

12th Annual Advanced Patent Law Institute

March 9-10, 2017 • United States Patent and Trademark Office • Alexandria, VA

Thursday Morning, Mar. 9, 2017

Presiding Officer:

Hon. David P. Ruschke, U.S. Patent and Trademark Office, Patent Trial and Appeal Board - Alexandria, VA

7:30 am	<p>Registration Opens</p> <p>Includes continental breakfast.</p>
8:20 am	<p>Welcoming Remarks</p>
8:30 am 1.25 hrs	<p>The Current Patent Landscape in the U.S. and Abroad</p> <p>Discuss current issues around patenting, licensing, enforcing, and monetizing patents in the U.S., and look at what the UK, EU, and China are experiencing and the impact on U.S. patent practice.</p> <p>Moderators: Robert Greene Sterne, Sterne, Kessler, Goldstein & Fox P.L.L.C. - Washington, DC Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit - Washington, DC</p> <p>Panelists: Peter N. Detkin, Intellectual Ventures - Bellevue, WA Paul Evans, Vivint, Inc - Provo, UT Christopher C. Gallagher, New Venture Advisors - Washington, DC Damon C. Matteo, Fulcrum Strategy - Palo Alto, CA Paul A. Stone, 5AM Ventures - San Francisco, CA</p>
9:45 am	<p>Break</p>
10:00 am 0.75 hr	<p>Section 101: Recent Decisions and the Impact on Software and High Technology Claims</p> <p>Review significant post-<i>Alice v. CLS Bank</i> cases addressing patent subject matter eligibility of software and high technology claims, with an emphasis on lessons learned. Hear practice tips gleaned from the guidance provided by Federal Circuit opinions in <i>DDR Holdings</i>, <i>Enfish</i>, <i>BASCOM</i>, <i>McRo</i>, and <i>Amdocs</i>.</p> <p>Stephen G. Kunin, Oblon, McClelland, Maier & Neustadt, L.L.P. - Alexandria, VA</p>
10:45 am 0.75 hr	<p>Section 101 and Lifesciences: Current U.S. and International Perspectives</p> <p>The United States America Invents Act (AIA) of 2011 did not amend the patent subject matter eligibility standards under 35 U.S.C. § 101. Yet, despite the AIA's goal to provide greater global patent law harmonization, the current state of subject matter eligibility law in the U.S. is decidedly not aligned with this long-standing effort. Examine the current status of U.S. subject matter eligibility for life sciences, understand how it compares to other major international jurisdictions, and explore how the U.S. Patent and Trademark Office might navigate current U.S. case law without devastating the life sciences industry.</p> <p>Leslie Fischer, Novartis Pharmaceuticals Corporation - East Hanover, NJ</p>

11:30 am 0.50 hr	<p>Recent Developments in Design Patents</p> <p>Hear recent developments in design patent law in the U.S. and abroad, including best practices for filing design applications. Discuss recent trends such as protection of graphical user interface, the Hague System, and the U.S. Supreme Court appeal of the <i>Apple v. Samsung</i> case.</p> <p>Tracy-Gene G. Durkin, Sterne, Kessler, Goldstein & Fox P.L.L.C. - Washington, DC</p>
12:00 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Thursday Afternoon, Mar. 9, 2017

Presiding Officer:

Jeffrey A. Wolfson, Haynes and Boone, LLP - Washington, DC

LUNCHEON PRESENTATION

12:20 pm 0.50 hr	<p>Update from the USPTO</p> <p>Hear about the most current priorities, programs, and initiatives underway at the Agency.</p> <p>Brian E. Hanlon, U.S. Patent and Trademark Office - Alexandria, VA</p>
12:50 pm	<p>Break</p>
1:05 pm 0.75 hr	<p>USPTO Special Programs for Patent Prosecution</p> <p>Review special programs for patent prosecution, including Track 1, Patent Prosecution Highway, First Action Interview, AFCP 2.0, P3, and Pre-Appeal Brief programs; followed by Patent Office and practitioner perspectives on the programs and when each one may be most useful.</p> <p>Courtenay C. Brinckerhoff, Foley & Lardner LLP - Washington, DC Irem Yucel, U.S. Patent and Trademark Office - Alexandria, VA</p>
1:50 pm 0.50 hr ethics	<p>Changes to the Duties of Disclosure and Implications of Using the Global Dossier</p> <p>Learn about an ongoing project regarding use of possible IT solutions as an aid in compliance with the duty of disclosure requirements for filers at the USPTO. The ultimate aim is to reduce the administrative costs of this burden to the innovation community, while ensuring legally effective fulfillment of applicants' duty to disclose. Updates include an overview of the issues, comments received to date, and next steps.</p> <p>Mark R. Powell, U.S. Patent and Trademark Office - Alexandria, VA</p>
2:20 pm 0.50 hr	<p>PTAB Update</p> <p>Hear an update on PTAB appeals and trial proceedings.</p> <p>Hon. David P. Ruschke, U.S. Patent and Trademark Office, Patent Trial and Appeal Board - Alexandria, VA</p>

2:50 pm 0.50 hr	<p>The Federal Circuit on PTAB Patent Trials: An Overview of Recent Decisions</p> <p>Examine recent litigation addressing AIA Proceedings at the PTAB: including an overview of recent decisions interpreting the AIA (IPR/PGR proceedings), the agency's rules, and PTAB's application of those rules in specific cases.</p> <p>Scott C. Weidenfeller, U.S. Patent and Trademark Office - Alexandria, VA</p>
3:20 pm	Break
3:30 pm 1.00 hr	<p>PTAB Practice and Impacts of Recent Federal Circuit Decisions</p> <p>While the PTAB evolves and continues to evolve, a number of best practices have been identified. Hear practitioners and judges provide insight and predictions for the future.</p> <p>Moderator: Hon. Teresa Stanek Rea, Crowell & Moring, LLP - Washington, DC</p> <p>Panelists: Scott A. McKeown, Oblon, Spivak, McClelland, Maier & Neustadt, L.L.P. - Alexandria, VA Hon. Stacy B. Margolies, U.S. Patent and Trademark Office - Alexandria, VA Hon. Kristi L. R. Sawert, U.S. Patent and Trademark Office - Alexandria, VA</p>
4:30 pm 1.00 hr	<p>Concurrent Proceedings before PTAB and District Courts</p> <p>The interplay between PTAB and District Court proceedings is the new reality in patent cases, with trends and lessons continually emerging for both patent owners and challengers. Discuss issues relating to overall case management considerations, timing, stays, intermingled discovery, claim construction, admissibility, weight given to rulings in counterpart proceedings, race to finality, estoppel, and the impact of the Federal Circuit review.</p> <p>Moderator: David L. McCombs, Haynes and Boone, LLP - Dallas, TX</p> <p>Panelists: Monica Grewal, Wilmer Cutler Pickering Hale and Dorr - Boston, MA Anthony J. Fitzpatrick, Duane Morris LLP - Boston, MA Christopher J. Lewis, FLIR Systems, Inc. - Wilsonville, OR Rachel MacGuire, Oracle Corporation - Broomfield, CO</p>
5:30 pm	Adjourn

Friday Morning, Mar. 10, 2017

Presiding Officer:

William LaMarca, U.S. Patent and Trademark Office, Office of the Solicitor - Alexandria, VA

7:30 am	<p>Auditorium Opens</p> <p>Includes continental breakfast.</p>
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8:30 am 0.75 hr	<p>Recent Developments at the ITC</p> <p>Explore several important developments in Section 337 litigation at the ITC, including: the increased number of Section 101 rulings at the ITC in 2016, the ITC's accelerated disposition programs, the effect of the Federal Circuit's decision in <i>ClearCorrect v. ITC</i>, and the impact of PTAB proceedings on ITC investigations.</p> <p>Anne Goalwin, U.S. International Trade Commission - Washington, DC G. Brian Busey, Morrison & Foerster LLP - Washington, DC</p>
9:15 am 0.75 hr	<p>Claims Construction</p> <p>Claim construction remains pivotal for patent preparation/prosecution, trials, appeals, and AIA post grant review proceedings. Focus on the latest post-<i>Teva</i> Federal Circuit cases and the PTAB's claim construction "rules, practices and so-forth," including Dell/SAS and APA restrictions.</p> <p>Kenneth R. Adamo, Kirkland & Ellis LLP - Chicago, IL</p>
10:00 am 0.50 hr ethics	<p>Harmonization and Enforcement of USPTO Ethical Standards in the AIA Era</p> <p>Explore present day ethical issues affecting attorneys and agents who practice before the USPTO, including ethical standards under the USPTO Rules of Professional Conduct, the mechanics of OED's complaint and investigative process, the ethical impact of the AIA on practitioners and OED, and practical examples and statistics relating to OED enforcement.</p> <p>Tim Rooney, U.S. Patent and Trademark Office, Office of Enrollment and Discipline - Alexandria, VA</p>
10:30 am	<p>Break</p>
10:45 am 0.75 hr	<p>Willful Patent Infringement After the Supreme Court's Opinion in <i>Halo v. Pulse</i> and its Progeny</p> <p>Assess the impact of <i>Halo</i>'s new standard for finding willfulness and awarding enhanced damages, the new burden of proof, the new standard for appellate review, opinions of counsel, and related litigation strategy issues.</p> <p>William L. LaFuze, McKool Smith - Houston, TX</p>
11:30 am 1.00 hr	<p>Judicial Panel</p> <p>Distinguished judges discuss their experiences hearing and trying patent cases, with a focus on concurrent proceedings, stays, and IPRs, as well as a review on new FRCP regarding eDiscovery.</p> <p>Moderator: Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit - Washington, DC Panelists: Hon. T. S. Ellis, III, U.S. District Court, Eastern District of Virginia - Alexandria, VA Hon. Faith S. Hochberg, U.S. District Judge (ret.), Judge Hochberg ADR - New York City, NY Hon. Gregory M. Sleet, U.S. District Court, District of Delaware - Wilmington, DE</p>
12:30 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Friday Afternoon, Mar. 10, 2017

Presiding Officer:

John W. Ryan, Eckert Seamans Cherin & Mellott, LLC - Washington, DC

LUNCHEON PRESENTATION

1:00 pm 0.50 hr	View from the Federal Circuit Hon. Pauline Newman, U.S. Court of Appeals for the Federal Circuit - Washington, DC
1:30 pm	Break
1:45 pm 1.00 hr	The New Section 102 Explore the new Section 102, while focusing on the two areas of uncertainty within the new Section: does prior art need to be “available to the public” (see <i>Helsinn Healthcare v. Teva Pharmaceuticals</i> , on appeal to the Federal Circuit); and whether the one-year grace period under the new section is as robust as the one-year grace period under the previous section (or whether it is too soon to tell)? Robert Bahr, U.S. Patent and Trademark Office - Alexandria, VA Dale S. Lazar, DLA Piper LLP US - Reston, VA
2:45 pm 0.75 hr	Year in Review: Other Key Cases from the Federal Circuit and Supreme Court Discuss the major patent decisions made this past year and their possible impacts on patent practice, including those from the Supreme Court and the Federal Circuit. Christopher A. Cotropia, Intellectual Property Institute, University of Richmond School of Law - Richmond, VA
3:30 pm 1.00 hr ethics	Privilege in Patent Cases: What’s New? Analyze the patent agent-client privilege, privilege problems when in-house counsel is registered by the USPTO or a state to advise an employer (but not licensed in the state), and recurring problems when patents are assigned. David Hricik, Mercer University School of Law and Taylor English Duma LLP - Macon and Atlanta, GA
4:30 pm	Adjourn