Contents

Acknowledgements viii
List of abbreviations ix
Table of cases xi
Table of legislation xiv

1 Introduction: context and importance of patent information for development 1
   1.1 The disclosure requirement and the use of patent information for development 4
   1.2 How technology transfer to developing countries has been addressed so far? 6
   1.3 How this book intends to utilise patent information as a means for development? 10

2 The significance of patent information 13
   2.1 Definition and clarification issues: overview of the concept of patent information 13
   2.2 ‘Patent information quality’ and ‘patent quality’ 16
   2.3 The reasons why patent information is underutilised 18

3 The foundation of a right to patent information 27
   3.1 An implicit right to patent information 27
   3.2 The foundation for an implicit right to patent information 29
   3.3 Means of implementing an implicit right to patent information in law 38
   3.4 A right to patent information within the existing patent system: centralisation of the patent system versus a right to patent information 43
   3.5 Proposals for an explicit right to patent information 47

4 The inadequacy of the disclosure requirement 52
   4.1 The theoretical justifications for the disclosure requirement 52
   4.2 The obligation to provide clear and complete disclosure 55
   4.3 The substantive inadequacy of the disclosure requirement 61
4.4 Proposals for improving the disclosure requirement 72
4.5 New legislation in Europe and its impact on the disclosure
classification: the unified patent court of the EU 82
4.6 New legislation in the US and its impact on the disclosure
requirement: the American Invents Act 85

5 Access to and retrieval of patent documents 91
5.1 Mapping patent information across the leading patent
offices 91
5.2 Current inadequacy in the means of accessing and
retrieving patent documents 94
5.3 Current barriers in using patent documents 104
5.4 Proposals for improving retrieval of patent documents 108
5.5 Proposals for improving access to patent documents as a
means of strengthening patent quality 120
5.6 Proposals for enhancing data storage for improved
retrieval 122
5.7 Proposals for retrieving information on patent status
events 128

6 Transferring technologies utilising patent information 137
6.1 The extent of freedom-to-operate: the public domain as a
source of technology transfer 137
6.2 Mapping the public domain 140
6.3 Transferring patent information by means of adoption and
adaptation 143
6.4 Transferring patent information by means of imitation 146
6.5 Restrictions on freedom-to-operate 151

7 The case of Tunisia 161
7.1 Overview of the scope of the public domain 161
7.2 Gateways to the public domain under Tunisian patent law 164
7.3 Assessing Tunisian patent information quality: clear and
complete disclosure as implemented by the Tunisian patent
law 168
7.4 Assessing Tunisian patent information quality:
inadequacies in accessing and retrieving patent information 171

8 Improving developing countries’ capacity to utilise patent
information for development 173
8.1 Foundations for a WIPO policy promoting access to and
use of patent information: the Development Agenda 173
Contents

8.2 Means of implementing WIPO policy for promoting access to and use of patent information 176
8.3 WIPO Development Agenda and projects for access to and use of patent information 180
8.4 Challenges for developing countries to better utilise patent information for development 194

9 Conclusion: policy for promoting incremental innovation and development through exploitation of patent information 202
  9.1 First element: a harmonised terminology related to patent information 203
  9.2 Second element: an explicit right to patent information in law 205
  9.3 Third element: enhanced disclosure requirement 207
  9.4 Fourth element: enhanced access and retrieval 214
  9.5 Fifth element: enhanced skills related to patent information exploitation 216

Appendix 218
Bibliography 225
Index 259