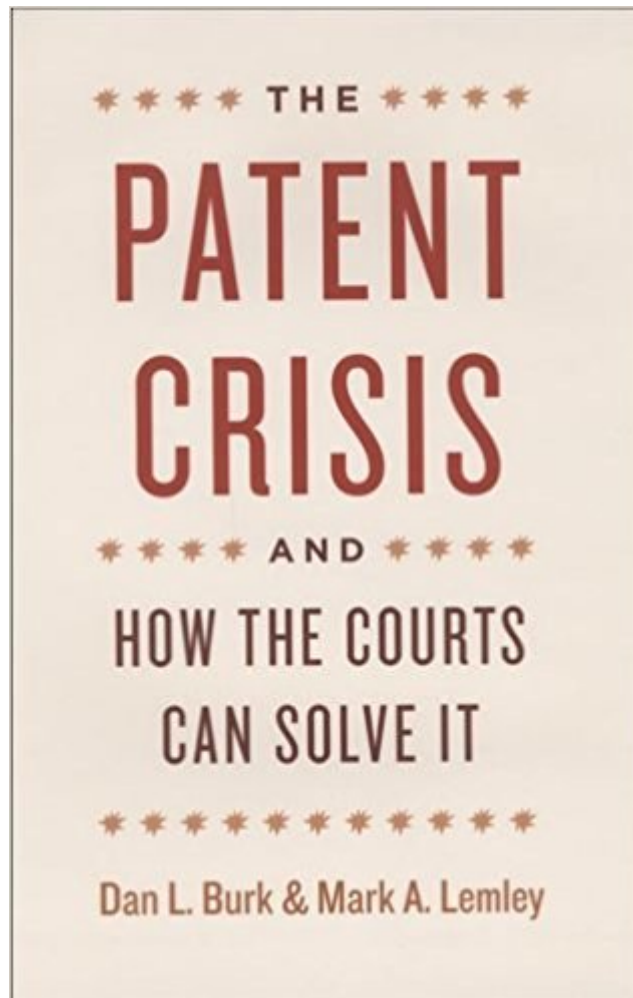




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# The Patent Crisis And How The Courts Can Solve It



## Synopsis

Patent law is crucial to encourage technological innovation. But as the patent system currently stands, diverse industries from pharmaceuticals to software to semiconductors are all governed by the same rules even though they innovate very differently. The result is a crisis in the patent system, where patents calibrated to the needs of prescription drugs wreak havoc on information technologies and vice versa. According to Dan L. Burk and Mark A. Lemley in *The Patent Crisis and How the Courts Can Solve It*, courts should use the tools the patent system already gives them to treat patents in different industries differently. Industry tailoring is the only way to provide an appropriate level of incentive for each industry. Burk and Lemley illustrate the barriers to innovation created by the catch-all standards in the current system. Legal tools already present in the patent statute, they contend, offer a solution—courts can tailor patent law, through interpretations and applications, to suit the needs of various types of businesses. *The Patent Crisis and How the Courts Can Solve It* will be essential reading for those seeking to understand the nexus of economics, business, and law in the twenty-first century.

## Book Information

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## Customer Reviews

“There is no disputing that *The Patent Crisis and How the Courts Can Solve It* is a descriptive tour de force. No one else has done as comprehensive a job of summarizing today's patent theories nor done more to bring them together than Burk and Lemley. This book will certainly be a success on almost any terms.” (Thomas B. Nachbar, Professor of Law and Class of 1963 Research Professor, University of Virginia School of Law)

2008-07-01) – “Burk and Lemley offer the right diagnosis of the illness (i.e. sectorial shortcomings) of the patent system and suggest the right sectorial therapies, as well the right doctors – judges. This book should be carefully read, not only by the doctors, but by all players in the field, who soon may be facing the Burk and Lemley therapy.” (Joseph Straus, Director of the Max Planck Institute for Intellectual Property, Competition, and Tax Law 2009-01-06) – “Every chief patent counsel in a major U.S. company should read this book by Dan Burk and Mark Lemley. It provides the first comprehensive explanation of why the patent system is perceived by different industries in fundamentally different ways. Burk and Lemley make a credible case that the courts might be more effective than Congress in achieving some reforms, by tailoring patent law to specific industries through more than a dozen policy levers and common law doctrines that are enumerated in the book.” (Herbert C. Wamsley, Executive Director, Intellectual Property Owners Association 2009-01-12) “A fascinating introduction to a scholarly literature that, at least so far, raises as many questions as it answers.” (Rebecca S. Eisenberg Science) “[The authors’] book is a must-read because of its provocative ideas. More importantly, their ideas provide a beacon of reason and intelligence in what has been a complex mess of patent reform. Published in a year that has shown how convoluted legislative reform often is, this engaging book shows how it is possible to have politics and reform that is potentially free of the byzantine web of influence and diatribe.” (Shubha Ghosh IP Law Book Review)

Dan L. Burk is Chancellor’s Professor of Law at the University of California, Irvine. Mark A. Lemley is the William H. Neukom Professor of Law at Stanford University and a partner at Durie Tangri.

Considering the authors it is not really a surprise that this slim volume seems to be best overview on what to do to patents. Almost everybody, FeC of Appeals included, seems to agree that the situation is very unsatisfactory. Here is an analysis on the causes and suggestions for remedies. I very much agree that the system suffers of overreach. It really is impossible to deal with pharmaceutical inventions and electronics using the same criteria. Professor Lemley is regarded as one of the best experts, and here the Americans and Europeans agree. I got the book first as Kindle (PC) and then on print in order to show it to my students. Marvellous! Dr. Jukka Kempainen, Finland (40 years experience on IPR first as a lawyer, then as a judge, then as a professor)

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