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Title:	The Value of "Worthless" Patents
Abstract:	Patents covering surgical techniques are statutorily unenforceable against the most likely would-be infringers of those patents—surgeons and hospitals. Essentially, surgical procedures are eligible for patenting, but any such patent is largely worthless, because the patent cannot be used to obtain damages or an injunction against the infringer. Such patents grant rights without any remedy for infringement. Despite this, patentees regularly file for surgical method patents and the U.S. Patent & Trademark Office often grants such requests. Why would anyone go to the expense (upwards of $20,000) and hassle (two years, on average) of patenting a surgical technique if that patent grants a mere "right without a remedy?" The answer, this Article proposes, is surprisingly simple, yet flies in the face of patent orthodoxy: some inventors patent (not invent, but patent) because the patent gives certain non-monetary rewards. In the surgical field, these non-monetary rewards include increased prestige among other surgeons, the recognition as a pioneer in a particular field of surgery, the attention of large surgical device manufacturers, and gaining a reputation as an innovator. These non-monetary rewards provide a better explanation for the continued patenting of surgical methods than do traditional exclusive rights notions. This insight has two potentially powerful implications for patent law generally. First, building on the user innovation literature, this Article proposes that not only are some users ideal knowledge creators, but they also disseminate that knowledge via the patent system in ways that have not been appreciated before. Second, some inventors may approach the patent system with a completely different set of costs and benefits than those previously recognized. To these inventors, the primary benefit of the patent system is the public disclosure that is a prerequisite to patenting. This contradicts almost all contemporary patent theories, which consider disclosure the primary cost inventors are trying to avoid. As such, this Article provides a novel understanding of the motivation to patent as a means of knowledge dissemination, not exclusive rights. This novel understanding should encourage us to reassess various patent law doctrines including operability and enablement.