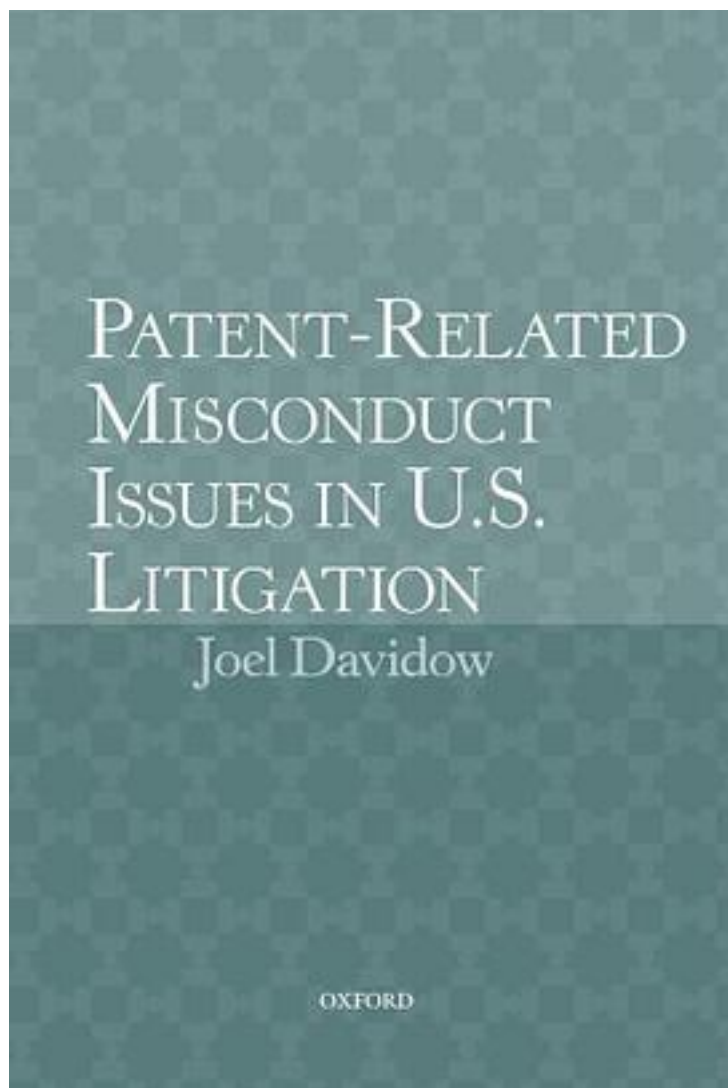


Misconduct Claims and Defenses Against Assertions of Patent Infringement



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This book is designed to serve as the first comprehensive review of conduct defenses and counterclaims, with a focus on existing case law and litigation strategies. The first section of the book addresses claims involving misuse of the patenting process, with a focus on patents on a product or process the patentee did not invent as claimed and inequitable conduct claims, including intentional failure to cite material references and false or misleading declarations. From here the book turns to claims based on the misuse of the litigation process, including baseless and bad-purpose suits. The third and final section of the book describes claims based on the misuse of the competitive (antitrust) and licensing processes. Each section of the book is divided into sections devoted to law and strategy, with practical guidance related to handling document demands and other discovery requests, expert testimony and waiver issues. This book is designed to provide patent litigators with a double arsenal of unprecedented case-law analysis and litigation strategy related to the "wild cards" of infringement cases: affirmative defenses and counterclaims based on assertions of patent-holder misconduct. Such claims can include: BL inequitable conduct, including intentional failure to cite material references and false or misleading declarations BL misuse of the litigation process, including baseless and bad-purpose suits BL claims that an opposing party knew or should have known that the patent was invalid or not infringed BL antitrust law violations BL tortuous interference BL defamation BL RICO allegations In addition, each chapter of the book has a section devoted to litigation strategy related to a particular claim, with practical guidance on a range of issues including: BL document demands and party depositions used to show that putative inventor had access to another's similar invention BL deposition tactics to establish what the inventor or patent holder knew and when they knew it, along with indications of intent. BL the use of expert testimony to establish materiality or intent BL summary judgment and motion practice BL the use of expert testimony to prove claims of market definition and market power BL third-party discovery to prove what persons skilled in the art understood or how the market functions BL waiver of privilege issues BL the use of discovery to establish the existence of past licenses and negotiations BL post-verdict Rule 11 claims or recovery under 35 USC 285

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