

LOST IN INTERPRETATION: SOLVING THE MYTH OF DIAGNOSTIC-METHOD PATENTS

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ABSTRACT

Contrary to the belief that the U.S. is the only country in the world, in addition to Australia, allowing medical method patents, Europe allows medical method patents as well. In Europe, medical methods are interpreted differently than those in the U.S. In fact, many patent experts fall into the trap. This paper selected three well-known U.S. cases involving diagnostic method patents, and searched for the corresponding European patents. After examining the patents and the claims, it was found that some of the diagnostic method patents in Europe have broader scope than their U.S. counterparts. Instead of invalidating diagnostic method patents altogether, broadening the scope of “medical immunity” is a better way to protect medical practitioners from being sued, since the endless interpretation of diagnostic methods in Europe simply caused more confusion.

KEYWORDS: *diagnostic method, medical method, patent, medical immunity, infringement*

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