



Audit Course Report

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PATENT SEARCH & ANALYSIS

Abstract:

Studies at a university to a large degree involves passive, reproductive activities that often require little creative work by the students. Most study programs contain only few opportunities, apart from theses and seminars, to practice the independent writing of longer texts. However, this particular skill is of significant importance for a later scientific or industry career, for example for writing reports or conference papers. It is therefore in your own interest to make best use of the few existing opportunities of training this skill at a university. This document, on one hand, will give you hints for your report and, on the other hand, serves as a meta document that demonstrates what such a text may look like. You can and should also use it as a template for writing your own report. Furthermore, the LaTeX source code of this report can be used to get started in writing LaTeX.

Introduction:

A patent search helps to identify information that was known to the public prior to your invention. This information is used to determine whether an invention may be patentable. The U.S. Patent Office encourages inventors to search the USPTO and worldwide patent databases to see if a patent has already been filed or granted that is similar to your invention, and the USPTO website provides helpful information on how to search the USPTO databases. Peer-reviewed, scholarly journals, industry publications, product information from company websites, and universities (theses, technical reports, and research) are also important sources of information.

Choosing a Search and Analysis Level:

We offer several levels of search and analysis to meet your budget needs and risk tolerance, depending on your objectives. When deciding how much to invest in a patent search and analysis, consider the following:

How does this invention fit within your entire patent portfolio and overall business strategy? If this invention is secondary to other inventions in your portfolio and/or competitive strategies, then it might be reasonable to rely on a limited scope of search. If this invention plays a significant role in your portfolio and/or competitive strategy, then you should consider a more comprehensive search.

What is your overall budget for patenting this invention? If you have a smaller budget, then it might be practical to rely on a limited search to save resources for patent application drafting and prosecution.

What is the potential market for your invention? If the potential commercial value for your invention is significant, you should consider a more comprehensive search.

How competitive is your market? In competitive markets, there is typically more information available that will affect whether an application should be pursued and how effectively the application is written. If your market is competitive, you should consider a more comprehensive search.

Level 1: Search results only

We will search a proprietary patent database that offers greater flexibility and scope than the USPTO website. The search can optionally include non-patent literature. We will then provide you with both a description of the search scope and the search results for you to review in-house.

We charge a flat fee for performing a Level 1 search.

Level 2: Limited "Invention Disclosure Review"

We will search the same proprietary patent database used in a Level 1 search, as well as databases for journal articles and other non-patent references, to identify direct or near-direct hits for your invention. Using this information, we will then conduct a preliminary analysis of your invention, which we call an "invention disclosure review".

An invention disclosure review is a proprietary analysis that, with minimal time and cost, enables us to identify obstacles to obtaining valuable patent protection for your invention. If an invention survives the limited invention disclosure review, you might consider a more comprehensive review. We charge a flat fee for performing a Level 2 limited invention disclosure review.

Level 3: Full "Invention Disclosure Review"

In addition to the searching and preliminary analysis provided in the limited invention disclosure review, a Level 3 review includes a proposed claim strategy for the invention and identification of other entities that are pursuing patents in the field of your invention. We charge a flat fee for performing a Level 3 full invention disclosure review.

If you have different needs, we would be happy to work with you to create a meaningful, cost-effective search and analysis plan to fit your needs.

Patent for Publication:

Publication ethics

Academic research involves many coordinated steps and processes — appropriate study design, study execution, data collection, data analysis, and finally publication. While going through these steps and culminating in a publication can be an exhilarating experience, one should be aware of ethical code of conduct that binds researchers at every stage. The Committee on Publication Ethics (COPE) is an international forum for editors and publishers of peer-reviewed journals that provide the “code of conduct” and “best practice guidelines” that define publication ethics and advises editors on how to handle cases of research and publication misconduct.

Publication Ethics Checklist

Approval and Consent

- Do you have approval of the relevant Regulatory Authorities, Institutional Review Board and Ethics Committee?
- Have you registered your clinical trial?
- Have you documented Informed Consent?

Data Accuracy Falsification Fabrication

- Is there manipulation of material, equipment, process or data?
- Have you double-checked data for accuracy?

Is there any lurking fake data?

Plagiarism and Self-Plagiarism

- Have you used your own prior work or copied others' work?
- If so, have you cited these correctly?
- Do you have written permission for reproduced material, figures or tables?

Submission Fraud

Is there simultaneous submission to two journals?

Have you published the entire work or part of it (salami-slicing) already?

Have you excessively cited your own publications?

Ethics of Authorship

- Have you included all the authors in a specific pre-agreed order?
- Do you have an agreement with co-authors?
- Are the co-authors aware of the contents of the publication?
- Have they had access to, and hold themselves responsible for the data and its interpretation?
- Is there any Ghost Author or a "Guest Author"?

Conflict of Interest

Have you declared relevant interests and relationships that could be seen as influencing your findings (whether financial or scientific)?

How to pick a good topic:

A good note topic will make a claim that is novel, nonobvious, useful, and sound, for both the writer and the potential readers. The first step to coming up with a claim is to identify a problem - new legal developments, conflicts in the law, gaps or errors in current scholarly understanding, or any other flaw or hole that you identify within the legal world as it stands. The next step is to propose a solution to that problem - your proposed solution then becomes your claim. Ideas for a note topic can come from almost anywhere: newspapers, magazines, blogs, other journal articles or circuit splits. For circuit splits, identify an area of law or issue where courts have ruled differently and analyse an aspect of the issue or rulings. In Lexis or Westlaw, search for caselaw referring to a circuit split by including a search string like "court or circuit /s split." Bloomberg

Law compiles a monthly list of circuit splits available here (Bloomberg login required). Keep in mind that you may realize the need to broaden or narrow your topic during the writing process.

What is Pre-emption Checking?

A pre-emption check is conducted to determine whether there is new law or a prior publication (whether by student author or expert) that renders an article moot. Your treatment of the topic must be original. Your issue can be pre-empted in two ways.

1. Pre-emption by law means that new case law, statutory or regulatory law has made your topic

moot. An in-depth and complete search in the case law, legislative, codes and regulations databases is a must to make sure your issue is not already addressed by law.

2. Pre-emption by author means that someone has already addressed the topic. A thorough search

must be conducted to determine if any publications or articles have already been written addressing your issue using the same reasoning. We are focusing on specific arguments and claims, not just a broad treatment of a topic.

Cautionary Notes:

- Conduct a pre-emption check before spending time and energy writing and researching your topic.
- The full text databases on Lexis and Westlaw are not necessarily full text! Some law reviews and legal journals are not on Westlaw & Lexis. Others are listed in the databases but not every article from every issue is included. Extend your search beyond Westlaw and Lexis. Use a variety of databases and a variety of search techniques.
- Use the history features or keep a log of your steps as you work through the databases.

Preemption Checking Steps

In Westlaw: Search the following databases:

- Journals and Law Reviews (JLR)
- Texts & Periodicals – All Law Reviews, Texts & Bar Journals (TP-ALL)
- American Jurisprudence (AMJUR) (I would also search CJS)
- American Law Reports (ALR)
- Index to Legal Periodicals (ILP)
- Legal Resource Index (LRI)

- Current Index to Legal Periodicals (CILP) – A categorized list of the newest articles just being published.
- General news databases – for recent articles about your topic.
- Check case law and legislation and to Key Cite any of your cases and legislation. The Key Cite report includes secondary sources that cite your case and legislation. This will lead you to material that discusses your cases or legislation.

In Lexis: Search the following subject areas -

- Combined (LGLPUB) - The Legal Publications group consists of over 900 individual secondaries sources including: Law Reviews, Bar Journals, ABA Journals, Legal Newspapers, Legal
- Newsletters, Specialty Legal Publications, and CLE Materials
- Legal Journals & Periodicals
- Legal Resource Index (LGLIND)
- Law Reviews by Area of Law
- American Law Reports (ALR)
- General News Databases – for recent articles on your topic.
- Check case law, legislation and to Shepardize your case and legislation. The Shepard's report
- includes secondary sources that cite your case and legislation

Plagiarism

Types of Plagiarism: -

Plagiarism is the presentation of another person's work as your own.

It can be deliberate or accidental; partial or complete.

Plagiarism can include:

- Buying, stealing, or ghost-writing a paper.
- Using other people's ideas without proper citation.
- Improper use of quotes (e.g., improperly altering a quote or failing to use quotation marks).
- Paraphrasing an author too lightly.

Consequences of Plagiarism

Plagiarism violates USD's Honor Code. Consequences of plagiarism can include:

- Failing grade
- Suspension

- Expulsion
- Rescission of a degree, even after graduation.
- Barrier to admission to the bar.
- Degradation of a university's reputation and diminishing the value of its degrees.

Conclusion:

Here you should once again briefly describe the content of the paper and mention the most important results and your own contributions. This is also the right place to discuss still unanswered questions, extensions, and future work.