Teaching Patent Law —
Between Natural Sciences and Law

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Technology-specific law problems

- Advanced learners
- Examples: gene patents, nanotechnology

Parameters

- Law: national and EPC
- Listeners: law students
- Subject: „core“ patent law (substantive law: patentability requirements, scope of protection)
Three Steps

• Technology

• Legal principles

• Legal problems
Nanotechnology

http://giantshoulders.files.wordpress.com/2007/10/20071020-atpase.png
What is Nanotechnology?

[...] the term nanotechnology covers entities with a controlled geometrical size of at least one functional component below 100 nanometers (nm) in one or more dimensions susceptible to make physical, chemical or biological effects available which are intrinsic to that size.

(EPO, Classification Y01N)
Red blood cells (~7-8 μm)

Fly ash ~ 10-20 μm

Human hair ~ 60-120 μm wide

Dust mite ~ 200 μm

Ant ~ 5 mm

Ants (100-1,000 mm)

Dust mite ~ 500 μm

Human hair ~ 60-120 μm wide

Red blood cells (~7-8 μm)

Fly ash ~ 10-20 μm

DNA ~ 2-1/2 nm diameter

ATP synthase ~10 nm diameter

Atoms of silicon spacing 0.078 nm

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Office of Basic Energy Sciences
Office of Science, U.S. DOE
Version 05-26-06, pmd
Problem: Compound versus Apparatus Claims

Art. 53 EPC
Exceptions to patentability

European patents shall not be granted in respect of:

(…)  
(c) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods.
Art. 54 EPC
Novelty

(...)

(4) Paragraphs 2 and 3 shall not exclude the patentability of any substance or composition, comprised in the state of the art, for use in a method referred to in Article 53(c), provided that its use for any such method is not comprised in the state of the art.

(5) Paragraphs 2 and 3 shall also not exclude the patentability of any substance or composition referred to in paragraph 4 for any specific use in a method referred to in Article 53(c), provided that such use is not comprised in the state of the art.
Teaching Patent Law

Technology-specific law problems

- Show students current research topics
- Stir students’ interest in patent law
- Are fun!

Three steps

- Give law students useful background knowledge
- Repeat basic legal knowledge
- Consolidate legal knowledge by discussing legal problems
Thank you for your attention!