Patent Law Research Guide

TOVE KLOVNING

FOREIGN/COMPARATIVE/INTERNATIONAL LAW LIBRARIAN
& LECTURER IN LAW

WASHINGTON UNIVERSITY SCHOOL OF LAW

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• Note there are several hyperlinks in this .ppt. All hyperlinks have been underlined.

• This research guide is not intended to be comprehensive; but may prove to be a great source for both novice researchers as well as experienced researchers. There are indeed a lot of print and electronic sources available on this topic. Our country focus is USA.
Keeping your research organized has always been a challenge until now

- Are you familiar with Zotero?
- This is a free, easy-to-use Firefox extension that helps you collect, manage, and cite your research sources. It lives right where you do your work — in the web browser itself.

  Zotero now works on HeinOnline and does a good attempt in bluebook articles that are located on HeinOnline.
Patent research guide? My first thought: Yikes!

My second thought: I frequently teach students how to research something they know nothing about.

My third thought: I can do it😊.

Before we proceed further – Do you have any suggestions?
Before embarking on your research quest: Create a research plan that indicates the sources you plan to consult both in print and online format.

- How do you create a research plan – when you have no idea where to start?

- My first step is always to: Google a research guide.

Research guides are excellent starting points - because they identify pertinent sources on specific topics.

- [http://www.lib.uchicago.edu/e/law/patents.html](http://www.lib.uchicago.edu/e/law/patents.html)
- [http://lib.law.washington.edu/ref/patents.html](http://lib.law.washington.edu/ref/patents.html)
- [http://www.bu.edu/lawlibrary/research/ip/patent.html](http://www.bu.edu/lawlibrary/research/ip/patent.html)
Research methods:
Known citation method – the ultimate method
Topical search method
Case method – narrow down by headnotes.
Index method – subject or keyword search.
Work from cross ref. in annotated codes or secondary sources.
Boolean queries/natural language queries – (possibly the worst method - when you are a novice researcher.)
Do not neglect:

- RP – Always create a research plan (Sources to consult in print and electronic format).
- 4 W’s (BlueBooking rules.......) Who, what, where, when.
- 3 C’s. Currency, content and coverage.
- Has someone already done the job for you?
- LAU – know how to locate, access and update your sources.
Do you have Westlaw or LexisNexis access?

Remember to create a topical or jurisdictional tab!
Alternatives to Westlaw and LexisNexis?

Free
- [http://portal.uspto.gov/external/portal/pair](http://portal.uspto.gov/external/portal/pair) (more information such as status of patent prosecution, file wrapper information)
- [http://www.google.com/patents](http://www.google.com/patents)

pay

Courtesy of Professor Carter Johnson at Washington University.
Marc 2010
Sometimes the answer is just a phone call away.
Free Forms?

- http://www.uspto.gov/forms/forms_alpha.jsp
When Searching Google:

- Getting too many hits or too few? Remember to always use the advanced features on Google when searching.
- Are you aware that you can limit by year on Google?

- Need something in .pdf? Add .pdf that to your search query.
- Why go to Google when you can find the exact info in a subscription database? Remember anyone and post anything on the web. As a legal researcher you are searching for authoritative and authentic sources.

- Google books search? Bingo!
  
  http://books.google.com/books?id=22SOw7NcKeUC&pg=PA75&dq=%22patent+infringement%22&cd=5#v=onepage&q=%22patent%20infringement%22&f=false
There is also:

- [Google Scholar](#)
- [Google Uncle Sam?](#)

Internet caveats:

- Anybody can post anything to the Web, it is therefore important to evaluate information with a critical eye.
- Not everything is available on the Web.
- If you don't know the source of the information, take it with two grains of salt!

(© Washington University in St. Louis School of Law Library)
• Why Google when searching via Google may be indeed very time consuming - for the most part?

• Why rely on Google when someone may have done the job for you? American legal publishers love to facilitate information......

They often provide:
  Cross ref. to other sources
  Historical notes
  Check lists etc.
For guidance how to find reporters and primary sources you will need to check out the research guides in this .ppt or below:

- [Primary Sources](#) [Constitution](#)
- [Statutes](#)
- [Administrative Decisions](#)

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It is possible to update federal statutes for free? Yes. See below:  http://uscode.house.gov/classification/tables.shtml
I want to talk about regulations. How do you locate regulations?

1. Most frequent method: Cross references via secondary sources or by constructing a Boolean search in a database or via Google.

2. The best method: Known citation method! (My choice)

   We already know that Title 35 in the U.S.C deals with Patents...... Correct?!

   Did you know that once you have located your statute you can go right to a conversion table and locate relevant CFR’s? It is free and much faster then a boolean search........ The conversion table is located here: http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.pdf

   You can also locate regulations via this url:
   http://www.uspto.gov/web/offices/pac/mpep/mpep.htm

3. How do you update your reg’s for free?

4. How do you find proposed regulations?
   http://www.regulations.gov
   Federal register
   Loose leafs – remember to update via LSA/LPA
   Agency remember to update via LSA/LPA.
It is always a good idea to get some context in scholarly writing before chasing after cases.

- Your options:
  Books, articles, loose leaf's, legal encyclopedias.

To locate:
  
  online catalog

  Mobius

  WORLDCAT/OCLC via university subscription.
  or WorldCat.org (free to the general public)
What does our library have to offer?


Examples of LC subject headings you may be interested in:

- **Patent laws and legislation -- United States. – Periodicals**
- **Patent laws and legislation -- United States -- Handbooks, manuals, etc**
- **Patent infringement.**
- **Patent infringement -- United States**
- **Patent practice.**

- Or you can search by author: [United States. Patent and Trademark Office](http://catalog.wustl.edu/)

- There are many possible subject headings to use when searching for books on patent law.
Has someone done the job for you?

- Try locating a subject matter (also known as loose leaf) service for your topic.

BNA library database:

Patent, Trademark & Copyright Journal

Patent, Trademark & Copyright Law Daily

U.S. Patents Quarterly/BNA Intellectual Property Library
It is ok to call for guidance.

Check out tutorials and remember the 3 c's: Content, currency and coverage.
Key features:

(The links may only work on law school premises).

- Analysis & Perspective
- Legislative Table
- Regulatory Table
- Calendar of Events
Forms and check lists?
Someone may have do the job for you........

- These are often provided in loose-leaf services/subject matter service databases.
- *American Jurisprudence Pleading and Practice Forms* KF8836 .A46
- West’s legal forms KF170 .W4
- Remember to check whether there are office templates available as well. Many firms create their own......
Purpose of forms and check lists:

- To offer a wealth of sample intellectual property forms, drafting guidance and expert legal commentary.
Some Loose-leafs/Subject Matter Services in our library:

- Chisum, Donald S., 1944-
  Patents : a treatise on the law of patentability, validity, and infringement / by Donald S. Chisum (looseleaf) KF3114 .C47
  Location Law Reserve

- Horwitz, Lester, 1923-
  Patent Office Rules And Practice
  Patent Office rules and practice KF3120.A6 H6
• **Einhorn, Harold**
  Patent licensing transactions 2 v. (loose-leaf) 1968-
  we have both print and electronic version.
  KF3145.A6 C6 (Law Reserve)

• **Dratler, Jay, 1945-**
  Licensing of intellectual property / Jay Dratler, Jr
  Published New York : Law Journal Seminars-Press
  1994- Description 1 v. (loose-leaf) KF3145 .D73 (Law Reserve)
- If out of luck when searching the library catalog? Try searching **Mobius** or **WorldCat**

- **Option 1.** Interlibrary loan the book and wait for its arrival.

- **Option 2.** Note the call number/subject headings and then - search your local catalog. Are there any nearby relevant call numbers/books that may prove useful to your research?

- I personally love option 2.
WorldCat results for: **ti: patent and ti: infringement and yr: 2010.**
Records found. 4!

We have this book in our library.
El. Shelf browse?

- Great option: it will give you an idea of nearby books that may be of interest.
Have you ever tried searching by call number or subject and then limiting by date or language?

- Have you ever tried searching by call number? Click here: **KF3155 .T54 2010**

  This option will lead you to other interesting books on your topic

  E.g. You can also search by author or title or keyword.

- I love these features : limit by *date* and *language*. 

Title: Patent basics, 2009

Author(s): Fainberg, Ian
Corr: Gross, Maria E.

Corp Author(s): Practising Law Institute
Year: 2009

Description: 332 p : ill., maps, ports., charts ; 23 cm
Language: English


Note(s): "Prepared for distribution at the Patent basics 2009 program, June-July, 2009". *Order #18523."/ Index begins with letter F and is erratic. / Includes index.

Class Descriptors: LC: KF3119.3
Go back to our catalog and search by call number **LC KF3119.3** then - browse the shelf electronically. (the links will direct you to our library catalog.)
Try searching for articles on your topic by author/title/keyword search.

Your options:
Index to Legal Periodicals (1981 to current)
Index to Legal Periodicals (1908-1980)
Legal Track (1982-current)
Index to foreign legal periodicals (1985 to current)

Click here to access them
You can also search for articles in LexisNexis and Westlaw. Remember: You can use their citators to expand to other sources.

Shepard’s:

KeyCite:

Hein Online also offers scholar check (citator) option.
Staying current via news papers and alerts?

- RSS Feed Option on news services and blogs. See YouTube snippet:
  [http://www.youtube.com/watch?v=oklgLsSxGsU](http://www.youtube.com/watch?v=oklgLsSxGsU)

- Most online journals provide email alerts and/or RSS feeds.
- Online news papers offer this option as well.

- Working papers? [Science Research Network](http://www.science-research-network.com) for publications:
Blogs: Courtesy of Professor Carter Johnson at Washington University:

- Patently-O
- biotech
- http://www.patentbaristas.com/
- http://www.patentdocs.org/
- http://holmansbiotechipblog.blogspot.com/
- general
- http://271patent.blogspot.com/ (this one has links to several other IP/patent blogs)
While preparing for the guide I noticed that the BNA Subject Matter Service provided reference to a proposed Patent Reform Act .......(These services do their best to keep you updated and are often updated bi-weekly or weekly)

Question: What other sources can you consult when you do not have access to a subject matter service?

In other words: How do you locate reports and hearings? Proposed bills?

Search in either Thomas or Congressional Universe or ......the online library catalogs for reports or hearings. Remember to narrow your search by date if you are seeking current material.

Consult my research guide at http://law.wustl.edu/library/guides/AmLegisHistoryResearchOptions2010. pdf, or other federal legislative research guides on the internet for more information on how to proceed.
Are you aware of any newer reports? A proposed Reform Act?


- On Thomas: http://www.thomas.gov/cgi-bin/cpquery/R?cp111:FLD010:@1%28sr018%29


- I located this report in WorldCat by searching for ti:patent reform Act and narrowing down by year 2009....... There was also a cross ref. to it in U.S. Patents Quarterly/BNA Intellectual Property Library.

- Here is a link to WordCat: http://catalog.wustl.edu:80/record=b2568337~S2
Are you aware of this hearing?

- Corp Auth: United States. Congress. Senate. Committee on the Judiciary

WorldCat query: \textbf{ti:} patent and \textbf{ti:} reform and \textbf{ti:} hearing and \textbf{yr:} 2010
What I hope you learnt:

- How to locate sources for your research topic. (RP - research plan)
- The 4 W’s.
- The 3 C’s + LAU (locate, access and updating legal sources).
- That …………there are alternatives to Westlaw and LexisNexis databases.
- How to update outside of Shepard’s and LexisNexis when dealing with regulations.
- How to use the online catalog to locate items that may be of interest to your research.
- How to expand your research using the electronic browse feature in the online catalog.
- That searching by call number in your own catalog can be useful when you have identified a book held elsewhere.
- How to update and stay current on your topic.
- How to create an RSS feed: [http://www.youtube.com/watch?v=0klgLsSxGsU](http://www.youtube.com/watch?v=0klgLsSxGsU)
- How to become an efficient researcher when embarking on any type of legal research issue of your choice.
- Good luck with your future research projects!
Sources

- Web research guides mentioned in this .ppt
- How to find the law / by Cohen, Berring and Olson (1989)