Foreword

Since its inception in the Statute of Monopolies, modern patent law has been remarkably adroit in adapting to the changing needs of inventors and industry. But changes in innovation and in the developed economies over the last 50 years have arguably put more acute pressures on the conceptual framework of the law than any it has encountered in its history. Those pressures have revealed how fragile are some of the distinctions – such as that between invention and discovery – that patent law has always taken for granted. They have pushed policy makers and lawyers back to the much contested, and often contradictory, justifications for the grant of the patent monopoly, even though those justifications have often had to be retrofitted onto the existing structures of the law.

One of the interesting things about those pressures is that they have often brought into the spotlight curious byways of the law; they have made issues that might once have been thought to be of merely scholarly interest commercially vital. It is in the consideration of these issues that the contradictions of patent law and policy have often become most plain.

In this way, enormous changes in the economics of the health system, in the way in which doctors regard their professional calling, and in patterns of healthcare innovation, together with contemporary expectations that all (or at least most) innovation should be rewarded, have put huge strain on the exclusion from patentability (however technically it may be achieved) of methods of medical treatment. The conceptual basis of that exclusion, while not robust, draws upon many other fundamental assumptions in the law of patents and, properly examined, opens up many of those assumptions themselves for further consideration.

This book is a careful, timely, and thorough treatment of what is therefore a question, not only of increasing commercial importance, but also of enormous intellectual interest. As its author teases out the policy underpinnings of the exception and the arguments against it, we get not only a helpful guide to this area of the law and its development, but a deeper understanding of patent law as a whole. I have no doubt that it will be of great interest not only to researchers and academics, but to practitioners and policy makers as well. Dr. Ventose is to be congratulated on a significant contribution to a growing and complex area of the law.

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