

# *Patents on a Shoestring: Making Patent Systems Work for Developing Countries*

**Sean Pager**

Patents on a Shoestring: Making Patent Systems Work for Developing Countries Patents remain the most controversial of all the areas of intellectual property law harmonized under the 1996 TRIPS Agreement. Opponents condemn TRIPS' patent protection mandates as effectively consigning the Developing World to a future of technological serfdom. Even many TRIPS defenders seem to concede that its patent requirements represent an onerous and costly obligation whose immediate benefits will redound to rich multinational companies. But is this necessarily so? It is true that operating a patent system on the rigorous, ex-ante prosecution model followed in the US and other developed nations requires funding and technical expertise beyond the reach of most developing nations. Yet, nothing in TRIPS mandates that such a model be adopted. Moreover, patent offices can play important roles in fostering development in ways that transcend the traditional innovation incentive narrative. This Article explores patent system design options tailored to the needs of developing countries, including methods for outsourcing substantive review and manipulating fee structures to externalize costs. While the choices made by a particular country will depend on its individual situation, the Article outlines a menu of basic design features to be considered, examines the tradeoffs between them, and assesses the flexibilities which international treaties on patent and trade law reserve to state actors to tailor patent formalities to serve their national interests.