

The Impact of Patent Construction ~ How to prove infringement and validity in the USA, UK and Germany

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W

Date and venue

9 December 2015 ~ Ref: 9449

Registration & Coffee 09.00
Start 9.30 - Finish 17.00

The Cavendish Hotel,
81 Jermyn Street, St James's
London
SW1Y 6JF
Tel: +44(0)20 7930 2111

Accommodation

We have arranged a preferential rate for accommodation at the venue. To take advantage of this please contact reservations@thecavendishlondon.co.uk and state you are a Management Forum delegate. There are limited rooms available at this rate so please book early to avoid disappointment. For information on alternative accommodation please visit our website: management-forum.co.uk/accommodation



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Many of our seminars are available as in-house training. Please contact Sarah Packham on sarah.packham@management-forum.co.uk for further information.

The Small Print

FEE: The fee includes all meals and refreshments for the duration of the course and a complete set of course materials. If you have any particular requirements please advise customer services when booking.

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Delegate	Up to 28 days before course	27 to 14 days before course	13 to 0 days before course
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THE IMPACT OF PATENT CONSTRUCTION:

How to prove infringement and validity in the USA, UK and Germany

9 December 2015 ~ The Cavendish Hotel, London



This seminar will:

- Examine the principles of claim construction in the three jurisdictions
- Contrast the doctrines of equivalents and purposive construction
- Analyse validity requirements
- Illustrate the major issues with panel discussion, comparative examples and case studies

Seminar Leaders:

Ulrich Blumenröder
Grünecker, Kinkeldey, Stockmair &
Schwanhäusser, Munich

William Cook
Marks & Clerk Solicitors, London

Bradley Hulbert
McDonnell Boehnen Hulbert & Berghoff
LLP, Chicago

'Enlightening and honest, a very good day'
'An excellent speaker panel, fabulous in fact'
'Great slides to take away'

The seminar provides:

- A comprehensive overview of the principles of patent claim interpretation in the USA, UK and Germany
- A comparison and explanation of the varying approaches for determining when a patent claim that does not literally describe an accused system is nonetheless infringed
- Exemplary fact scenarios, with comparisons of the USA, UK and German approaches to claim construction and validity determination
- Recommendations for both litigating patents and preparing patent applications
- Provision for participants to ask questions and discuss individual concerns through the day

Who should attend?

- Patent professionals in private practice, including patent attorneys and lawyers
- Heads of IP, Heads of Patents and in-house patent counsel at every level
- Patent engineers and inventors
- All whose responsibilities include the need to understand the scope of patent coverage in USA, UK and Germany

Accreditation

This seminar merits **6 hours** under the UK Solicitors Regulation Authority self-accreditation scheme (ref. **CJA/MAFO**) and may also be relevant training under the **IPReg CPD self-accreditation scheme**.

A Certificate of Attendance for Professional Development will be given to each participant who completes the seminar

Seminar Leaders:



Ulrich Blumenröder is a partner at Grünecker, Kinkeldey, Stockmair & Schwanhäusser, an IP firm in Munich, which focuses equally on both IP-litigation and IP-prosecution. Mr. Blumenröder is active in all fields of intellectual property but primarily specialises in patent litigation.



William Cook is a partner in Marks & Clerk Solicitors in London. He is involved in all aspects of IP work, specialising in particular in patent litigation. As well as leading infringement and validity litigation in the UK and co-ordinating in the EU, USA and Asia, he works on FRAND licensing, patent essentiality, exhaustion of rights and IP/competition law issues.



Bradley Hulbert is a founding partner in McDonnell Boehnen Hulbert & Berghoff LLP, an 80-lawyer patent firm in Chicago. Mr. Hulbert has been lead counsel in a wide range of successful patent lawsuits and is an adjunct professor of law and Director, Academic and Professional Program Development, at the Chicago-Kent Law School.

Register Now!

Reserve your place and register now:
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Any questions email:
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I. PATENT CLAIM CONSTRUCTION GENERALLY

A. In the USA

- Inherent ambiguities of the 'All Elements Rule'
- Use of intrinsic and extrinsic evidence
- Counterintuitive interpretation of 'means for' claims

B. In the UK

- Interpreting the claim in the context of the specification and the art
- The literal or primary meaning of the claim or integer
- Purposive construction, as defined in *Catnic* and restated by the House of Lords in *Amgen* in 2004
- Any residual relevance of the guidelines in *Improver?*
- Compliance with EPC Article 69 and Protocol

C. In Germany

- No claim construction below wording
- 'Purposive construction' as part of literal wording
- Meaning of 'Means' in claims
- Relationship between claims and specification

II. DOCTRINES OF EQUIVALENTS & PURPOSIVE CONSTRUCTION

A. In the USA

- Sub-tests for determining equivalents
- Counterweights to 'equivalence'
 - Vitiating
 - Prosecution history estoppel and its variants

B. In the UK

- The effect of *Amgen*: How simple is the approach; are judges given any structured approach at all?
- Continuing significance of 'variants' in slower-moving technologies?

- Material considered by the court
- Expert evidence
- Compliance with EPC Article 69 and Protocol

C. In Germany

- Expert evidence, admissible evidence
- No prosecution history estoppel
- The 'Formstein' estoppel
- Infringement by patented variant

III. VALIDITY ANALYSIS

A. In the USA

- Four-part nonobvious analysis after *KSR* and the AIA
- Reliance on the specification to construe the claims and avoid the art
- Traps for European specifications filed in the USA

B. In the UK

- Construction and the four-step 'Pozzoli' test for obviousness
- Relevance of purposive construction to insufficiency analysis

C. In Germany

- Split infringement / invalidity proceedings
- Requirements for combination of documents

IV. COMPARATIVE EXAMPLES AND CASE STUDIES

- Presentation and panel discussion on the construction, infringement and validity of granted patents: comparative analysis and case studies