

ILT – Institute for Law and Technology
47th Annual Conference on Intellectual Property Law
November 9-10, 2009

Monday Morning Session
November 9, 2009

Patent Litigation

Moderator: Bruce S. Sostek, Esq.
Thompson & Knight LLP

- 9:00am-9:30am **IS “RELIEF” REALLY SPELLED I-T-C? (0.5 HOURS)**
The ITC has become the forum of choice for many patent owners due in part to the Commission’s broad remedial powers. Obtaining relief, however, is only half the battle. How can a client ensure that the Commission’s remedial orders are enforced fully and fairly?
Hilda C. Galvan, Esq.
Jones Day (Dallas, TX)
- 9:30am-10:00am **2009: A VENUE ODYSSEY (0.5 HOURS)**
The Eastern District of Texas has long been a forum favorite for patent cases. How will the forum selection and change of venue rulings in *TS Tech* and its progeny affect patent practice in the Piney Woods?
Clyde M. Siebman, Esq.
Siebman, Reynolds, Burg, Phillips & Smith, LLP (Sherman, TX)
- 10:00am-10:45am **STATE OF THE UNION: PATENT ENFORCEMENT IN THE U.S. (0.75 HOURS)**
Recent Supreme Court and Federal Circuit cases have dramatically affected a patent owner’s ability to remedy infringement and have lowered the enforcement value of patents. A high-level look at recent cases that are changing the way we practice.
Robert M. Chiavello, Jr., Esq.
Fulbright & Jaworski L.L.P. (Dallas, TX)
- 10:45am-11:00am **BREAK**
- 11:00am-11:30am **HOW DEEP IS THE OCEAN? HOW WIDE IS THE SKY? (0.5 HOURS)**
Recent patent damages awards have varied widely, causing some to ask if the era of big damages is over. Thoughts on recent cases and winning strategies from a successful patent litigator may change your mind.
Theodore Stevenson III, Esq.
McKool Smith, P.C. (Dallas, TX)
- 11:30am-12noon **DREAM HOUSE OR MONEY PIT? BUILDING A WINNING CASE THROUGH CLAIM CONSTRUCTION (0.5 HOURS)**
Claim construction is the foundation of a successful patent case. How can you use claim construction and the *Markman* hearing to build the case of your client’s dreams?
M. Brett Johnson, Esq.
Fish & Richardson P. C. (Dallas, TX)

Session Total: 2.75 hours (0.0 ethics)

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Monday Afternoon Session
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Trademark and Copyright Issues Segment

Moderator: Philip Davison
Yum! Brands

1:00pm-1:45pm

FEDERAL JUDICIAL PANEL (0.75 HOURS, INCL. 0.75 ETHICS)

Leading judges from the Northern and Eastern Districts of Texas will address important recent developments and ethical considerations in intellectual property litigation, focusing on conflicts arising in multi-defendant litigation, discovery obligations and abuses, inequitable conduct, and sanctions.

[.75 ethics: 1:00-1:45pm]

Moderator: Phillip B. Philbin, Esq.
Haynes & Boone, LLP (Dallas, TX)

Judicial Panelists:

- Hon. David J. Folsom
Chief Judge, Eastern District of Texas
- Hon. Barbara M.G. Lynn
Northern District of Texas
- Hon. T. John Ward
Eastern District of Texas

1:45pm-2:30pm

THE YEAR IN COPYRIGHT LAW (0.75 HOURS, INCL. 0.25 ETHICS)

A review of 2008-2009 cases and controversies involving copyright law, including issues related to ethical considerations and willful infringement, fair use, digital media and remedies.

[.25 ethics: 2:15-2:30pm]

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

2:30pm-3:15pm

PUTTING THE “TRIAL” IN TRADEMARK TRIAL AND APPEAL BOARD (0.75 HOURS, INCL. 0.25 ETHICS)

When the TTAB changed its rules to mirror federal litigation, it changed the landscape of opposition practice. The jury is still out on whether that's a good thing. This program will discuss proper pleadings, alignment of ethical obligations under discovery with federal practice, use of protective orders, discovery procedure, and compliance with TTAB disclosure rules.

[.25 ethics: 3:00-3:15pm]

John M. Cone, Esq.
Hitchcock Evert LLP (Dallas, TX)

3:15pm-3:30pm

BREAK

3:30pm-4:30pm

POINT – COUNTERPOINT – COUNTERCOUNTERPOINT (1.0 HOURS, INCL. 0.25 ETHICS)

Trademark prosecution often pits applicants against Trademark Examiners, but it doesn't have to. In-house counsel, outside counsel and the Trademark Office trade volleys on specimens, signatories, strategy and challenges of avoiding fraud on the Trademark Office.

[.25 ethics: 4:15-4:30pm]

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- David J. Cho, Esq.
General Attorney – Trademarks & Copyrights, AT&T (Dallas, TX)
- Michael Baird, Esq.
Acting Managing Attorney, U.S. Trademark Office (Alexandria, VA)
- David A. Bell, Esq.
Haynes and Boone, LLP (Dallas, TX)

4:30pm-5:00pm

IN THE TRENCHES: COMBATING COUNTERFEITS ON THE FRONT LINE (0.5 HOURS)

The trademark community has waged war on counterfeiters and knock-off artists. Hear from two lawyers that have fought the good fight.

- J.F. Chester, Esq.
Cowles & Thompson (Dallas, TX)
- Kevin Brown, Esq.
Former Anti-Counterfeiting Counsel, Nike (Seattle, WA)

Session Total: 3.75 hours (incl. 1.5 ethics)

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Tuesday Morning Session
November 10, 2009
Patent Prosecution Segment
Moderator: Ira Matsil
Slater & Matsil, L.L.P.

- 9:00am-10:00am **THE YEAR IN PATENT LAW (1.0 HOUR, INCL. 0.25 ETHICS)**
A study of 2008-2009 patent law decisions by the United States Supreme Court and the Federal Circuit, including cases relating to attorney malpractice, inequitable conduct, and duties of candor before the USPTO.
 [.25 ethics: 9:45-10:00am]
Gale R. "Pete" Petersen, Esq.
Cox Smith & Matthews (San Antonio, TX)
- 10:00am-10:30am **IN RE BILSKI: WHAT KIND OF DAY HAS IT BEEN? (0.5 HOURS)**
The Supreme Court will hear arguments in *In re Bilski* on Monday, November 9. How will the world look on November 10 and beyond?
Brian C. McCormack, Esq.
Baker & McKenzie LLP (Dallas, TX)
- 10:30am-11:00am **VALUE-ADDED PROSECUTION: BIGGER, STRONGER, FASTER, CHEAPER (0.5 HOURS)**
Efficient, value-added prosecution isn't just about saving money. Working smarter, not harder, gives the client more bang for their buck now and a portfolio that holds its own in the long run.
Marc Hubbard, Esq.
Gardere Wynne Sewell LLP (Dallas, TX)
- 11:00am-11:15am **BREAK**
- 11:15am-11:45am **GET YOUR MOTOR RUNNIN': STRATEGIES FOR THE INTERNATIONAL PATENT PROSECUTION HIGHWAY (0.5 HOURS, INCL. 0.25 ETHICS)**
How do the proliferating Patent Prosecution Highway agreements factor into an international patent prosecution strategy for US and for non-US clients? Are traditional international prosecution practices unsafe at any speed on the new PPH routes? How do the ethical concerns of the PPH routes compare with those of the traditional USPTO route (duty to disclose, duty to investigate, etc.)?
 [.25 ethics: 11:30-11:45am]
Colin P. Cahoon, Esq.
Carstens & Cahoon, LLP (Dallas, TX)
- 11:45am-12:15pm **PATENT PROFANITY: "MAIN," "MUST," AND OTHER FOUR-LETTER WORDS (0.5 HOURS)**
Although they seem harmless enough during drafting and prosecution, certain words take on a new dimension when it comes to litigation. How do you avoid using language that can severely reduce the value of your client's patents?
Thomas L. Irving, Esq.
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington, DC)

Session Total: 3.0 hours (incl. 0.5 ethics)

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Technology, Licensing and IP Rights

Moderator: Paul Hashim
Huawei Technologies USA

- 1:00pm-2:00pm **THE AUDACITY OF THE U.S. PATENT & TRADEMARK OFFICE (1.0 HOUR)**
What lies in store for the USPTO under the new administration? A discussion of current topics and trends from USPTO leadership.
- 2:00pm-2:45pm **TAG, YOU'RE IT! EVOLVING OWNERSHIP STRUCTURES IN THE PATENT SPACE (0.75 HOURS)**
It's not always easy to know who is "it" in patent litigation, particularly when dealing with non-practicing entities. As a property right closely linked to potential causes of action, patents present an interesting case study of incentives and behavior when causes of action are freely transferrable.
Dr. Everett Upshaw, Esq.
Senior Intellectual Property Litigation Counsel, Nokia, Inc. (Richardson, TX)
- 2:45pm-3:00pm **BREAK**
- 3:00pm-3:30pm **PATENT LAW'S NEXT TOP MODEL (0.5 HOURS)**
It can be tough to decide between the license-next-door and something more exotic. A review of licensing models will help you decide the right look for your transaction.
Steven H. Slater, Esq.
Slater & Matsil, L.L.P. (Dallas, TX)
- 3:30pm-4:00pm **LOST IN TRANSLATION: WHEN LICENSES DON'T MEAN WHAT THEY SAY (0.5 HOURS)**
TransCore and other recent cases have changed the way courts read patent licenses. Practical tips to make sure your license and the court are speaking the same language.
Thomas N. Tarnay, Esq.
Sidley Austin LLP (Dallas, TX)
- 4:00pm-5:00pm **GIMME SHELTER: HOW IN-HOUSE COUNSEL IS WEATHERING THE STORM (1.0 HOUR)**
A candid panel discussion about the way in-house counsel makes tough choices about intellectual property in the current economy.
Moderator: Philip Davison, Esq.
Yum! Brands (Dallas, TX)
Panelists:
- Michael A. Nametz, Esq.
ExxonMobil Corporation (Las Colinas, TX)
 - Ann J. Bruder, Esq.
General Counsel, Commercial Metals Company (Irving, TX)
 - Quintin Cassady, Esq.
General Counsel, Galderma Laboratories, L.P. (Fort Worth, TX)

Session Total: 3.75 hours (0.0 ethics)

CONFERENCE TOTAL: 13.25 HOURS (INCL. 2.0 ETHICS)