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1. Cost-Effective IP Strategies for Biotech Startups

**A WELL-DEvised
IP PORTFOLIO CAN GO
A LONG WAY TO
ENSURE A STARTUP BIO-
TECH COMPANY'S SUC-
CESS IN THE MARKET-
PLACE**

A well-devised intellectual property (IP) portfolio can go a long way to ensure a startup biotech company's success in the market-place. In general, patents allow the owner to exclude others from making, using, offering to sell, selling or importing the claimed invention during the lifetime of the patent (35 U.S.C. §154). Typically, the IP investments of biotech startups are primarily comprised of utility patents designed to protect functional inventions and thereby serve as barriers to entry against competitors. When faced with budget constraints, however, biotech startups can tap into other forms of IP protection to ensure that the visual/ornamental aspects of their products, which can be just as valuable as the functionality of their products, are still... [Read more](#)

2. EPO fosters international co-operation during WIPO Assemblies

**THE EPO AGENDA
INCLUDED OVER 45
OFFICIAL MEETINGS
WITH NATIONAL
PATENT OFFICES
FROM OTHER
REGIONS.**

A high-level EPO delegation led by President António Campinos attended the WIPO Assemblies in Geneva last week to meet with counterparts from national patent offices from around the world to help shape the EPO's international agenda for 2019.

The 58th series of Meetings of the Assemblies of the member states of the World Intellectual Property Organization (WIPO), which took place from 24 September to 2 October 2018, provided a unique opportunity to take stock of the progress in co-operation activities, and to define future directions. The EPO agenda included over 45 official meetings with national patent offices from other regions. The meetings aimed to further streng... [Read more](#)

3. Trademark Alert: Unauthorized Changes to Trademark Applications and Registrations

**APPARENTLY,
THERE HAS BEEN A
NUMBER OF UNAUTHOR-
IZED CHANGES MADE TO
ACTIVE TRADEMARK
APPLICATIONS AND
REGISTRATIONS**

Earlier this afternoon the United States Patent and Trademark Office sent an e-mail notifying stakeholders of an alarming ongoing scheme to hijack trademark files. Apparently, there has been a number of unauthorized changes made to active trademark applications and registrations. It seems that these changes are part of a larger scheme to register the marks of others on third-party brand registries.

The e-mail goes on to say: *Unauthorized parties have filed forms through our Trademark Electronic Application System (TEAS) to make these changes. Although these instances affect a small percentage of total applications and registrat... [Read more](#)*

4. China Finds Trademark Office to Protect Domestic Brands

**THE NEW OFFICE
SHOWS CHINA IS SERI-
OUS ABOUT PROTECT-
ING IP — AT LEAST
WHERE ITS OWN
COMPANIES ARE
CONCERNED**

China's first trademark office for helping domestic businesses protect their intellectual property overseas was established Wednesday in Shanghai, according to business news outlet Jiemian. The Shanghai Trademark Overseas Protection Office will support Chinese companies in international copyright disputes by providing guidance, training, and legal services. It will also create a think tank of experts to share their professional suggestions with businesses. Though China is rife with bootleg DVDs, shoes with backward Nike swoosh logos, and countless imitations of other foreign products, its own time-honored brands fall victim to copycats too, according to the State Administration for Industry... [Read more](#)

5. WIPO Digital Access Service for Priority Documents

**WIPO DAS FOR
PRIORITY DOCUMENTS,
A PCT APPLICANT CAN
REQUEST THE IB TO
RETRIEVE A COPY OF
AN EARLIER APPLICA-
TION FROM DAS**

It is recalled that, by using the WIPO Digital Access Service for Priority Documents (DAS), a PCT applicant can request the International Bureau (IB) to retrieve a copy of an earlier application from DAS for use as a priority document, instead of providing or arranging for the provision of a certified copy. Note that, in order to be able to make use of the DAS service, it is the office with which the earlier application was filed that needs to be a DAS depositing Office, and not necessarily the receiving Office with which the international application is filed.

National Institute of Industrial Property (Chile) :- The National Institute of Industrial Property (Chile) has notified the IB that, with effect from 1 October 2018, it will comm... [Read more](#)

6. European Union Joins WIPO's Marrakesh Treaty, Greatly Expanding Coverage

**THE EU JOINED
THE MARRAKESH TREATY
DURING THE 2018 WIPO
ASSEMBLIES MEETINGS,
HELD BETWEEN
SEPTEMBER 24-OCTOBER
2, 2018 IN GENEVA**

The European Union has joined WIPO's Marrakesh Treaty in a big expansion in membership for the accord, which eases the creation and transfer across national boundaries of texts specially adapted for use by visually impaired people. Ambassador Elisabeth Tichy-Fisslberger, Permanent Representative of Austria to the United Nations in Geneva and representative of the 28-member European Union (EU), handed to WIPO Director General Francis Gurry the EU's instrument of ratification for the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. With the EU's ratification, the Treaty will cover 70 countries across the.. [Read more](#)

7. Exhaustive list of SPC nullity grounds according to Swiss Federal Patent Court

**IN A DECISION
ISSUED THIS SUMMER,
THE SWISS SPC HAD THE
OPPORTUNITY TO COM-
MENT ON THE CATA-
LOGUE OF GROUNDS AC-
CORDING SPC**

In a decision issued this summer, the Swiss Federal Patent Court had the opportunity to comment on the catalogue of grounds for invalidity which can be brought against a Swiss SPC. The Federal Patent Court issued a PI based on Genzyme Corporation's Swiss SPC for sevelamer, although it was unclear whether the Swiss Institute of Intellectual Property (IPI) had approved an application for re-establishment of rights correctly when Genzyme Corporation applied for its SPC. The Federal Patent Court confirmed in the ordinary proceedings following the PI proceedings that it was irrelevant whether the application for re-establishment of rights was lawful or not. In any case, an unlawful re-establi.. [Read more](#)

8. IPR Outcomes of Orange Book Patents and its Effect on Hatch-Waxman Litigation

**OUT OF 230
ORANGE BOOK PATENTS
CHALLENGED IN IPR
PROCEEDINGS, 90.4%
OF THESE PATENTS
WERE ALSO CHAL-
LENGED IN HATCH-
WAXMAN**

"Out of the 230 Orange Book patents challenged in IPR proceedings, 90.4% (208) of these patents were also challenged in Hatch-Waxman litigation..." More than three decades ago, Congress enacted the Hatch-Waxman Act, which provided a streamlined pathway to challenge validity of Orange Book patents in federal district courts. The Hatch-Waxman Act intended to strike a balance between encouraging pioneer drug innovation by offering pioneers patent term restoration and data exclusivity and promoting market entry of affordable generic versions of pioneer drugs by giving generic manufacturers a lucrative 180-day marketing exclusivity period if they are the first filer to initiate a Paragraph IV Abbreviated New Drug Application (ANDA) chall... [Read more](#)

9. Patents: multiple FRAND terms possible, says UK court

IT IS POSSIBLE FOR MORE THAN ONE SET OF PROPOSED LICENSING TERMS FOR SEP TO BE FRAND, THE COURT OF APPEAL IN LONDON HAS SAID

It is possible for more than one set of proposed licensing terms for standard-essential patents (SEPs) to be fair, reasonable and non-discriminatory (FRAND), the Court of Appeal in London has said. According to the court, in some circumstances competing offers from rights holders and prospective licensees to licence SEPs could both be FRAND, including potentially where the difference is over whether the licence terms should apply globally or are specific to an individual country. The Court of Appeal confirmed the point in a landmark ruling in which it backed a SEP rights holder's right to require a user of its patents to enter into a licensing agreement with global effect. "Patent licences are complex and.. [Read more](#)

10. EPO Guidelines for Examination 2018

THE LATEST EDITION OF THE EPO'S GUIDELINES FOR EXAMINATION IN EUROPE WILL ENTER INTO FORCE ON 1 NOVEMBER 2018

We reported earlier this month that, as surely as autumn follows summer, the latest edition of the EPO's Guidelines for Examination in Europe will enter into force on 1 November 2018. A preview version is now available on the EPO's website. The updated Guidelines incorporate recent developments in European law and practice in response to regulation changes and case law. Notable changes this year include how clarity, unity of invention and excluded subject matter will be assessed by the EPO going forwards. Some of the more significant changes are discussed below and a full list of the amendments may be found here on the EPO website. It is worth noting that the Guidelines have been generally amended to use much tighter language by replacing.. [Read more](#)

11. UK government publishes guidance to support new trade mark laws

THE UK GOVT. HAS PUBLISHED DOCUMENTS DESIGNED TO SUPPORT THE IMPLEMENTATION OF NEW TM LAWS, WHICH COME INTO FORCE NEXT YEAR.

The UK government has published documents designed to support the implementation of new trade mark laws, which come into force next year. The guidance provides support to trade mark owners, or those applying for a trade mark, under the terms of the EU's Trade Mark Directive 2015 which will be implemented in the UK through the Trade Marks Regulations 2018. It sets out how individuals and businesses can apply for a trade mark and their obligations when it comes to searching for conflicting trade marks. The guidance also covers ownership of collective trade marks, disputes, and general management of trade marks. The guidance covers a number of changes to previous legislation... [Read more](#)

12. USPTO Proposes Changes to Post-Grant Amendment Procedures

THE USPTO ANNOUNCED A PROPOSAL TODAY TO CHANGE THE PROCEDURES FOR AMENDING CLAIMS IN POST-GRANT PROCEEDINGS

The USPTO announced a proposal today to change the procedures for amending claims in post-grant proceedings. Even though the AIA specifically provides for claim amendments in IPRs, claim amendments have been rare in actual practice. USPTO Director Andrei Iancu stated that the new procedures are being proposed to allow patent owners a meaningful opportunity to amend claims during post-grant proceedings. According to this proposal, the patent owner will have a window of six weeks following an institution decision to file a motion to amend. The petitioner will have six weeks to oppose. One month after the opposition is due, the Board will provide a preliminary non-.. [Read more](#)