Bereiche, in denen der Einsatz des Prioritätsrechts von seiner intendierten Nutzung abweicht, unterbreitet sie Verbesserungsvorschläge.

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