



# Patent Litigation Strategies Handbook, Third Edition, 2011 Supplement

*ABA Section of Intellectual Property Law*

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# Patent Litigation Strategies Handbook, Third Edition, 2011 Supplement

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## **Patent Litigation Strategies Handbook, Third Edition, 2011 Supplement** ABA Section of Intellectual Property Law

The 2011 Supplement to Patent Litigation Strategies Handbook, Third Edition addresses recent developments and important topics including: The Federal Circuit's handling of damages, which were handed down in several opinions, including *Reqsnet.com Inc. v. Lansa, Inc.*, which required patent owners to be more detailed and rigorous in their presentation of damages evidence, and resulting legislation (H.R. 1249, the America Invents Act, and S.23, the Patent Reform Act of 2011) that did not impose any additional obligations on the court with respect to damages *Global-Tech Appliances, Inc. v. SEB S.A.*, in which the Supreme Court more clearly defined the law of induced infringement The standard for proving prosecution laches, which was further clarified in *Cancer Research Tech. Ltd. v. Barr Labs., Inc.*, in which the Federal Circuit ruled that the moving party must present evidence of intervening rights to establish that the patentee engaged in an unreasonable and unexplained delay in prosecution The unique issues related to biotechnology patent litigation The 2010 amendments to Rule 26(b)(4) effective December 1, 2010, dealing with the discoverability of drafts of expert reports and communications with counsel The 2010 decisions of circuit courts of appeal regarding discovery issues, especially issues of discovery sanctions and spoliation How the courts have dealt with issues of production and preservation of dynamic content that is frequently deleted, replaced, or edited such as caches, Wikis, data logs, and other intangible data, with a look at lessons learned from *D.L. v. Dist. of Columbia*, where a district court sanctioned the District of Columbia for failing to timely produce numerous e-mails Reasonable royalty in light of the Federal Circuit's 2011 decision in *Uniloc USA, Inc. v. Microsoft Corp.*, which scrutinized the methodology used by some experts on the subject.

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