

Patents from a Different Perspective: Supreme Court Reviews of Decisions of the Specialist Patent Courts



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(Lily Gorczany)

PATENTS FROM A DIFFERENT PERSPECTIVE: SUPREME COURT REVIEWS OF DECISIONS OF THE SPECIALIST PATENT COURTS



CreateSpace Independent Publishing Platform. Paperback. Book Condition: New. This item is printed on demand. Paperback. 268 pages. Dimensions: 9.0in. x 6.0in. x 0.7in. The book was created to discuss why the specialist patent courts fail to abide by the various federal rules, and precisely how the Supreme Court has sought to correct the notorious difference between the patent office assessment of patentability and the patent court assessment of patentability of an invention first identified in the 1966 Graham case. I have been close to that issue for nearly half a century, and the book is my analysis of the problem. The book explores many instances where the lack of judicial experience with rules of procedure, of evidence, and of law lead to questionable decisions. The judicial experience of trying cases as an advocate is also lacking in many of the patent court judges. I certainly did not have that experience when I was a law clerk just out of law school, but I have had experience in the nearly half-century since then. It is clear from the 33 cases where the Supreme Court has reviewed patent court decisions that the Supreme Court has a different perspective on patents from that of the specialist patent courts. Most writings about patents come from the perspective of (1) the Patent and Trademark Office; (2) the Court of Appeals for the Federal Circuit; (3) patent applicants; (4) patent owners; or (5) advocates of a political position respecting patents. These perspectives are not helpful in determining what the law is regarding patents. The judicial department of government has the duty to say what the law is (*Marbury v. Madison*, 5 U. S. 137, 178 (1803)). The political departments of government (executive and legislative) have responsibilities in administering the patent law, but not in saying what the...



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