## Table of Contents

**Preface** .................................................. V

**A Portrayal of Joseph Straus** ................................ VII
   *Rainer Moufang*

**List of Authors** ........................................ XXV

1. **Substantive Patent and Utility Model Law**

   **Prior Art from the Internet – A Potential Further Reason**
   for Branching off a Utility Model from a Pending Patent Application .... 3
   *Alexander Klicznik*

   **Registration without Examination: The Utility Model – A Useful Model?** ... 17
   *Karsten Königer*

   **Nonobviousness in German Patent Nullity Proceedings** .................. 31
   *Hans-Georg Landfermann*

   **Tax Strategy Patents – a Tax Lawyer’s View** ............................. 49
   *Wolfgang Schön*

   **Protection of Scientific Creations under Patent and Copyright Law** ...... 59
   *Gerhard Schricker*

   **Personal Rights of Inventors in the Polish Legal System** ............... 67
   *Janusz Szwaja*

   **The Priority Right in Patent Law – Use and Misuse?** .................... 75
   *Eike Ullmann*

2. **Limitations to Intellectual Property Protection**

   **The Experimental Use of the Patented Invention:**
   A Free Use or an Infringing Use? ......................................... 87
   *Vincenzo Di Cataldo*
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpreting Exceptions in Intellectual Property Law</td>
<td>99</td>
</tr>
<tr>
<td><em>Henrik Holzapfel and Georg Werner</em></td>
<td></td>
</tr>
<tr>
<td>A Study on Patent Compulsory License System in China –</td>
<td>115</td>
</tr>
<tr>
<td>With Particular Reference to the Drafted 3rd Amendment to the Patent Law of the P.R. of China</td>
<td></td>
</tr>
<tr>
<td><em>Xiaohai Liu</em></td>
<td></td>
</tr>
<tr>
<td>Compulsory Licensing in Chinese Patent Law</td>
<td>127</td>
</tr>
<tr>
<td><em>Xiaoguang Shan</em></td>
<td></td>
</tr>
<tr>
<td><strong>3. Intellectual Property and Competition (Antitrust) Law</strong></td>
<td></td>
</tr>
<tr>
<td>Deceptive Conduct in the Patent World –</td>
<td>137</td>
</tr>
<tr>
<td>A Case for US Antitrust and EU Competition Law?</td>
<td></td>
</tr>
<tr>
<td><em>Josef Drexl</em></td>
<td></td>
</tr>
<tr>
<td>Intellectual Property and Article 82 EC</td>
<td>157</td>
</tr>
<tr>
<td><em>Michael Kort</em></td>
<td></td>
</tr>
<tr>
<td>Patents and Standards:</td>
<td></td>
</tr>
<tr>
<td>The Antitrust Objection as a Defense in Patent Infringement Proceedings</td>
<td>177</td>
</tr>
<tr>
<td><em>Karolina Schöler</em></td>
<td></td>
</tr>
<tr>
<td>The Inadequacies of the Section 271(e)(1) Jurisprudence of the United States Supreme Court</td>
<td>197</td>
</tr>
<tr>
<td><em>Martin J. Adelman</em></td>
<td></td>
</tr>
<tr>
<td>Legal and Moral Reflections on Modern Biotechnology in Use &amp; Misuse</td>
<td>209</td>
</tr>
<tr>
<td><em>Shoshana Berman</em></td>
<td></td>
</tr>
<tr>
<td>Biotechnological Patenting and Innovation</td>
<td>229</td>
</tr>
<tr>
<td><em>Michael Blakeney</em></td>
<td></td>
</tr>
<tr>
<td>Circumventing the Debate over State Policy and Property Rights:</td>
<td>243</td>
</tr>
<tr>
<td>Section 3(d) of the Indian Patents Act Law</td>
<td></td>
</tr>
<tr>
<td><em>Tanuja V. Garde</em></td>
<td></td>
</tr>
</tbody>
</table>
Medical Use Claims: EPC 2000 and its Impact on Prosecution and Enforcement .................................................. 255
Hans-Rainer Jaenichen, Jürgen Meier, Niels Hölder

Purpose and Limits of the Exclusion from Patentability of Medical Methods, Especially Diagnostic Methods ........................................ 275
Rudolf Kraßer

Special Legislation for Genetic Inventions – A Violation of Article 27(1) TRIPS? ............................................. 289
Wolrad Prinz zu Waldeck und Pyrmont

5. Employee Invention Law

Effects of the German Law on Employees’ Inventions when Posting Employees Within the European Union .......................... 307
Kurt Bartenbach, Franz-Eugen Volz, Markus J. Goetzmann

The Finnish 2006 Act on University Inventions – The Road Map to Identifying, Protecting and Utilizing Patentable Research Results .......... 329
Rainer Oesch

University Employee Inventions in Scandinavian and Finnish Law ........ 339
Are Stenvik

6. Procedure, Enforcement, and Liability

Patent Trolls – Menace or Myth? ............................................ 355
Christoph Ann

Liability 2.0 – Does the Internet environment require new standards for secondary liability? An overview of the current legal situation in Germany 365
Alexander Bayer

Can China be Forced to Enforce IP Rights? .............................. 379
Peter Ganea

Trade Secrets and Patent Litigation ........................................... 391
Charles Gielen
Reflections on the German Patent Litigation System ................................. 401
Peter Mes

Enforcement of Unfair Competition Law by Notice of Violation, Rights of Consumers and Public Authorities – Comparative Evaluation of the German Status Quo ................................................................. 413
Thomas M.J. Möllers

Two Major and Long-Lasting Patent Law Issues in Japan ...................... 431
Tetsuya Obuchi

Intellectual Property Rights and Arbitration – Miscellaneous ............... 445
Krešimir Sajko

Harmonizing Patent Infringement Damages: A Lesson from Japanese Experiences ................................................................. 463
Toshiko Takenaka

The Inescapable Trap – A Case for Reconsideration? ......................... 481
Rudolf Teschemacher and Jochen Pagenberg

Patents without Injunctions? – Trolls, Hold-ups, Ambushes, and Other Patent Warfare ................................................................. 495
Wolfgang von Meibom and Ralph Nack

7. Protecting Technology against Unfair Competition

(No) Freedom to Copy? Protection of Technical Features under Unfair Competition Law .... 521
Annette Kur

Reverse Engineering: Unfair Competition or Catalyst for Innovation? ...... 535
Ansgar Ohly

8. Multijurisdictional Aspects of IP

Negotiations on the Accession to the EU and the Harmonization of Intellectual Property with the acquis communautaire in Light of Globalization ........... 555
Igor Gliha

Klaus Grabinski

Contractual Liability of the Seller Due to Third Parties’ Patents and Other IP Rights under German Law and the UN Convention on Sales Contracts ... 575

Paul Katzenberger

The Principle of National Treatment in the International Conventions Protecting Intellectual Property ................................. 593

Ulrich Loewenheim

The Extraterritorial Reach of Patent Law ...................................................... 601

Rainer Moufang

Synergies Created by International Cooperation in the Patent Area? ........ 619

Jürgen Schade

Patents in Europe and their Court – Is there Light at the End of the Tunnel? 633

Michael Schneider

Patents and Developing Countries ............................................................. 647

Peter Dirk Siemsen and Ivan Bacellar Ahlert

Territorial Intellectual Property Rights in a Global Economy – Transit and Other ‘Free Zones’ ....................................................... 653

Alexander von Mühlendahl and Dieter Stauder

9. Recent Developments in National IP and Competition Legislation

The Spanish Patent System: Future Outlook ............................................. 677

Alberto Bercovitz

Incorporation of Patent Law into Part Four of the Russian Civil Code – A Structural Analysis ......................................................... 687

Adolf Dietz

The Quiet Revolution in American Copyright Law ................................. 703

Paul Goldstein
Some Remarks On the Third Revision Draft of the Chinese Patent Law .............................. 713
Shoukang Guo

Some Critical Remarks Concerning the Act on the Protection of Competition of the Republic of Serbia ........................................... 729
Radovan D. Vukadinović

10. Intellectual Property and Public Policies

Secrecy and the Evolution of an Early Patent System ............................................. 751
William Cornish

Legal Protection of Cultural Heritage in a World of Intellectual Property Rights ................................. 763
Reto M. Hilty

Woolly Lines in Intellectual Property Law .......................................................... 781
The Rt. Hon. Sir Robin Jacob

Economic Perils of U.S. Patent Reform: Flexibility’s Achilles Heel .................... 793
F. Scott Kieff

The Need for Climate Improvement in Intellectual Property Law ..................... 811
Marianne Levin

The Patent System – Not More than an Instrument of Public Policy ................. 829
Slobodan M. Marković

Patents and the Economic Incentive to Invent ..................................................... 841
Bojan Pretnar

Stanisław Sołtysiński

The Impact of the Amendments of the Chinese Patent System on the Technological and Economic Progress in China ............................. 873
Xiang Yu

11. Bibliography of Publications by Joseph Straus

Publications by Professor Dr. Dres. h.c. Joseph Straus ................................. 887