

Fair Use For Patents

While both copyright and trademark law have a defense of fair use to protect societal interests believed to be more important than those served by intellectual property, patent law has no such exception to infringement. This begs the question of whether patents can restrict the exercise of civil liberties or other activity that infringes patents but nonetheless is of positive net social value, such as scientific research. If a fair use defense for patents makes sense, the next - and perhaps harder - step is to address the definition and implementation of such a doctrine.

Daniel Ravicher