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November 13-14, 2008
USPTO – Main Auditorium
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THURSDAY MORNING, NOV. 13, 2008

Presiding Officer:Samson Vermont, George Mason University
School of Law, Arlington, VA**8:00 a.m. Registration Opens**

Includes continental breakfast.

8:45 a.m. Welcoming Remarks**8:50 a.m. 1.00 hr****Disasters in Litigation: What Patent Prosecutors Could Have Done to Prevent the Carnage**

Ten case histories, with disastrous results for the patentee, will be discussed. In each instance there will be suggestions as to what the patent prosecutor could have done to avoid the bad result.

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

Dale S. Lazar, DLA Piper, Reston, VA

9:50 a.m. .75 hr**The Morning After KSR: Examiner and Practitioner Perspectives**

This session will include an explanation of the USPTO *KSR* examination guidelines with Technology Center specific examples. Also discussed will be observations on the USPTO practice from a practitioner's perspective.

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

John J. Love, U.S. Patent and Trademark
Office, Alexandria, VA**10:35 a.m. Break****10:50 a.m. .50 hr****New USPTO Appeal Rules**

The new BPAI appeal rules provide new requirements and clarifications that will help to streamline the appeal process and lead to more timely Board decisions. Chief Judge Fleming will provide a step-by-step explanation of the ex parte appeal process under the new rules, from the Notice of Appeal through the Request for Rehearing.

Hon. Michael R. Fleming, U.S. Patent and
Trademark Office, Alexandria, VA**11:20 a.m. .67 hr****Statutory Subject Matter and Section 101**

Panelists will discuss recent Federal Circuit and BPAI decisions on patent eligible subject matter as well as USPTO examination guidelines.

Raymond T. Chen, U.S. Patent and Trademark
Office, Alexandria, VAStephen G. Kunin, Oblon, Spivak, McClelland,
Maier & Nuestadt, Alexandria, VA

THURSDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATIONSponsored by
Feldman Gale**12:00 p.m. Pick up Box Lunch****12:15 p.m. .75 hr****Patent Notice Failure**

Professor Meurer will present evidence that the patent system fails to provide good notice of patent-based property rights. This failing causes patents to actually discourage innovation in most industries. He will sketch out the sort of reforms that are needed to improve notice and mitigate the harm caused by fuzzy patent scope.

Michael J. Meurer, Boston University School of
Law, Boston, MA**1:00 p.m. Break****1:15 p.m. .50 hr ethics****Balancing the Proposed IDS Rules and McKesson v. Bridge Over the Rule 56 Duty of Disclosure**

The tension between existing Federal Circuit jurisprudence following *McKesson v. Bridge* and the PTO's position and proposed IDS Rules will present a significant conundrum and expense for patent applicants and their counsel. The proposed rules will make it nearly impossible to comply with existing disclosure obligations, creating an obstacle course to obtaining and enforcing patent rights. This upcoming problem and its potential ethical implications will be considered, along with various tools that may be capable of cutting some of that tension.

Jeffrey A. Wolfson, Haynes and Boone, LLP,
Washington, DC**1:45 p.m. 1.50 hrs****Patent Litigation: Key Issues and Considerations**

This panel will provide expert advice regarding critical strategic and legal issues which span the life of a patent case. Topics include an analysis of recent case law regarding declaratory judgment actions; key considerations in selecting the proper forum to file your patent case; how to launch a successful obviousness challenge; and how to obtain injunctive relief and maximize your monetary remedies.

Moderator: H. Keeto Sabharwal, Blank Rome
LLP, Washington, DCRaymond A. Kurz, Hogan & Hartson LLP,
Washington, DCChristopher J. Renk, Banner & Witcoff, Ltd.,
Chicago, IL**3:15 p.m. Break****3:30 p.m. .75 hr****Developments in Claims Construction**

With apparent claim construction peace declared between the Federal Circuit and the Supreme Court, the Federal Circuit has dug in and potentially opened a new front in its O2 decision. Other old-favorite construction rules and trends have gone off on new loops and tangents as well. These new fronts and trends will be discussed, how to handle them in Markman constructions will be explored, and the new pitfalls and "gotchas" will be flagged.

Kenneth R. Adamo, Jones Day, Dallas, TX

4:15 p.m. .75 hr**Remedies at the ITC**

The Supreme Court's *eBay v. MercExchange* changed the rules for injunctive relief in U.S. District Court. The ITC may now be an attractive forum for plaintiffs seeking to remove alleged infringers' products from the market. For Section 337 Actions at the ITC, exclusion orders remain available as a post-verdict remedy. This session will focus on remedies available at the ITC, including what is required to present the basis for requesting an exclusion order, the range of breadth of exclusion orders and other issues related to the decision whether filing a 337 Action at the ITC is a preferable alternative in certain circumstances.

Walt Bratic, CRA International, Inc., Houston, TX

David J. Healey, Weil, Gotshal & Manges, LLP,
Houston, TX

5:00 p.m. .50 hr ethics

**Understanding Objective Recklessness
Under *Seagate*: Are We There Yet?**

Over the last year, practitioners have discovered that the Federal Circuit's "objective recklessness" standard for establishing willful infringement is much easier to recite than apply. The *Seagate* standard has also raised a number of procedural questions that were not necessarily answered or anticipated by the decision. Now armed with the benefit of hindsight, the current application of the two-part *Seagate* test will be examined, including its evolving relationship to pleading standards, dispositive motion practice, pre- and post-litigation conduct, preliminary injunction results and the continuing role of opinions in ascertaining enhanced damages.

Gregory L. Hillyer, Feldman Gale, Bethesda, MD

5:30 p.m. Adjourn

FRIDAY MORNING, NOV. 14, 2008

Presiding Officer:

**John W. Ryan, Crowell & Moring, LLP,
Washington, DC**

8:30 a.m. .50 hr

Patent Exhaustion in Light of *Quanta*

The Supreme Court held in *Quanta* that the licensed sale of a product exhausts any patents—including method patents—that are practiced by the sold product. Where does this leave patent owners who wish to enforce post-transfer restrictions on the use of patented products? We will grapple with this difficult question.

Chris Newman, George Mason University
School of Law, Arlington, VA

9:00 a.m. 1.00 hr

**Reexamination and Litigation: A Two-Way
Street?**

A panel discussion examining both how reexamination impacts patent litigation and how patent litigation impacts reexamination.

James T. Canfield, Finnegan, Henderson,
Farabow, Garrett & Dunner, LLP, Palo Alto, CA

Eric Keasel, U.S. Patent and Trademark
Office, Alexandria, VA

Robert Greene Sterne, Sterne, Kessler,
Goldstein & Fox, P.L.L.C., Washington, DC

10:00 a.m. Break

10:15 a.m. 1.00 hr including .25 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

Hon. Carl Charneski, U.S. International Trade
Commission, Washington, DC

Hon. Ron Clark, U.S. District Court, Eastern
District of Texas, Beaumont, TX

Hon. Timothy B. Dyk, U.S. Court of Appeals for
the Federal Circuit, Washington, DC

11:15 a.m. .75 hr

Antitrust and SSO Developments

In light of recent activity by the U.S. antitrust authorities and private litigants, it has become increasingly important for participants in standard setting organizations (SSO's) to understand the potential antitrust risks of their conduct. These experienced practitioners will review the recent developments and provide clear, practical guidance on the "do's and don'ts" of working with an SSO.

Jeffrey Blumenfeld, Crowell & Moring, LLP,
Washington, DC

Adam C. Hemlock, Weil, Gotshal & Manges
LLP, New York, NY

FRIDAY AFTERNOON

Presiding Officer:

**Edward J. Kessler, Sterne, Kessler,
Goldstein & Fox, P.L.L.C., Washington, DC**

LUNCHEON PRESENTATION

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Banner & Witcoff, Ltd.

12:00 p.m. Pick up Box Lunch

12:15 p.m. .75 hr

The Role of a Judge

A discussion of effective advocacy before the United States Court of Appeals for the Federal Circuit.

Hon. Kimberly A. Moore, U.S. Court of Appeals
for the Federal Circuit, Washington, DC

1:00 p.m. Break

1:15 p.m. .50 hr ethics

Mediation at the Federal Circuit

A discussion of the relatively new mandatory Mediation Program at the U.S. Court of Appeals for the Federal Circuit from the Chief Circuit Mediator and his deputy, the Circuit Mediation Officer.

James M. Amend, U.S. Court of Appeals for
the Federal Circuit, Washington, DC

Wendy L. Dean, U.S. Court of Appeals for the
Federal Circuit, Washington, DC

1:45 p.m. .33 hr

First Action Interview Pilot Program

A discussion of the U.S. Patent and Trademark Office's pilot program which enables certain applicants to receive the results of a prior art search conducted by the examiner, and then interview with the examiner to discuss the prior art before the examiner issues an Office action on the merits.

Andrew H. Hirshfeld, U.S. Patent and Trademark
Office, Alexandria, VA

2:05 p.m. 1.00 hr ethics

**How to Avoid Disciplinary Action at the
USPTO**

The various ethical requirements imposed by the PTO Code of Professional Responsibility will be reviewed as they relate to patent prosecution.

Harry Moatz, U.S. Patent and Trademark
Office, Alexandria, VA

3:05 p.m. Adjourn

**COMMENTS FROM
PAST INSTITUTES**

*"An excellent conference—
well-done!"*

*"The presenters are really at the
top of the field. Great idea to
have it at the PTO."*

*"Excellent coverage of current
topics of interest in patent
practice. I attended last year's
conference, and look forward
to next year!"*

*"One of the best conferences
and best group of speakers."*

*"This has been the best law
conference I have ever
attended. (I've been
registered to practice before
the USPTO for 25 years.)
Thank you."*

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ALEXANDRIA, VA

November 13-14, 2008
CONFERENCE LOCATION

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Concourse Level of the Madison
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600 Dulany Street
Alexandria, VA 22313-1450

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www.uspto.gov/main/visiting.htm
for directions and information about
public transportation.

ACCOMMODATIONS

Embassy Suites Hotel Alexandria (Old Town)
1900 Diagonal Road, Alexandria, VA
703-684-5900
Special Room Rate \$269
good through October 13, 2008
(subject to availability)

Other nearby hotels include:

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KEY DATES

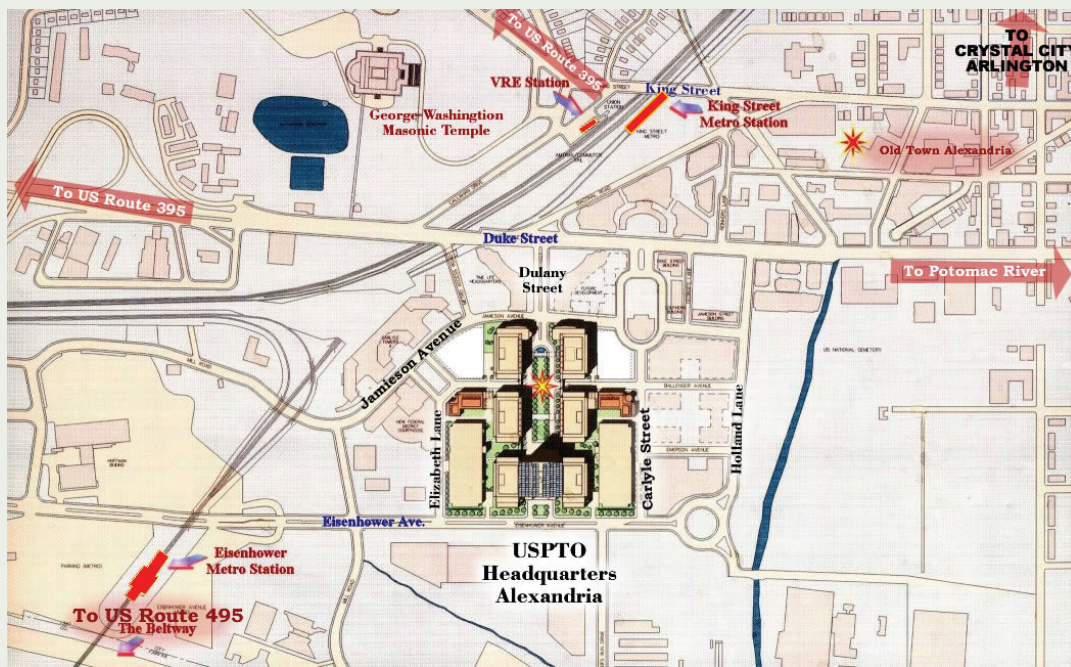
Registration & Cancellation

November 5, 2008—5 p.m.
last day for early registration
add \$50 for registrations
received after this time

November 7, 2008—5 p.m.
last day for full refund

November 10, 2008—5 p.m.
last day for partial refunds
\$50 processing fee applied

November 13, 2008—8:50 a.m.
conference begins



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