

# 33<sup>rd</sup> Annual Technology Law Conference

## May 21-22, 2020 • Live Webcast

### Thursday Morning, May 21, 2020

**Presiding Officer:**

**Steve Borgman**, Vinson & Elkins LLP - Houston, TX

8:20 am	<p><b>Welcoming Remarks</b></p>
8:30 am 1.00 hr	<p><b>Beyond SaaS: Licensing Strategies for Today's Tech</b></p> <p>Perpetual licenses are rare, "term" licenses have become subscriptions, and the phrase "software-as-a-service" falls short of describing today's technology offerings. This presentation discusses recent developments in licensing such as aggregation of rights under the FTC's and DOJ's updated Antitrust Guidelines for the Licensing of Intellectual Property, "app-store" requirements, and data bundling. Also explore practical approaches to finding the balance between monetizing technology and managing risks from both the provider's and the recipient's perspective.</p> <p>Edward A. Cavazos, Pillsbury Winthrop Shaw Pittman LLP - Austin, TX Devika Kornbacher, Vinson &amp; Elkins LLP - Houston, TX</p>
9:30 am	<p><b>5-Minute Break</b></p>
9:35 am 0.75 hr 0.25 hr ethics	<p><b>Post-COVID-19: Workplace 4.0</b></p> <p>This presentation focuses on how the COVID-19 experience will change our workplace now and going forward. Topics of discussion include considerations and best practices regarding re-openings and return to work for businesses who have not yet initiated that process and lessons learned from those who have, such as monitoring of government orders, testing, PPE, human resource and labor considerations and litigation; re-opening of closed facilities; ongoing opportunities for working remotely; reimagined collaborative spaces; ongoing operations for essential workers and retail/restaurant workers; and other timely areas of ongoing interest and concern.</p> <p>Frances Jeter, Sard Verbinen &amp; Co - Houston, TX David Schellhase, Slack - San Francisco, CA</p>
10:20 am	<p><b>5-Minute Break</b></p>
10:25 am 1.00 hr	<p><b>Open Source: What You Need to Know Now</b></p> <p>Most people doing M&amp;A or IP due diligence just think of open source as something to avoid, but that isn't sufficient anymore. Learn about the sweep of open source, from the basic terminology, to how it affects your employee agreements and patent portfolio, to the arguments about open source software that are showing up at the U.S. Supreme Court.</p> <p>Van Lindberg, Taylor English Duma LLP - San Antonio, TX</p>
11:25 am	<p><b>Break for Lunch—Presentation Resumes at 11:50 a.m.</b></p>

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## Thursday Afternoon, May 21, 2020

### Presiding Officer:

Jordan J. Herman, Baker Botts L.L.P. - Austin, TX

### LUNCHEON PRESENTATION

11:50 am  
1.00 hr

#### **Navigating Employment Law in a Pandemic**

An examination of the Emergency Paid Sick Leave Act (EPSLA) and Expanded Family Medical Leave Act (EFMLA) from the Families First Corona Response Act (FFCRA), the employment-related provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and state and local shelter-in-place orders. This session also examines the application of existing employment laws to the current pandemic, including the Texas Unemployment Compensation Act (TUCA), the America with Disabilities Act (ADA), the Occupational Safety and Health Act (OSHA), and the Worker Adjustment and Retraining Notification Act (WARN). Alternatives to layoffs, including pay reductions, work share arrangements, partial unemployment, and furloughs are also discussed.

Jason Boulette, Boulette Golden & Marin L.L.P. - Austin, TX

12:50 pm

#### **5-Minute Break**

12:55 pm  
1.00 hr  
0.50 hr ethics

#### **Legal Ethical Issues and Governance in the AI Arena**

Explore the types of AI being implemented in the profession and identification of the emerging services that will present ethical issues and challenges. Examine the guidance available from the Texas bar and the ABA relating to AI and identification of areas where this guidance is insufficient to answer new ethical questions raised by AI.

Jessica Nguyen, Lexion - Seattle, WA  
Sean Sullivan, New York City Criminal Justice Agency - New York, NY  
David Wang, Wilson Sonsini Goodrich & Rosati, P.C. - Palo Alto, CA  
Steven J. Wingard, Scott Douglass & McConnico LLP - Austin, TX

1:55 pm

#### **5-Minute Break**

2:00 pm 0.75 hr	<p><b>Data Theft, Doxing, and the Sinister New Age of Ransomware</b></p> <p>A discussion of what to expect and how to respond when ransomware strikes, including the potential legal consequences. Elizabeth Cookson also shares her substantial experience negotiating with the bad actors when necessary so that a victim can decrypt and recover, and what factors can accelerate or complicate restoration efforts.</p> <p>Elizabeth Cookson, Kivu Consulting, Inc. - Washington, DC Bart W. Huffman, Reed Smith LLP - Houston, TX</p>
2:45 pm	<p><b>5-Minute Break</b></p>
2:50 pm 0.50 hr	<p><b>Intellectual Property and Bankruptcy Post <i>Mission Product Holdings</i></b></p> <p>With the uncertain future of the U.S. economy presented by the novel coronavirus, bankruptcies plaguing the oil and gas industry, and the U.S. Supreme Court's landmark <i>Mission Product Holdings</i> decision, hear a review of the current state of the law dealing with intellectual property in bankruptcies.</p> <p>Randall E. Colson, Haynes and Boone, LLP - Dallas, TX</p>
3:20 pm	<p><b>5-Minute Break</b></p>
3:25 pm 0.75 hr	<p><b>Key Issues in Mergers and Acquisitions of Private Companies</b></p> <p>Discussion on key issues in private company mergers and acquisitions, including the impact of the COVID-19 virus on transactions, recent case law developments, and post-closing deal integration matters. The discussion includes the perspectives of internal counsel and external M&amp;A counsel.</p> <p>Moderator: J. Robert Suffoletta, Wilson Sonsini Goodrich &amp; Rosati, P.C. - Austin, TX Panelists: Tracy Feanny, National Instruments Corporation - Austin, TX Corinna Ulrich, RealPage, Inc. - Richardson, TX</p>
4:10 pm	<p><b>5-Minute Break</b></p>
4:15 pm 0.75 hr ethics	<p><b>Competency, Confidentiality, Conflicts, and Technology</b></p> <p>This session covers a wide range of problems that technology has created for lawyers. On the one hand, lawyers are obligated to use technology when it benefits their clients, but on the other, failure to use the technology competently can lead to ethical problems. This session analyzes issues from the mundane to the profound.</p> <p>David Hricik, Mercer University School of Law - Macon, GA</p>
5:00 pm	<p><b>Adjourn</b></p>

## Friday Morning, May 22, 2020

### Presiding Officer:

**William L. LaFuze**, McKool Smith - Houston, TX

<p>8:30 am 1.00 hr</p>	<p><b>COVID-19: Privacy Considerations and Best Practices</b></p> <p>The COVID-19 pandemic has dramatically altered how many companies interface with their employees, customers, and stakeholders. In a new world of primarily remote interaction, workplace lockdowns, health screening, and a heavy reliance on third parties for operational tasks, companies face a myriad of complex privacy and data protection concerns. This presentation focuses on privacy and data protection considerations for navigating the COVID-19 landscape and discusses best practices for companies to protect their employees, customers, systems, and data.</p> <p>Moderator: Matthew Staples, Wilson Sonsini Goodrich &amp; Rosati, P.C. - Austin, TX</p> <p>Panelists: Christopher Jeffery, Taylor Wessing - Menlo Park, CA Jessica Cassidy Katz, Whole Foods Market - Austin, TX Sooji Seo, Dell - Round Rock, TX</p>
<p>9:30 am</p>	<p><b>5-Minute Break</b></p>
<p>9:35 am 0.75 hr 0.50 hr ethics</p>	<p><b>Combatting Creepiness in Big Data</b></p> <p>“Creepy” has become the go-to descriptor for data programs that just don’t seem...right. This presentation considers the development of that concept in law and ethics and offers recommendations to better set and manage data use expectations and realities.</p> <p>Submit your questions, comments, and/or experiences in advance to <a href="mailto:ConferenceQA@utcle.org">ConferenceQA@utcle.org</a>, or come armed with your toughest questions.</p> <p>Justin Koplw, AT&amp;T - Dallas, TX</p>
<p>10:20 am</p>	<p><b>5-Minute Break</b></p>
<p>10:25 am 1.00 hr</p>	<p><b>The Ultimate Cheat Sheet for Cybersecurity and Privacy Compliance</b></p> <p>It seems like a new global or domestic privacy law is being introduced every week. Just when you thought that your program was complete and running smoothly, all of a sudden you must figure out a way to implement and maintain a new requirement. Learn about reliable management tools for a data privacy and cybersecurity compliance program from the experts. Our panel of in-house lawyers from the public and private sector discuss how to make it easy to operationalize overlapping laws and how to make sure that your compliance program is always up to date.</p> <p>Moderator: Elizabeth Rogers, Michael Best &amp; Friedrich LLP - Austin, TX</p> <p>Panelists: Jeff Adams, WP Engine - Austin, TX George R. Gooch, Texas Health Services Authority - Austin, TX Elaine Nicholson, City of Austin - Austin, TX</p>
<p>11:25 am</p>	<p><b>5-Minute Break</b></p>

<p>11:30 am 0.50 hr</p>	<p><b>Public Sector Information Technology Outsourcing</b></p> <p>A practical discussion on strategies to address challenges, best practices and pitfalls when outsourcing information technology solutions through a procurement process by federal, state and local governments.</p> <p>Moderator: Jonathan Lass, Jackson Walker LLP - Austin, TX</p> <p>Panelists: Brian Tulga, Cardinal Source Management Consulting - Austin, TX Martin H. Zelinsky, Law Office of Martin H. Zelinsky - Westminster, CO</p>
<p>12:00 pm</p>	<p><b>Break for Lunch—Presentation Resumes at 12:25 p.m.</b></p>

## Friday Afternoon, May 22, 2020

### Presiding Officer:

**J. Matthew Lyons**, Shearman & Sterling, LLP - Austin, TX

### LUNCHEON PRESENTATION

<p>12:25 pm 0.75 hr</p>	<p><b>Emerging National Security Issues in the Tech Industry</b></p> <p>Hear an explanation of the broad array of nation-state threats against tech companies, the tools being used and developed by the U.S. government to counter these threats, and measures that tech companies should consider taking to navigate through this fast-changing landscape.</p> <p>Paul T. Luther, Baker Botts L.L.P. - Washington, DC</p>
<p>1:10 pm</p>	<p><b>5-Minute Break</b></p>
<p>1:15 pm 0.75 hr</p>	<p><b>CFIUS Reform and “Emerging and Foundational Technologies”</b></p> <p>New CFIUS regulations went into effect on February 13, 2020, implementing extensive reforms authorized by the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA). The presentation discusses key elements of the new regulations and their impact on cross-border M&amp;A as well as the experience thus far with the new mandatory CFIUS filing requirements associated with “critical technologies.” Examine the Commerce Department’s efforts to identify and define “emerging and foundational technologies” that should be controlled for export pursuant to the Export Control Reform Act of 2018 (ECRA), and the implications for companies focusing on AI, 5G, and other emerging technologies.</p> <p>Damara Chambers, Vinson &amp; Elkins LLP - Washington, DC Heather B. Johnston, Thales - Austin, TX</p>
<p>2:00 pm</p>	<p><b>5-Minute Break</b></p>

<p>2:05 pm 0.75 hr</p>	<p><b>Antitrust 2020: Changing Politics, Technology, and Problems have caused Upheaval! A Real-Time Presentation of Disruption in Antitrust and Competition Law</b></p> <p>Since the beginning of this year there have been profound changes in the antitrust and competition landscape. New lawsuits are being filed and existing cases pressed hard despite the COVID-19 Pandemic. Technology companies need to be aware of the storm now breaking over licensing for 5G in lawsuits pending in federal courts in Texas and Delaware. The 180 degree change at the Department of Justice that has the Antitrust Division actively litigating with non-practicing patent entities against companies that produce technology, software, semiconductors and telecom products. COVID-19 drove a dramatic to the ground rules and procedures for collaboration for companies that can provide essential technology, products and services. This will be a real-time presentation of what is happening right now and how it could impact you.</p> <p>Danielle Joy "DJ" Healey, Fish &amp; Richardson P.C. - Houston, TX</p>
<p>2:50 pm</p>	<p><b>5-Minute Break</b></p>
<p>2:55 pm 0.75 hr 0.25 hr ethics</p>	<p><b>Counterfeits, Knockoffs, and Knockdowns: Controlling your Company and Product Image on E-commerce Platforms</b></p> <p>Explore techniques to control and stop counterfeits, knockoffs, and false or fraudulent reviews, in order to police your company and product character using online resolution systems, the courts, and administrative bodies. Learn how to use the DMCA and other copyright techniques to quickly get listings taken down and prevent others from using your marketing images, how to use trademark rights to police online counterfeiting, and how to mitigate the impact of disparaging reviews. This presentation also discusses using design and utility patents in online resolution systems. Also, hear a quick discussion on utilizing all of these types of IP outside of online resolution systems and the advantages and disadvantages of these more traditional techniques.</p> <p>Peter D. Kennedy, Graves, Dougherty, Hearon &amp; Moody - Austin, TX Robert P. Ziemian, Haynes and Boone, LLP - Denver, CO</p>
<p>3:40 pm</p>	<p><b>5-Minute Break</b></p>
<p>3:45 pm 0.75 hr 0.50 hr ethics</p>	<p><b>Digital Evidence: The Gathering Storm</b></p> <p>In recent years, the number of devices and applications capturing data about every aspect of our business and personal lives has exploded, creating a storm of potentially relevant data. Practitioners who know how to collect this digital evidence and use it effectively will gain an edge on their opponents. This presentation covers novel sources of digital evidence and the available court and forensic tools that can be used to gather evidence from them.</p> <p>W. Reid Wittliff, Wittliff   Cutter, PLLC - Austin, TX</p>
<p>4:30 pm</p>	<p><b>Adjourn</b></p>