



# Contents

---

<b>ACKNOWLEDGMENTS</b>		<b>xiii</b>
<b>FOREWORD</b>	<i>by Kevin Rivette, author of Rembrandts in the Attic</i>	<b>xv</b>
<b>INTRODUCTION</b>		<b>xix</b>
<b>CHAPTER 1</b>	<b>Roadblocks or Building Blocks?</b>	<b>3</b>
	<i>by Bruce Berman</i>	
	Worthy Opponents	5
	Distinguishing Patent Trolls from Independent Asserters	7
	High-Stakes Poker	9
	A Double Standard for IP Assets	11
	Tolls, Trolls, and U-Turns	14
<b>CHAPTER 2</b>	<b>Turning a Patent Portfolio into a Profit Center</b>	<b>19</b>
	<i>by Marshall Phelps</i>	
	<i>Profile: Hail to the Chief IP Officer</i>	19
	ThinkPad®: The Licensing Story	23
	A Virtuous Circle	26
	Four Keys to an Effective Licensing Program	29
	Innovative Uses for Innovation Rights	30
<b>CHAPTER 3</b>	<b>Seeing through the Illusion of Exclusion</b>	<b>35</b>
	<i>by Daniel P. McCurdy</i>	
	<i>Profile: Purveyor of Quality</i>	35
	IP on the Radar Screen	39
	Gaining Competitive Advantage	40

	IBM Leads the Way	41
	Timing the License	43
	Knowing What You Have	46
	Masterpieces Hang in Museums, Not in Attics	48
	Emerging Models	49
<b>CHAPTER 4</b>	<b>On Patent Trolls and Other Myths</b>	<b>53</b>
	<i>by Alexander Poltorak</i>	
	<i>Profile: Knight in Shining Armor</i>	53
	A Patent Is a Negative Right	57
	Myth #1: “A patent is needed to practice the invention.”	58
	Myth #2: “It is not ‘nice’ to sue for patent infringement.”	59
	Myth #3: “The value of a patent is the same as the value of the patented technology.”	60
	Myth #4: “The patent system is fair.”	61
	Do Patent Trolls Really Exist?	62
	Myth #5: “A patent is a tax on innovation.”	64
<b>CHAPTER 5</b>	<b>Roadblocks, Toll Roads, and Bridges: Using a Patent Portfolio Wisely</b>	<b>67</b>
	<i>by Peter Detkin</i>	
	<i>Profile: From Trolls to Tolls</i>	67
	Shareholders Expect a Return on IP	69
	Not All Patents Are Created Equal	72
	Deploying Unrelated or Orphan Patents	77
	Who Are the Buyers?	79
	A Seller’s Paradox	81
<b>CHAPTER 6</b>	<b>Risky Business: Overlooking Patents as Financial Assets</b>	<b>85</b>
	<i>by James E. Malackowski</i>	
	<i>Profile: Wunderkind</i>	85

	Director and Officer Accountability	89
	Patent Enforcement Litigation	89
	Sarbanes-Oxley–Related Compliance	91
	Shareholder Litigation	93
	IP-Driven Shareholder Value	95
	Performance Measurement	98
	Director and Officer Responsibility	100
	Looking Ahead	101
<b>CHAPTER 7</b>	<b>Who Benefits from Patent Enforcement?</b>	<b>105</b>
	<i>by Raymond P. Niro</i>	
	<i>Profile: Little Guys Like Him</i>	105
	A Patent Is Worthless Without a Remedy	109
	When Inventors Fail, Innovation Suffers	110
	Inventors Must Consider Patent Enforcement	112
	Patent Trolls and Harassment	114
	The Role of Contingent-Fee Representation	115
	Large Patentees Are Fighting Back	118
	Breaking from the Pack	119
	Dispelling the Troll Myth	119
	The Danger of Not Enforcing	120
	Leveling the Field	121
<b>CHAPTER 8</b>	<b>Global IP in Crisis: The Threat to Shareholder Value</b>	<b>125</b>
	<i>by Bruce A. Lehman</i>	
	<i>Profile: All Along the Watchtower</i>	125
	The Leadership Vacuum	129
	The Top U.S. Patentees Are Not U.S. Companies	130
	The Dangers of Uncertainty	132
	Viagra® in China	133
	An Action Plan	135
	Managements Need to Step Up	139

<b>CHAPTER 9</b>	<b>It Takes More Than Being Right to Win a Patent Dispute</b>	<b>143</b>
	<i>by Ronald J. Schutz</i>	
	<i>Profile: Serious Competitor</i>	143
	Know Everything That Can Be Known	146
	Juries Love a Good Story	147
	Identifying Strong Patents	149
	Good Guys and Bad Guys	150
	Patent Disputes: Measuring Risk and Reward	152
	Hedging the Risk	154
<b>CHAPTER 10</b>	<b>Managing Innovation Assets as Business Assets</b>	<b>159</b>
	<i>by Joe Beyers</i>	
	<i>Profile: Master Scout</i>	159
	Legal vs. Business-Led IP Perspectives	163
	Elements of a Business-Led IP Model	165
	How Patent Trolls Affect Profits	169
	The Nature of the Unfair Value That Patent Trolls Can Realize	170
	What Operating Companies Can Do to Protect Themselves	173
<b>CHAPTER 11</b>	<b>Secrets of the Trade: An Inventor Shares His Licensing Know-How</b>	<b>177</b>
	<i>by Ronald A. Katz</i>	
	<i>Profile: An American Original</i>	177
	The Business Model	182
	Agreements and Fee Schedules	186
	Ongoing Research and Notification Program	187
	Litigation: Always a Last Resort	189
	Defining Success	190
<b>INDEX</b>		<b>191</b>