

# **Modern Patent Litigation**

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# Modern Patent Litigation

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Cases, Comments, and Notes

*Second Edition*

**Paul M. Janicke**

HIPLA PROFESSOR OF LAW  
UNIVERSITY OF HOUSTON LAW CENTER

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# Preface to the Second Edition

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The years since publication of the first edition of this book in 1999 have seen a large increase in patent litigation in the United States as well as elsewhere. Between 1999 and 2004 patent infringement and patent declaratory judgment filings in the district courts went from 2,318 per year to 3,075 per year, a 32.7% increase. Civil filings generally, other than prisoner petitions, went up only 11% in the same period. The nation's real GDP rose 13.6%. Extending the vision back to 1989 shows patent filings increasing by 155% through 2004. In this book I hope to explain the major recurrent issues encountered in such litigations, and the doctrinal developments that that have accompanied them.

The book is designed for a two-credit law school course, covering the topics that cannot, due to time constraints, be addressed in depth in a basic patent law course. It therefore works best as an advanced class for those students who wish more than an elementary understanding of the subject. The topics here have been chosen with a conscious eye toward avoiding duplication of what is normally included in the basic course. I do not dwell on things like eligible subject matter, patent novelty, nonobviousness, or patent disclosure requirements.

In editing the cases, footnotes have been deleted except where they are helpful to understanding the main teachings of the case. I have in some instances shortened the format of citations of authority in the opinions for easier reading, or deleted the citations entirely. I have, however, retained the great majority of the citations, so that the book can be used as a convenient tool for further research.

Philosophical diversions have been avoided as much as possible, to stay focused on the issues encountered in modern patent litigation practice. My hope is that students will find this book helpful in understanding and dealing with those issues in practice, and that, armed with such knowledge, they may better advocate for improvements in both patent law and in patent litigation practice in the courts.

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December 2005

