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Patent protection for diagnostics and therapeutics - The essentials and importance of second medical use patents in precision medicine

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Obtaining broad product protection for pharmaceutical drugs or medical indications is becoming more and more difficult in an increasingly competitive pharmaceutical field as well as in light of the exploding rate of published medical prior art. Moreover, the patentability of medicinal inventions is subject to different restrictions in different jurisdictions. Patient specific treatment options, dosage regimes, next-generation genetic screening methods including the identification and characterization of particular patient subgroups for the application of individual and personalized diagnostic and therapeutic treatment regimes are currently considered the big challenge in the field of precision medicine. These aspects will lay the ground for important future business models in the pharmaceutical industry. As a result, patent protection in form of second medical use (previously so called “Swiss-type”) claims, taking into account the vast majority of bioinformatics results obtained from big data analysis, will become more and more important for biopharmaceutical market concepts in the near future. The presentation will elucidate the legal criteria which have to be fulfilled to successfully obtain patent protection for personalized medical applications in Europe in the first place, and what might be necessary to validly enforce these intellectual property rights against third parties’ interests.

Biography

Stephanie Nottrott is a Human Biologist by training and partner of the Patent Law firm Isenbruck Bösl Hörschler LLP. After having earned her PhD from the Max-Planck-Society in the field of Biochemical Protein-RNA research, she conducted her Post-doctoral studies in the Program of Molecular Medicine at the UMASS Medical School in Worcester, MA, USA, before entering the field of patent law as a scientific advisor in an international law firm in NYC, USA. She is qualified as a Patent, Trademark and Design Attorney and advises and represents clients from various businesses before the European and German Patent and Trademark Offices.

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