



First to File - IT Perspective

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Patents and IT

- Product: Patent ratio is potentially one to many, unlike Pharma
 - damages
- Abundant troll activity
 - eBay and Medimmune
- Patent quality
 - potentially addressed by some legislation
 - addressed by USSC, e.g. KSR



First to File v. First to Invent

- Priority contests: interferences
- Equities
 - Big v small
 - \$\$\$
 - knowledge and sophistication
 - nimbleness: Any public disclosure by corp negates patent
 - potentially large problem for patent attorney to get patent filed before disclosure date.
 - provisionals
 - international practice
- Harmonization - interaction w/other countries patent laws:
 - All other countries are ftf
 - No "grace period" in other countries
 - Publication pre-filing precludes filing

Discussion

