

Patent Law for the Nonlawyer

A Guide for the Engineer, Technologist, and Manager

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Second Edition

Burton A. Amernick



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To the memory of my beloved mother and father,
Florence and Joseph Amernick;
to my sons, Jay and Dan;
and to my wife, Robin.

Preface

The primary purpose of the first edition of this book was to provide inventors and those who manage technology with sufficient understanding of the patent system to permit them to make use of it with the greatest possible degree of comfort. From the comments that I have received from readers of the first edition, it seems that this purpose was achieved to an appreciable extent. In fact, the audience for the book went beyond this and has been of use to those entering the patent profession and general attorneys who have technology-based clientele.

This second edition discusses important changes in the law since the first, including the enactment of new laws as well as new insights into or interpretations of already existing statutes. Along with updating material, I have expanded certain discussions including more examples to illustrate some of the more complex issues covered.

In writing this book, I have tried not to lose sight of the underlying philosophy of the patent laws as expressed in ARTICLE 1, SECTION 8 of the United States Constitution:

The Congress shall have the power to promote the sciences and useful arts, by securing for limited time to authors and inventors the exclusive right to their respective writings and discoveries.

Encouragement of communication between an inventor and the general public is, therefore, the primary purpose and objective of the patent laws.

Although I have attempted to avoid as much legalese or arcane language as possible, the very nature of this subject matter requires discussion of laws and the use of legal terms.

In keeping with this approach the main objective of this edition is to provide inventors and those who manage technology with sufficient understanding of the patent system to permit them to use it with the greatest possible accuracy and comfort. This is particularly important since an essential element in dealing with new technology in general is the cooperation and interaction of technical and legal efforts. Effective communication between technical and managerial personnel and legal representatives is mandatory.

It is my hope that this book will facilitate that communication and help bridge the gap that seems to exist, at times, between the scientific community and the legal community. This book is intended to provide an overall understanding of the basic principles and aspects of United States patent law, not to provide the extent of legal analysis necessary to train someone to engage in the practice of patent law.

Acknowledgments

The completion of this book would not have been possible without the support and assistance of various sources. In particular, I wish to thank my wife, Robin, for her unwavering encouragement and understanding. Also my thanks to her and Sharon McDaniel, my secretary, for the time and effort they spent typing the manuscript.

In addition, it was Michael Robin of the Center for Professional Advancement who first approached me in 1978 about teaching a course on patent law directed to engineers and scientists. The experience gained from preparing and teaching such a course has been invaluable to me, not only in the writing of this book but in many other areas of my professional development. My interaction with the present and former co-directors of the patent law course at the Center for Professional Advancement—T. Gene Dillahunty and Edward B. Dunning, respectively—and with the participants in the course has been both enjoyable and educational.

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