

Preface to the Third Edition

Anatomy of a Patent Case was conceived and published as a simple handbook for the conduct of a patent case: a short and concise guide that both practitioners and the judiciary would find useful and easily accessible. The original editors, George Pappas, John Cooper, and Morgan Chu, wrestled with the issues and problems that are unique to patent cases and stripped from the draft any generalized discussion of procedural or evidentiary issues that were not focused on what makes patent litigation different from other litigation. They thereby developed a relatively short and streamlined guide.

The first and second editions, published jointly by BNA and the Federal Judicial Center, were distributed to all United States district judges, and the books became best sellers. Not only did the work, in fact, provide the concise and usable guide the editors intended, but patent litigators were understandably anxious to own the same book that the judges who try patent cases turn to for guidance.

In the ensuing years, we have seen dramatic changes in patent litigation, so much so that the committee has considered it imperative that this new third edition be published at this time.

We have seen important changes in the law in numerous decisions from the Supreme Court, as well as from the Federal Circuit Court of Appeals. Some of the most important changes deal with issues of what subject matter is eligible for patent protection, how the crucial claim construction determination is to be made, and when attorneys' fees should be granted. There have been amendments to the Federal Rules of Civil Procedure that alter pleading requirements. And we have now had four years of experience under the Leahy-Smith America Invents Act, necessitating substantial changes in the interplay between the U.S. Patent and

Trademark Office and the federal district courts. These changes are, in the view of the editors, so substantial that a new chapter (Chapter 15) has been added.

This third edition has come about thanks to the substantial efforts of a talented team of contributing authors and editors, including those authors of chapters of the original edition who graciously agreed to update their work. Special thanks goes to Michael O. Warnecke for drafting the new Chapter 15 on inter partes and other AIA trial proceedings and to Paul D. Margolis for ensuring that this edition comprehensively addresses the significant changes that have occurred in the past four years.

We would also like to extend our gratitude to the Federal Judicial Center for reviewing and commenting on our draft. And thanks to all the fine judges, serving on our Judicial Board of Review, who have inspired and helped guide this effort from the beginning.

This project would not have been possible without the full support of the current and immediate past presidents of the American College of Trial Lawyers—Michael W. Smith, Francis M. Wikstrom, and Robert L. Byman. We appreciate the current and past Regents of the American College of Trial Lawyers who are and were part of the committee—Robert E. Welsh, Jr., William T. Hangle, and David J. Hensler.

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