

14<sup>TH</sup> ANNUAL  
**ADVANCED PATENT LAW  
INSTITUTE**



October 29 – 30, 2009  
Four Seasons Hotel ▪ Austin, Texas

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ADVANCED PATENT LAW INSTITUTE

October 29 – 30, 2009 • Four Seasons Hotel • Austin, Texas

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**THURSDAY MORNING, OCT. 29, 2009**

**Presiding Officer:**  
Hilda C. Galvan, Jones Day, Dallas, TX

**8:00 a.m. Registration Opens**

Includes continental breakfast.

**8:50 a.m. Welcoming Remarks**

**9:00 a.m. .50 hr**

**Developments in Claims Construction**

What kind of impact will recent developments have on claim terms and their construction? This presentation includes a review of current cases affecting claims construction, strategies for claims construction, and special considerations for a claims construction hearing including the use of graphics, technology tutorials, experts, special masters, and limits on numbers of claim terms to be construed.

Bruce S. Sostek, Thompson & Knight LLP, Dallas, TX

**9:30 a.m. .50 hr**

**Recent Developments in Patent Licensing: Quanta**

It has been more than a year since *Quanta* was decided. Have commercial channels been affected? Could *Quanta* affect business and impact deal or patent licensing strategy? Are there deal or structure modifications to be made in the wake of *Quanta*?

Keith E. Witek, Advanced Micro Devices, Inc., Austin, TX

**10:00 a.m. .50 hr**

**Obviousness: KSR's Impact on Litigation**

How does the Supreme Court's foray into obviousness law affect legal arguments and the development of the underlying evidence relating to obviousness?

Nicolas G. Barzoukas, Weil, Gotshal & Manges LLP, Houston, TX

**10:30 a.m. Break**

**10:45 a.m. 1.00 hr**

**Damages and Apportionment: Trends, Responses, and Tough Questions for the Experts**

This panel discussion covers recent developments and trends in damages and apportionment, and includes law firm and in-house perspectives. The panel concludes with some tough questions and cross-examination of valuation experts on damages issues.

**Moderator:**  
Robert Barr, Berkeley Center for Law & Technology, Berkeley, CA

**Panelists:**  
David J. Healey, Fish & Richardson P.C., Houston, TX  
Louis A. Riley, McAfee, Inc., Plano, TX

**Commentators:**  
Brent K. Bersin, Navigant Consulting, Inc., Houston, TX  
Walt Bratic, CRA International, Inc., Houston, TX

**11:45 a.m. .50 hr**

**Developing Defenses and Section 112**

A review of the Federal Circuit's recent revival of the indefiniteness defense, as well as other recent cases on Section 112 defenses, including the written description requirement and their application during and after claims construction.

John R. Keville, Howrey LLP, Houston, TX

**THURSDAY AFTERNOON**

**Presiding Officer:**  
Barton 'Bart' E. Showalter, Baker Botts L.L.P., Dallas, TX

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**Haynes and Boone, LLP**

**12:15 p.m. Pick up Box Lunch**

Included in conference registration.

**LUNCHEON PRESENTATION**

**12:30 p.m. .75 hr ethics**

**Top 10 Prosecution Ethics Issues**

Malpractice and conflict of interest claims based upon patent prosecution are growing in number and severity of settlement. This session addresses ten issues that should be of concern to patent practitioners.

David Hricik, Mercer University School of Law, Macon, GA

**1:15 p.m. Break**

**1:30 p.m. 1.00 hr**

**Patentable Subject Matter and Practice Strategies in the Shadow of *Bilski***

*In re Bilski*, now on appeal to the Supreme Court, has already sent shockwaves throughout the patent community and may change our fundamental notions of patentable subject matter. The panelists discuss the immediate impact of the Federal Circuit decision, provide predictions for treatment at the Supreme Court, and offer both prosecution and litigation strategies in view of this important case.

**Moderator:**  
Barton 'Bart' E. Showalter, Baker Botts L.L.P., Dallas, TX

**Panelists:**  
Steven P. Klocinski, CA, Inc., Islandia, NY  
David L. McCombs, Haynes and Boone, LLP, Dallas, TX  
Mark Seka, Novartis Molecular Diagnostics, Cambridge, MA  
Duane R. Valz, Yahoo! Inc., Sunnyvale, CA

**2:30 p.m. .75 hr**

**Strategic Patent Prosecution: How to Draft Winning Patent Claims**

Recent case law that impacts the preparation of patent applications, particularly with regard to claim drafting strategies, is discussed. Eight techniques for crafting and drafting the strongest claims possible in scope and validity are presented.

Richard A. Killworth, Dinsmore & Shohl, LLP, Dayton, OH

**3:15 p.m. Break**

"As always, the program is well done with good topics and presenters."

"Excellent and timely topics—things I can use in my practice."

"This CLE is always a very nice update of recent developments from the past year, and the focus is good. I appreciate the complexity of analysis."

"Good speakers. Good place. Good topics and content."

"Topics and speakers overall are always great."

3:30 p.m. .75 hr

**Venue Transfers and Declaratory Judgment Jurisdiction in Light of *TS Tech***

Venue plays a critical role in the outcome of patent litigation. Recent cases have shed new light on the traditional fight over where the patent battle will be waged. This session analyzes these recent cases and provides pointers from both the Plaintiff and Defendant's point of view.

Daralyn J. Durie, Durie Tangri Page Lemley Roberts & Kent LLP, San Francisco, CA  
Michael D. Pegues, Bracewell & Giuliani LLP, Dallas, TX

4:15 p.m. 1.00 hr including .50 hr ethics

**Judicial Panel**

A panel of distinguished judges discuss their experiences with, and thoughts on, managing, hearing and trying patent cases.

**Moderator:**  
Hilda C. Galvan, Jones Day, Dallas, TX  
**Panelists:**  
Hon. T. John Ward, U.S. District Court, Eastern District of Texas, Marshall, TX  
Hon. Lee Yeakel, U.S. District Court, Western District of Texas, Austin, TX  
Additional U.S. District Court Judge

5:15 p.m. Adjourn

**FRIDAY MORNING, OCT. 30, 2009**

**Presiding Officer:**

**John W. Ryan, Sullivan & Worcester LLP, Washington, DC**

8:30 a.m. Conference Room Opens

Includes continental breakfast.

9:00 a.m. .50 hr ethics

**The Long-Term Value of Opinions of Counsel: An Update**

A discussion of the potential value of opinions of counsel, particularly in response to charges of willful infringement and inducing infringement, and a case law update including the aftermath of *In re Seagate* and *Broadcom v. Qualcomm*.

Scott W. Breedlove, Vinson & Elkins LLP, Dallas, TX

9:30 a.m. .75 hr

**Injunctions: Design-Around and Post-Verdict Remedies**

The application of eBay has left a host of unanswered questions, chief among them: what does a patentee get if it doesn't get an injunction? This session covers the unsettled state of the law and strategies to take advantage of it.

Mark A. Lemley, Stanford Law School and Durie Tangri Page Lemley Roberts & Kent LLP, Stanford, CA

10:15 a.m. Break

10:30 a.m. 1.00 hr

**Cost-Management Strategies: An In-House Counsel Viewpoint**

Representing a client who has an active IP litigation docket and who participates in a challenging market environment requires changes in the way legal services have been traditionally provided. This panel of in-house counsel discusses strategies for managing the costs associated with handling patent-related matters and provides insight into changes which are occurring in the profession.

**Moderator:**  
Robert L. King, Freescale Semiconductor, Inc., Austin, TX  
**Panelists:**  
Chip Lutton, Apple Inc., Cupertino, CA  
Anthony E. Peterman, Dell, Inc., Austin, TX  
Russell S. Wheatley, Cooper Industries, Houston, TX

11:30 a.m. .50 hr

**International Patent Prosecution and Litigation: China**

A discussion of patent prosecution and litigation in China, and the "cradle-to-grave" life of a patent, including strategic considerations and best practices.

Elizabeth Chien-Hale, Institute for Intellectual Property in Asia, Fremont, CA

12:00 p.m. .50 hr

**The New Economics of Patent Prosecution: Are the Old Days Gone for Good?**

Recent case law limiting the equivalence of claims and raising the bar for patentability, along with proposed "reforms" which impact the scope of possible damages, are combining to diminish the apparent value of patent portfolios across the country. Pricing pressure from corporate clients coupled with rising law firm salary levels in recent years have played havoc with traditional patent prosecution business models. What can practitioners do? These and other issues facing the patent prosecution client and practitioner are discussed.

Andrew J. Dillon, Dillon & Yudell LLP, Austin, TX

12:30 p.m. Lunch on Your Own

**FRIDAY AFTERNOON**

**Presiding Officer:**

**Tom Adolph, Jackson Walker LLP, Houston, TX**

1:45 p.m. .50 hr ethics

**Inequitable Conduct**

Recent opinions on inequitable conduct have taken divergent views of what is required to infer an intent to deceive the Patent and Trademark Office. This issue, plus recent cases regarding the materiality and intent prongs of the inequitable conduct analysis, and proposals for legislative reform are discussed.

Darryl J. Adams, Baker Botts L.L.P., Austin, TX

2:15 p.m. .50 hr

**ITC Update: Remedies, Enforcement, and Other Developments**

This session provides an update on substantive and procedural issues in ITC practice, including issues relating to post-Kyocera remedies, effectiveness/applicability of defenses, enforcement and customs, design-around strategies, and *Markman* practice.

Michael J. McKeon, Fish & Richardson P.C., Washington, DC

2:45 p.m. .50 hr

**Impact of Bankruptcy on IP Litigation and Licensing**

The recent spike in bankruptcy filings has significant implications for IP practitioners. This session discusses IP considerations that arise when a party in litigation or a party to a license files for bankruptcy.

Mark C. Howland, Jones Day, Dallas, TX

3:15 p.m. .50 hr ethics

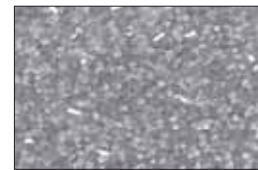
**Still Treading in Largely Unknown Waters: Advanced Issues in E-Discovery**

Being aware of the changes to the rules is only the first step to becoming competent at identifying the issues and challenges posed by e-discovery. This session focuses on advanced issues, such as business impact, international implications, waiver of privilege and the threat of sanctions.

Miriam L. Quinn, Fulbright & Jaworski, L.L.P., Dallas, TX  
Dave Rogers, Ernst & Young LLP, Dallas, TX

3:45 p.m. Adjourn

**ABOUT THE COVER**



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Early Registration Fee due by Wednesday, October 21, 2009 ..... \$675.00

Registration Fee after Wednesday, October 21, 2009 ..... \$725.00

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*Allow 3-5 weeks from the conference date for delivery.*

Course Binder Without Conference Registration ..... \$250.00  
Note: Conference registration includes Course Binder.

Audio CD Set ..... \$175.00

eBinder on CD (PDF format) ..... \$250.00/\$50.00  
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## AUSTIN

October 29 – 30, 2009

### CONFERENCE LOCATION



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Austin, TX 78701  
512-685-8100

**Special Room Rate: \$240**  
good through October 7, 2009  
(subject to availability)

**Valet Parking Only:**  
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\$26 overnight  
(subject to change)

### KEY DATES

**October 21, 2009**  
*last day for early registration*

**October 23, 2009**  
*last day for full refund*

**October 26, 2009**  
*last day for partial refunds*

**October 29, 2009, 9 a.m.**  
*Institute begins*

## ADVANCED PATENT LAW INSTITUTES

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### PATENT LAW IN AUSTIN, TX

October 29-30, 2009, Four Seasons Hotel

Join leading practitioners, academics and in-house counsel from the Southwest and Silicon Valley in Austin, TX for two days of presentations on a rich array of prosecution and litigation topics. Cool weather, great city, music and food—at the Four Seasons Hotel.



### PATENT LAW IN PALO ALTO, CA

December 10-11, 2009

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Come to the heart of Silicon Valley, and join leading judges and practitioners from major corporations such as Google, Cisco, Intel, and Genentech. This conference is jointly sponsored with the Berkeley Center for Law and Technology at UC Berkeley and the Stanford Program in Law, Science and Technology.



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January 21-22, 2010, USPTO – Main Auditorium

This conference provides the insider's perspective on USPTO initiatives, practice rules, developments, and much more. Join USPTO staff, leading practitioners, academics and members of the federal judiciary from a variety of courts and forums in the Washington, DC area, for two days at the USPTO. The conference is jointly sponsored with the George Mason University School of Law.



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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 12.50 hours, of which 2.75 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944).