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# Understanding Patent Law

THIRD EDITION

**Amy L. Landers**

PROFESSOR OF LAW

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# Preface

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Patent law is an important, fascinating and rapidly changing field. This book was written for all who need to understand these recent changes, as well as for students in intellectual property courses. For those engaged in international practice, this work sheds helpful light on the key doctrines and theories underlying U.S. patent law.

Much has changed since the last edition was published in 2012. Several mainstay doctrines are now historical background. Because of these changes, several chapters have been almost entirely re-written. Others weave together numerous subtle yet still profound shifts in the law, reflecting theoretical changes. The Supreme Court has forged ahead with new, key decisions. All of the Court's decisions in patent law have been included in this edition. These include the patentable subject matter cases, *Alice v. CLS Bank*, *Mayo Collaborative Services v. Biosig* and the *Association for Molecular Pathology v. Myriad Genetics, Inc.*, which changed the course of patentability. The Supreme Court's *Impression Products, Inc. v. Lexmark* shifted the foundation of exhaustion from an intent-based doctrine into a fundamental limitation on the patent right. Patent litigation has shifted due to the Court's *Gunn v. Minton* and *T.J. Heartland v. Kraft Foods*. The remedies chapter adds four new ground-breaking Supreme Court decisions, including *Octane Fitness, LLC v. ICON Health & Fitness, Inc.* on willfulness relief and *Samsung Electronics Co. v. Apple Inc.* on monetary damages for design patent infringement. The Court's new standards for assessing the sufficiency of claims from *Nautilus v. Biosig* is reviewed, as well as the appellate review of the construction of claims in *Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.*

In the meantime, the Federal Circuit has been active. Changes in the application of the disclosure standards have reigned in broad claim boundaries. *Williamson v. Citrix Online*, has become critical to understanding claim construction. *Limelight v. Akami* has assisted in the field's understanding of divided infringement. The America Invents Act, newly enacted when the last edition of this book was published, has now been subject to some significant interpretative guidance. In addition to doctrinal developments in dozens of areas, the Federal Circuit has applied and elucidated the Supreme Court's most recent rulings.

For those who are encountering patent law, one word of advice: Patience. Reading the rules, cases and statutes can be intellectually challenging. The terminology, history and science described in these authorities is complex. This book is intended to provide a helpful roadmap to the history, current law and underlying theory. Additionally, the technology in the major cases is described in easy-to-understand language so that the legal principles can be more readily understood.



# Frequent Citations and Abbreviations

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“AIA” refers to the America Invents Act of 2011, enacted in 35 U.S.C.

“House Report” refers to the America Invents Act, House Report to Accompany H.R. 1249, 112th Cong. 1st Session, H.R. REP. NO. 112-98 PART 1 (2011).

“U.S. PTO” used throughout refers to the United States Patent and Trademark Office.

Statutory citations refer to those under Title 35, U.S. Code unless otherwise specified. Unless otherwise noted, the reference is to the most recent version as of the date of publication of this edition.

Citations to the Code of Federal Regulations refer to those under Title 37 unless otherwise specified. Unless otherwise noted, the reference is to the most recent version as of the date of publication of this edition.

“MANUAL OF PATENT EXAMINING PROCEDURE” refers to the United States Patent and Trademark Office, MANUAL OF PATENT EXAMINING PROCEDURE.

