



EUROPEAN INTELLECTUAL
PROPERTY TEACHERS' NETWORK

FOURTH ANNUAL WORKSHOP
24-25 JUNE 2010
UNIVERSITY OF ALCALÁ, SPAIN

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25 June 2010



Initiating post-graduate students to patent law through practical examples

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Profile of the Magister Lucentinus Students

- **LLDs, but also in Engineering, Biology, Political Sciences, Economy or Journalism**
- **Excelent student record**
- **International Profile: coming from Europe, Latin America and, occasionally, Asia and USA**
- **Excelent English level**

Diferences with teaching Undergraduates

- **Very high motivation and great interest for the matter**
- **Success pressure: the economic investement is high – professional vocation –**
 - **they do not want to lose time !**
- **Scientific Maturity**
- **Richer background**

Objectives of the Introductory lectures

- To offer an overview complete of all types of Intellectual Property
- Sitting bases of a correct understanding of the Intellectual Property
- To confirm expectations of students and to follow waking its interest
- Duration of three to six hours
- Main themes:
 - Delimitation between patentable and not patentable inventions
 - Understanding of the requirements of patentability: novelty, inventive step, industrial application
 - Basic concepts related to the legitimation to request and obtain a patent

Importance of the Practical sessions (Practicum)

- Consolidating theoretical knowledge
- Promoting the skills of analysis of the students
- Promoting the teamwork and the exchange of ideas
- Developing assessments skills

Characteristics and Metodology of the Practicum

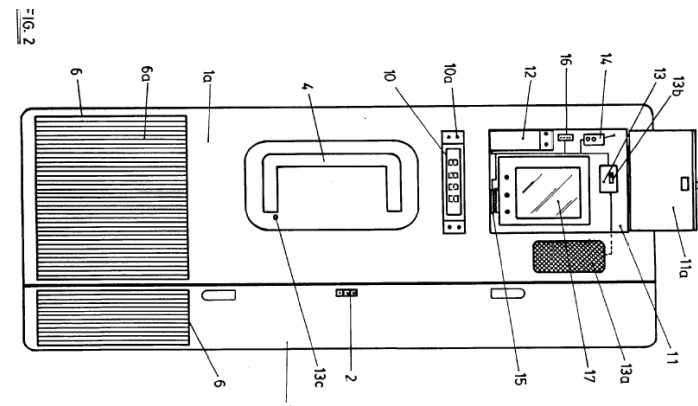
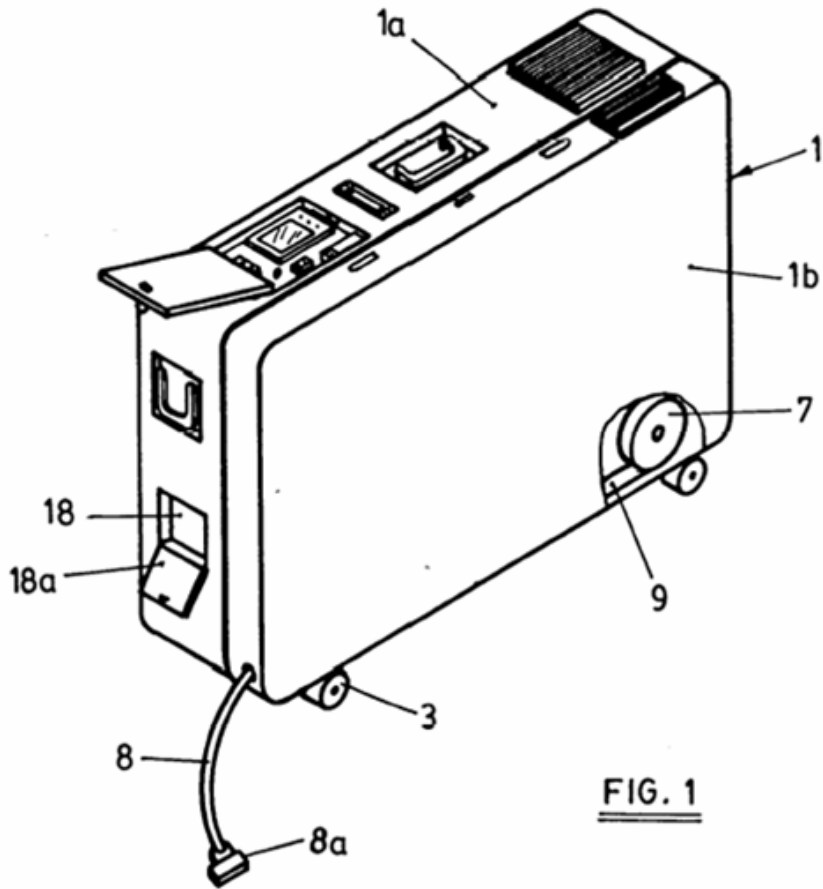
- We propose five kinds of different inventions / creations, with four issues which are submitted to the working groups
- Within each case we formulate between 5 and 7 concrete questions
- The students can use the legal texts and some previously selected doctrine and jurisprudence
- Extension of three hours

Characteristics and Metodology of the Practicum

- The students are divided in eight groups, two groups for each case
- Every group will designate a speaker, so that there will be two speakers for case
- Within every group the students will have been had to analyze, to study and to debate opinions or solutions that should defend the speaker during the session
- Frequently conclusions are not coincident – the debate is opened

The case studies

1.



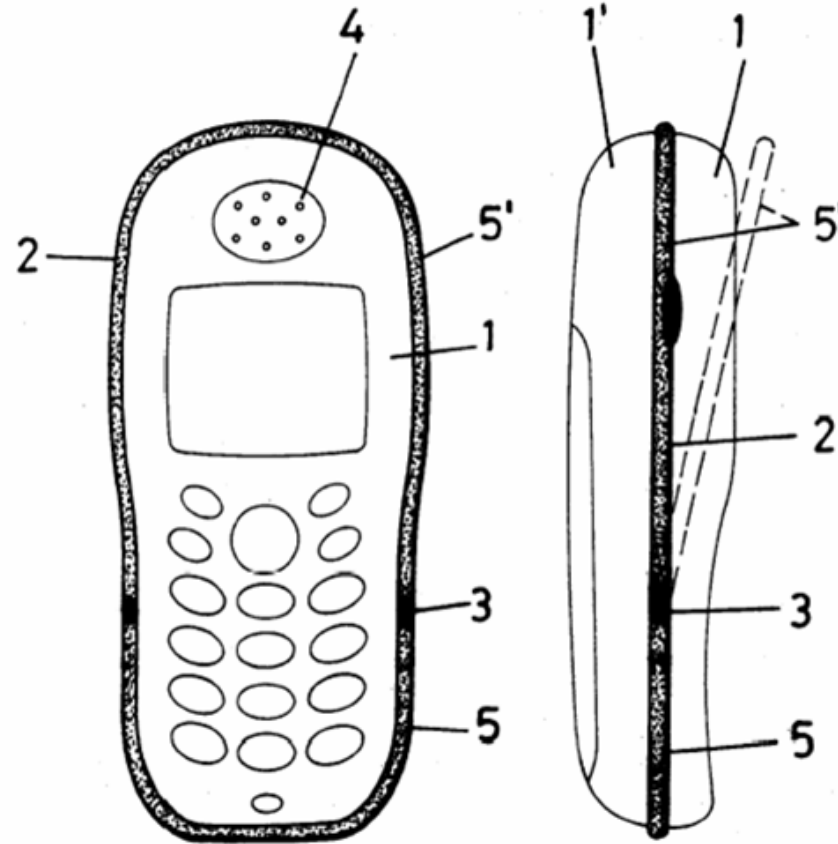
The case studies

2. Procedure to isolate a bacterium that is able to devour fuel oil, which turns it in an useful tool to fight arising from ecological disasters dumpings of oil

3. A new chemical substance for the manufacture of a medicine against the flu

The case studies

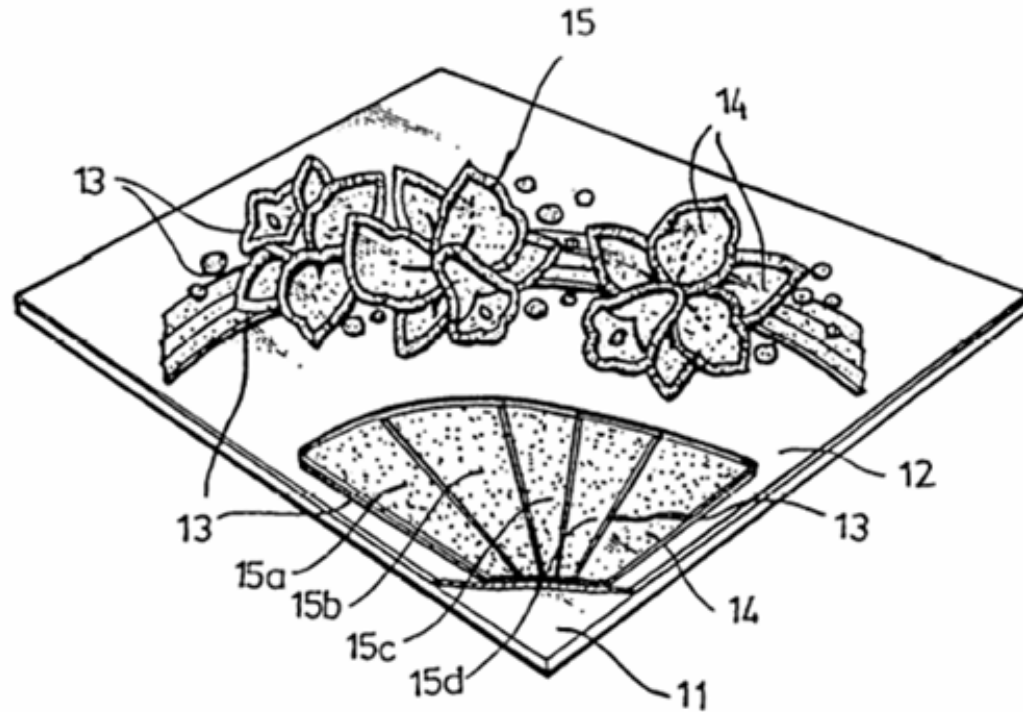
4.



The case studies

5.

FIG.1



Case study number 1

ASSESSMENT PRIOR TO THE PROTECTION – STRATEGIC ISSUES

- Are all the given inventions or creations patentable inventions?
- Would you be able to take in consideration other type of protection in some cases?
- Is protection via trade secrets applicable? In which cases?
- What geographical area of protection is needed in each case? Which are the possible options?

Case study number 2:

Analysis of patentability: the requirement of novelty

- Can we give our client a categorical opinion regarding the existence of the requirement of novelty?
- Which steps are necessary to give in order to be able to give an accurate answer regarding novelty?
- In the case of the improved suitcase, is it relevant for the assessment on novelty that some elements included in the suitcase already form part of the state of the art?
- The inventor has given a conference on related to the topic before the application of the patent: (a) only a student attended; (b) the text is published on Internet; (c) the inventor apply for a patent in two weeks.
- The legal advisor of the inventor takes unfair advantage of his position and sold the idea of the stickers to a third party, who began to manufacture and to market them . What incidence is there on the novelty of the invention? Can the inventor take any type of measure?

Case study number 3:

Analysis of patentability: the requirement of inventive step

- Can we give our client a categorical opinion regarding the existence of an inventive step?
- Which steps should be taken in order to be able to give an accurate answer regarding inventive step?
- In the case of the improved suitcase, is it relevant for the assessment on inventive step that some elements included in the suitcase already form part of the state of the art?
- The inventor wants to apply for a Spanish patent. For the purpose of determining inventive step: would it suffice that a person skilled in the art, "knows" the state of the art at national level?
- Regarding the chemical substance: a previous unpublished document, available in the library of the Faculty of Sciences of the University of Tasmania, in Aramean language has been found. What are the consequences?
- Please consider which criteria are relevant to analysis on the existence of inventive step: (a) the practical usefulness of the invention; (b) the simplicity of the invention; (c) the obviousness of the invention

Case study number 4

Legitimation to apply for and to obtain a patent

- The improved suitcase has been developed by a group of engineers, which are integrated in the R&D department of the company. Who can apply for patent protection?
- In the case of the mobile phone, a Dutch citizen living in Tenerife has developed the same device, without having knowledge of the invention reached by a the company, we are assessing. Who has the right to the patent?
- Our inventor of the chemical substance is a professor in the University of Alcalá de Henares. Which is the specific legal regime applicable in this case?

CONCLUSIONS

1. Basic concepts are definitively fixed by means of team work, exchanges of ideas and discussion.
2. The practical sessions help the teacher to find out where the gaps of knowledge are, conceptual misunderstandings have an early opportunity to clarify mistakes.
3. The students develop assessment skills and abilities for the analysis of complexities in cases which they may encounter in practice.

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