

# 11<sup>th</sup> Annual Advanced Patent Law Institute

## March 10-11, 2016 • United States Patent and Trademark Office • Alexandria, VA

### Thursday Morning, Mar. 10, 2016

#### Presiding Officer:

**Hon. Nathan Kelley**, U.S. Patent and Trademark Office, Patent Trial and Appeal Board - Alexandria, VA

7:30 am	<b>Registration Opens</b>  Includes continental breakfast.
8:15 am	<b>Welcoming Remarks</b>
8:30 am 0.75 hr	<b>Patent Eligible Claims Post-Alice: Section 101 and the New USPTO Guidelines</b>  You've read <i>Alice</i> and understand when a claim recites an abstract idea and when a claim recites "something more," right? Wrong! With the new USPTO guidelines providing insight into the meaning of these concepts, and examiners now asking applicants to reference those guidelines in identifying the claims in their application, hear discussion of these concepts and the impact on patent applications.  Dale S. Lazar, DLA Piper LLP US - Reston, VA Robert Bahr, Acting Deputy Commissioner for Patent Examination Policy, U.S. Patent and Trademark Office - Alexandria, VA
9:15 am 0.75 hr	<b>Sequenom and Section 101 Challenges in Diagnostics and Personalized Medicine</b>  Explore the significant challenges facing diagnostics and personalized medicine in the wake of <i>Mayo</i> , <i>Myriad</i> and <i>Alice</i> , as illustrated by the Federal Circuit decision in <i>Sequenom</i> , the implications for industry and public health, and possible strategies for overcoming difficult recent jurisprudence.  Moderator: Courtenay C. Brinckerhoff, Foley & Lardner LLP - Washington, DC Panelist: Hans Sauer, Biotechnology Innovation Organization - Washington, DC Adam Mossoff, George Mason University School of Law - Arlington, VA
10:00 am	<b>Break</b>
10:15 am 0.75 hr	<b>Indefiniteness</b>  In <i>Nautilus v. Biosig</i> , the Supreme Court announced a "new" standard for indefiniteness. Hear about that "new" standard, <i>Nautilus's</i> progeny, and how that standard is being applied, or not, in the Courts and at the USPTO.  Kristi L. R. Sawert, Office of the Solicitor, U.S. Patent and Trademark Office - Alexandria, VA Rene A. Treviño, Greenberg Traurig, LLP - Houston, TX

11:00 am 1.00 hr ethics	<p><b>Harmonization and Enforcement of USPTO Ethical Standards in the AIA Era</b></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>William R. Covey, Deputy General Counsel and Director, Office of Enrollment and Discipline, U.S. Patent and Trademark Office - Alexandria, VA</p>
12:00 pm	<b>Pick Up Lunch</b>

## Thursday Afternoon, Mar. 10, 2016

### Presiding Officer:

**Lynn I. Levine**, Morrison & Foerster LLP - Washington, DC

### LUNCHEON PRESENTATION

12:20 pm 0.50 hr	<p><b>Update from the USPTO</b></p> <p>Hear about the most current priorities, programs, and initiatives underway at the Agency.</p> <p>Hon. Michelle K. Lee, Under Secretary of Commerce for Intellectual Property and Director, U.S. Patent and Trademark Office - Alexandria, VA</p>
12:50 pm	<b>Break</b>
1:05 pm 0.50 hr	<p><b>The Enhanced Patent Quality Initiative: Where Are We Now?</b></p> <p>Anthony Caputa, Director, Office of Patent Quality Assurance, U.S. Patent and Trademark Office - Alexandria, VA</p>
1:35 pm 0.75 hr	<p><b>Proposed U.S. Patent Law Reforms: Is the Desirable Achievable?</b></p> <p>Numerous patent reforms have been proposed addressing different stakeholder concerns pertaining to the effective functioning of our patent system. Differing ones are contained in bills that have been passed out of the House and Senate Judiciary Committees, but which have not reached the floors of either chamber. In the wake of several recent Supreme Court decisions, yet other proposals are now being advanced, and more are certain to follow. Differences of opinion exist as to which of these proposals are desirable, which are achievable, and whether there is a nexus between the two.</p> <p>Philip S. Johnson, Johnson &amp; Johnson - New Brunswick, NJ</p>
2:20 pm 0.75 hr	<p><b>Fee Shifting - Will The Exception Become The Rule?</b></p> <p>A discussion about what makes a case "exceptional" under 35 U.S.C. § 285 after <i>Octane Fitness</i>, including an analysis of developing trends, pitfalls and exceptions.</p> <p>Gregory L. Hillyer, Feldman Gale - Washington, DC</p>
3:05 pm	<b>Break</b>

3:15 pm 0.75 hr	<p><b>Trends in Injunctive Relief</b></p> <p>The availability of injunctive relief changed a decade ago with the Supreme Court's ruling in <i>eBay</i>. Explore recent developments in the application of the four-part test for injunctive relief, and the insights they provide to litigators.</p> <p>John Bruce Campbell Jr., McKool Smith - Austin, TX</p>
4:00 pm 1.25 hrs	<p><b>The Patent Landscape: Economics of Enforceability and Licensing</b></p> <p>The patent environment has undergone dramatic, unprecedented change in the past several years. Explore the many changes across industries, stakeholders, owners and competitors, and political perspectives, and put context and narrative around these changes and proposed best practices for dealing with this new global patent environment.</p> <p>Moderator: Robert Greene Sterne, Sterne, Kessler, Goldstein &amp; Fox P.L.L.C. - Washington, DC</p> <p>Panelists: Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit - Washington, DC Chris Ruggeri, Deloitte Financial Advisory Services LLP - New York, NY Robert L. Stoll, Drinker Biddle &amp; Reath LLP - Washington, DC Caren A. Yusem, Olympic IP - Chicago, IL</p>
5:15 pm	<b>Adjourn</b>

## Friday Morning, Mar. 11, 2016

### Presiding Officer:

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

8:00 am	<p><b>Auditorium Opens</b></p> <p>Includes continental breakfast.</p>
8:45 am 0.75 hr	<p><b>Customs and Border Patrol Enforcement of ITC Exclusion and Cease/Desist Orders</b></p> <p>A brief overview of the International Trade Commission (ITC) Section 337 proceedings and Customs and Border Patrol, with discussion of enforcement of ITC exclusion orders, including post-exclusion order design-around processes.</p> <p>Stephen G. Kunin, Oblon, McClelland, Maier &amp; Neustadt, L.L.P. - Alexandria, VA Dax Terrill, U.S. Customs And Border Protection - Washington, DC</p>
9:30 am 0.50 hr	<p><b>Update from the PTAB</b></p> <p>An update on PTAB statistics, rulemaking, and pilot programs.</p> <p>Hon. Scott Boalick, Vice Chief Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office - Alexandria, VA</p>
10:00 am	<b>Break</b>

10:15 am 1.25 hrs	<p><b>The Evolving PTAB and Best Practices</b></p> <p>While the PTAB evolves and continues to evolve, a number of best practices have been identified. Practitioners and judges provide their insight and, to the extent possible, predictions for the future.</p> <p><b>NOTE: THIS SESSION HAS BEEN MOVED TO 2:00 P.M. ON MARCH 11, 2016.</b></p> <p>Moderator: Hon. Teresa Stanek Rea, Crowell &amp; Moring, LLP - Washington, DC</p> <p>Panelists: Deborah Fishman, Kaye Scholer LLP - Palo Alto, CA Hon. Thomas L. Giannetti, Lead Administrative Patent Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office - Alexandria, VA Hon. Linda E. Horner, Patent Trial and Appeal Board, U.S. Patent and Trademark Office - Alexandria, VA David L. McCombs, Haynes and Boone, LLP - Dallas, TX</p>
11:30 am 1.00 hr	<p><b>Judicial Panel</b></p> <p>Distinguished judges discuss their experiences hearing and trying patent cases, with a focus on concurrent proceedings, stays, and IPRs.</p> <p>Moderator: Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit - Washington, DC</p> <p>Panelists: Hon. Ron Clark, Chief Judge, U.S. District Court, Eastern District of Texas - Beaumont, TX Hon. T S. Ellis III, U.S. District Court, Eastern District of Virginia - Alexandria, VA Hon. James F. Holderman, JAMS - Chicago, IL</p>
12:30 pm	<b>Pick Up Lunch</b>

## Friday Afternoon, Mar. 11, 2016

### Presiding Officer:

**John W. Ryan**, Shipman & Goodwin LLP - Washington, DC

### LUNCHEON PRESENTATION

1:00 pm 0.75 hr	<p><b>View from the Federal Circuit</b></p> <p>Hon. Sharon Prost, Chief Judge, U.S. Court of Appeals for the Federal Circuit - Washington, DC</p>
1:45 pm	<b>Break</b>
2:00 pm 0.50 hr	<p><b>Update from the Office of the Solicitor</b></p> <p>An update on the recent cases handled by the Solicitor's Office.</p> <p><b>NOTE: THIS SESSION HAS BEEN MOVED TO 10:15 A.M. ON MARCH 11, 2016.</b></p> <p>Scott C. Weidenfeller, Acting Deputy Solicitor for Intellectual Property Law, Office of the Solicitor, U.S. Patent and Trademark Office - Alexandria, VA</p>

2:30 pm 0.75 hr	<p><b>Due Diligence in Competitor-to-Competitor Licensing</b></p> <p>Explore practical patent diligence and related considerations in the licensing context, particularly competitor-related considerations as distinct from other types of licensing relationships.</p> <p><b>NOTE: THIS SESSION HAS BEEN MOVED TO 10:45 A.M. ON MARCH 11, 2016.</b></p> <p>Jeffrey A. Wolfson, Haynes and Boone, LLP - Washington, DC</p>
3:15 pm 1.00 hr ethics	<p><b>Ethics at the USPTO, from Filing through IPR</b></p> <p>Analyze tough ethical issues under the new IPR rules, including an examination of the less-obvious ways that inefficient or incompetent prosecution can harm clients, and a look at recent conflicts of interest cases in patent and trademark cases.</p> <p>David Hricik, Mercer University School of Law and Taylor English Duma LLP - Macon and Atlanta, GA</p>
4:15 pm	<p><b>Adjourn</b></p>