



ILT

INSTITUTE FOR LAW AND TECHNOLOGY

48th Annual Conference on
**INTELLECTUAL
PROPERTY LAW**
November 8-9, 2010



THE CENTER FOR AMERICAN AND INTERNATIONAL LAW, PLANO, TEXAS

14.25 Hours of MCLE Credit and 3.0 Hours of Ethics

Topics will include:

- Panel on damages/injunctive relief
- Hear from non-practicing entities and patent aggregators
- A report from the USPTO
- Implications of *Bilski*

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MONDAY MORNING SESSION, NOVEMBER 8, 2010

8:00 REGISTRATION AND CONTINENTAL BREAKFAST

PATENT LITIGATION

MODERATOR

Theodore Stevenson III • McKool Smith, P.C. (Dallas, TX)

9:00AM-10:00AM DAMAGES AWARDS: HOW TO MAKE THEM STICK

What does it take to win a damages award and make it stick on appeal? The panel will discuss tactics that should be in every trial lawyer's playbook for proving up damages to make sure your damages hold fast, even on appeal.

MODERATOR: **Theodore Stevenson III** • McKool Smith, P.C. (Dallas, TX)

PANELISTS: **Dr. Keith R. Ugone** • Managing Principal, Analysis Group, Inc. (Dallas, TX)
Roy Weinstein • President, Micronomics, Inc. (Los Angeles, CA)
Bruce Sostek • Thompson & Knight LLP (Dallas, TX)

10:00AM-10:15AM BREAK

10:15AM-11:15AM YOUR PASSPORT TO INTERNATIONAL ENFORCEMENT

In today's global marketplace, practitioners must consider courts across the world as part of any intellectual property enforcement regime. A panel of experienced IP lawyers will guide this tour of the international enforcement landscape.

MODERATOR: **Robert M. Chiaviello, Jr.** • Fulbright & Jaworski L.L.P. (Dallas, TX)

PANELISTS: **Martin Schweiger** • Schweiger & Partner (Munich, Germany)
Dr. Horst Schaefer • Schweiger & Partner (Munich, Germany)

11:15AM-12:00PM STANDARD-SETTING ORGANIZATIONS – PLAYING BY THE RULES (0.25 HRS. ETHICS, 11:15-11:30AM)

Participation in SSOs creates ethical and contractual obligations for the SSO Member, potentially including disclosure and licensing requirements and continuation of the licensing requirements if a Necessary or Essential patent is sold to another company. Failing to comply with these obligations may result in allegations of fraud, antitrust violations, and patent misuse. Hear from a panel of in-house counsel who are experts in their organization on standards settings issues.

MODERATOR: **Hilda C. Galvan** • Jones Day (Dallas, TX)

PANELISTS: **Larry Bassuk** • Senior Patent Counsel, Standards IPR, Texas Instruments Incorporated (Dallas, TX)
Sarah Guichard • Director, Patent & Standards Strategy, Research in Motion (Irving, TX)
Earl Nied • Vice Chair, Intellectual Property Rights Policy Committee, ANSI, Program Director of Standards and IPR, Intel Corporation (Hillsboro, OR)
Thomas R. Jackson • Jones Day (Dallas, TX)

12:00PM-12:15PM LUNCH

12:15PM-1:15PM LUNCH SESSION: ARE YOUR HANDS CLEAN? PERJURY, COMMON LAW FRAUD, INTENT TO DECEIVE, GROSS NEGLIGENCE, NEGLIGENCE AND MATERIALITY; THE FEDERAL CIRCUIT TAKES ON EN BANC THE ATOMIC BOMB DOCTRINE OF INEQUITABLE CONDUCT! (1.0 HRS. ETHICS)

The Federal Circuit has not spoken en banc on inequitable conduct since 1989 in *Kingsdown*. Here they go again in *Therasense*! What is at issue? What is at stake? What do the cases leading into November's oral argument tell us?

Thomas L. Irving • Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington, DC)

MONDAY AFTERNOON SESSION, NOVEMBER 8, 2010

TRADEMARK AND COPYRIGHT ISSUES

MODERATOR

Heather Brunelli Foster • Assistant General Counsel,
Fossil, Inc. (Richardson, TX)

1:15PM-1:30PM

BREAK

1:30PM-2:15PM

THE YEAR IN COPYRIGHT LAW (0.25 HRS. ETHICS, 1:30-1:45PM)

A review of 2009-2010 cases and controversies involving copyright law, including issues related to fair use, digital media, remedies and ethical considerations facing copyright practitioners.

Kevin J. Meek • Baker Botts L.L.P. (Austin, TX)

2:15PM-3:15PM

DESIGN ON A DIME

A panel discussion with in-house counsel about real-world choices regarding cost-effective product design protections, with discussions on the pros and cons of trade dress, copyright, design patent and international design protections.

MODERATOR: **Heather Brunelli Foster** • Assistant General Counsel,
Fossil, Inc. (Dallas, TX)

PANELISTS: **Heather Morschauer** • Associate General Counsel,
Michaels Stores, Inc. (Dallas, TX)

Kayla C. Owens • Senior Managing Counsel,
J. C. Penney Corporation, Inc. (Plano, TX)

Rebecca L. Pumphrey • U.S. Patent Counsel,
Research in Motion Corporation (Rolling Meadows, IL)

3:15PM-3:30PM

BREAK

3:30PM-4:30PM

RED LIGHT, GREEN LIGHT: STOP-AND-GO TRAFFIC ON THE INFORMATION SUPERHIGHWAY

The Internet has created numerous challenges for both intellectual property owners and website operators. In addition to complying with state, federal and international laws, IP owners and website operators have a heavy burden to police and protect their rights online. An experienced lawyer gives you the rules of the road.

Charles L. "Chip" Babcock • Jackson Walker L.L.P. (Houston, TX)

4:30PM-5:00PM

THE DEATH OF PRIVACY IN SOCIAL MEDIA: MANSLAUGHTER? SUICIDE? OR LACK OF CAPACITY?

How could Facebook, Google, Twitter and their ilk obliterate privacy with little or no opposition? Are we innocent victims or dying by our own hands? An overview of how to avoid being the next casualty.

Max Ciccarelli • Thompson & Knight LLP (Dallas, TX)

5:30PM-6:30PM

COCKTAIL PARTY – CAIL TERRACE

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TUESDAY MORNING SESSION, NOVEMBER 9, 2010

8:15 CONTINENTAL BREAKFAST

TECHNOLOGY, LICENSING AND IP RIGHTS

MODERATOR

Marc Hubbard • Gardere Wynne Sewell LLP (Dallas, TX)

9:00AM-10:00AM SECOND TO NONE: THE BUSINESS OF BUYING, SELLING AND LICENSING IP RIGHTS

A panel discussion by patent aggregators about the evolving secondary market for granted patents, where inventors, investors and companies buy and sell patents through private transactions and occasional public auctions.

MODERATOR: David McCombs • Haynes and Boone, LLP (Dallas, TX)

- PANELISTS:
- Kevin Barhydt • Vice President, Head of Acquisitions, RPX Corporation (San Francisco, CA)
 - Linda K. Biel • Vice President, Business Development, Allied Security Trust (Poughkeepsie, NY)
 - Scott Denning • Consultant
 - Sanjay Prasad • Head of Acquisitions and Strategy, Software and Communications Business Unit, Intellectual Ventures, LLC (Mountain View, CA)
 - Theo Foster • Haynes and Boone, LLP (Dallas, TX)

10:00AM-10:30AM THE IP MARKETPLACE: IS IT GOOD OR BAD? SHOULD IT BE CHANGED?

An exploration of economic and policy issues arising from IP markets and challenges to them.

F. Scott Kieff • George Washington University Law School (Washington, DC)

10:30AM-10:45AM BREAK

10:45AM-11:15AM CHALLENGING LICENSING TERMS UNDER THE ANTITRUST LAWS: AN ATTACK ON IP RIGHTS? (0.25 HRS. ETHICS, 10:45-11:00AM)

A growing number of cases, in US courts and by foreign law enforcement agencies, have challenged commonly used licensing provisions under theories that such licensing provisions inhibit competition in technology. Significant questions exist, however, whether the theories relied upon in such cases and proceedings are based on sustainable antitrust principles, and whether they threaten fundamental rights of IP holders and thereby undermine the procompetitive nature of strong IP protection. Ethical considerations will be discussed.

Richard S. Taffet • Bingham McCutchen LLP (New York, NY)

11:15AM-12:15PM ASSERTIVE LICENSING TRENDS AND OBSERVATIONS

Publicly-traded companies that derive a significant portion of their revenues from patent licensing face unique challenges. This panel will give insight into the perspective of these companies and the impact on potential licensees.

MODERATOR: John C. Lindgren • President and CEO, MOSAID Technologies, Inc. (Ottawa, Ontario, Canada)

- PANELISTS:
- Tom Lavelle (invited) • Senior Vice President and General Counsel, Rambus, Inc. (Los Altos, CA)
 - Brian Marcucci • Senior Vice President, Licensing & Business Development, Tessera, Inc. (San Jose, CA)
 - Corey M. Horowitz • Chairman and CEO, Network-1 Security Solutions, Inc. (New York, NY)

12:15PM-12:30PM LUNCH

12:30PM-1:30PM LUNCH SESSION: GUIDED ETHICS ROUNDTABLES (1.0 HRS. ETHICS)

- Colin P. Cahoon • Carstens & Cahoon, LLP (Dallas, TX)
- Edwin S. Flores • Chalker Flores, LLP (Dallas, TX)
- Paul V. Storm • Storm LLP (Dallas, TX)

TUESDAY AFTERNOON SESSION, NOVEMBER 9, 2010

PATENT PROSECUTION

MODERATOR

Ira Matsil • Slater & Matsil, L.L.P. (Dallas, TX)

1:30PM-2:30PM

A WORD OR TWO FROM THE USPTO

Robert Stoll • Commissioner of Patents – United States Patent and Trademark Office (Alexandria, VA)

2:30PM-2:45PM

BREAK

2:45PM-3:45PM

THE YEAR IN PATENT LAW (0.25 HRS. ETHICS, 2:45-3:00PM)

A study of 2009-2010 patent law decisions by the United States Supreme Court and the Federal Circuit. Includes a discussion of significant ethical issues facing patent practitioners.

Gale R. "Pete" Peterson • Cox Smith & Matthews Incorporated (San Antonio, TX)

3:45PM-4:30PM

KSR, ARIAD & BILSKI – WHAT HAVE WE LEARNED ABOUT CLAIM SCOPE?

A back-to-basics look at the intersection of written description, enablement, patent eligible subject matter, and obviousness.

Denise M. Kettelberger • Faegre & Benson LLP (Minneapolis, MN)

4:30PM-5:00PM

BILSKI V. KAPPOS: WHAT COMES NEXT?

A look at recent cases and guidance from *Bilski*. What are the District Courts saying? What's next at the Federal Circuit?

Brian C. McCormack • Baker & McKenzie (Dallas, TX)

5:00PM

ADJOURN

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CANCELLATION POLICY

A cancellation fee of \$50 will be charged upon receipt of written notice by October 29, 2010. (Email cburkel@cailaw.org) After this date, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course material.

HOUSING

The cost of housing is not included in the tuition. However, a limited number of rooms have been reserved at the Marriott Legacy Town Center, 7120 Dallas Parkway, Plano, Texas 75024. Call 1-800-228-9290 or 972-473-6444 to make reservations. A reduced room rate of \$124.00 + taxes is available if you mention that you are attending the Intellectual Property Law Conference. The last day to obtain this special rate is Sunday, October 15, 2010.

MCLE CREDIT

This program has been approved by the State Bar of Texas for 14.25 hours, including 3 hours of ethics. Course ID Number: 901209514. Sign-in sheets and/or certificates of attendance will be available for ALL states.

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