

Catholic University Law Review

Volume 4 | Issue 1

Article 8

1954

ELEMENTS OF PATENT LAW. FRED H. RHOADES.* Ithaca, New York: Cornell Univ. Press, 1949. Pp. ix, 189. \$2.75.

Adolph C. Hugin

Follow this and additional works at: <https://scholarship.law.edu/lawreview>

Recommended Citation

Adolph C. Hugin, *ELEMENTS OF PATENT LAW. FRED H. RHOADES.** Ithaca, New York: Cornell Univ. Press, 1949. Pp. ix, 189. \$2.75., 4 Cath. U. L. Rev. 79 (1954).

Available at: <https://scholarship.law.edu/lawreview/vol4/iss1/8>

This Book Review is brought to you for free and open access by CUA Law Scholarship Repository. It has been accepted for inclusion in Catholic University Law Review by an authorized editor of CUA Law Scholarship Repository. For more information, please contact edinger@law.edu.

BOOK REVIEW

ELEMENTS OF PATENT LAW. FRED H. RHOADES.* Ithaca, New York: Cornell Univ. Press, 1949. Pp. ix, 189. \$2.75.

This relatively small book presents many interesting aspects of the law of patents on inventions, without delving too profoundly into details which so often intimidate general lawyers and law students before they even attempt to understand them. It is especially valuable in that the illustrations and explanations are truly simple, and these are all the more remarkable for a legal text when it is realized that the author is not a patent attorney but a chemist. It is not too well authenticated by citations of cases and statutes, however, in view of the enactment of the Patent Act of 1952 since the publication of this book, this lack of citations is not overly important. The new Patent Act, in general, codified the law rather than revised it, so that the law as explained by the author is still essentially correct.

The historical development of patent law also is given, and this, in a measure, explains the foundation of our patent system. Unfortunately, the author repeats an error so often made by writers on the subject when he states that the exception of patents on inventions from the operation of the Statute of Monopolies, 1623, "provides the basis for the British Law of Patents." The fallacy of this statement often has been clearly pointed out.¹ It mistakenly gives antitrust advocates who lack a proper knowledge of patent law a *point d'appui* from which they, at times, seek to exert unwarranted pressures regarding certain uses of patents.

In the second chapter, which relates to who may apply for a patent, the old law on joint applicants is given. This has been changed by the new Patent Act in order to remove certain inequities in the old law, so that now if applicants have been inadvertently joined as joint inventors when they are not such in fact or have been inadvertently not joined when they should have been, correction can now be made. Formerly, the application had to be abandoned and refiled in the correct name or names, providing, of course, that this was not precluded because of some intervening statutory bar.

The author also discusses the now statutorily discarded erroneous court-made law requiring "a flash of genius" in the making of a patentable invention. In addition, he presents an exposition of the general attributes of inventions which make them patentable, and gives a good brief description of patent applications and the reasons for the statutory forms and requirements of patents.

The chapters on the rights conferred by patents and their enforcement are very simply and clearly stated. As to the rights, these have not been changed by the new Act, although the statutory terminology has been changed so as to express more clearly the rights which are protected. This should be kept in mind when reading these chapters.

Patent policies of employers and those who are inventors, either employed or independent, and advice thereon, also are given. This advice even extends to suggested procedures for the development and the selling of inventions, for keeping records, and the advisability of proper legal service.

* Herbert Fiske Johnson Professor of Industrial Chemistry, Cornell University, Ithaca, N. Y.

¹ *Outline of the History of the United States Patent Office*, XVIII J. Pat. Off. Soc. (July 1936); HUGIN, PRIVATE INTERNATIONAL TRADE REGULATORY ARRANGEMENTS AND THE ANTITRUST LAWS, 117-120 (1949).

The book concludes with an appendix of summarized leading cases relating to patents and uses which have been made of patents. The text refers to these cases by footnotes, but it might have been more helpful to readers if the materials in the appendix had been placed in the footnotes and thus have been immediately available, without necessitating reference to the back of the book. Even though the book was written before the new Act, it is still very useful in explaining patent law in a readily understandable, easy-reading exposition. It is recommended that the book be read in conjunction with a recent article entitled "The New Patent Statute", Karl B. Lutz, American Bar Association Journal, March 1953, in order to assure against misunderstandings and to note modifications made by the new Patent Act.

ADOLPH C. HUGIN*

* Visiting Professor of Law, Catholic University of America.