UT LAW CLE Continuing Legal Education

16th Annual Advanced Patent Law Institute
March 23-25, 2021 • Live Webcast

Tuesday Afternoon, Mar. 23, 2021

Presiding Officer:
J. Devlin Hartline, Antonin Scalia Law School, George Mason University - Arlington, VA

	All Times Listed are in CENTRAL Time.
11:50 am	**Welcoming Remarks**
12:00 pm 0.50 hr	**Opening Keynote: Update from the USPTO** Hear about the current priorities, programs, and initiatives underway at the Office. Drew Hirshfeld, Commissioner for Patents, Performing the Duties of the Under Secretary of Commerce for Intellectual Property and Director, U.S. Patent and Trademark Office - Alexandria, VA
12:30 pm	**Break**
12:40 pm 0.75 hr	**Section 101: Impacts of the New Guidelines on Patent Subject Matter Eligibility and Federal Circuit Decisions** Hear a brief overview of the PEG for subject matter eligibility and its impact on patent application allowance rates and PTAB affirmance rates. Plus, examine the various types of deference, if any, given by the Federal Circuit to the USPTO's PEG, as well as patentability decisions and practice tips. Stephen G. Kunin, Maier & Maier PLLC - Alexandria, VA Andrew A. Toole, U.S. Patent and Trademark Office - Alexandria, VA
1:25 pm	**Break**
1:35 pm 0.75 hr	**Written Description Requirements and Section 112(f)** For years, the law involving means-plus-function clauses under Section 112(f) was quiescent and stable. But Examiners have been construing claim elements under Section 112(f) and applying the law of Section 112(f) - BOTH in high tech AND life sciences. Hear discussion on the potential pitfalls and practical solutions for drafting claims and specifications. Dale S. Lazar, Antonin Scalia Law School George Mason University - Arlington, VA Nicole Woods, Eli Lilly and Company - Somerville, NJ
2:20 pm	**Break**
2:30 pm 1.00 hr	**Issues of Preparing and Prosecuting AI-Based Applications** Despite AI becoming more ubiquitous, underscoring innovation in all fields of technology, the path to patentability for AI-based inventions is still in flux. Representatives of both the USPTO and the EPO provide their insight and outlook regarding trends, best practices, and common issues in AI patenting.

	Moderator: Michelle K. Holoubek, Sterne Kessler Goldstein Fox - Washington, DC Panelists: Robert Bahr, U.S. Patent and Trademark Office - Alexandria, VA Pia Björk, European Patent Office - Munich, Germany
3:30 pm	**Break**
3:40 pm 0.75 hr	**China Patent Update: Prior Art Explosion, Rapid Evolution of the CNIPA and Courts, and Filing and Prosecution Issues** China has accomplished a massive evolution of its patent system in the last decade, with enormous increase in filings, rapid evolution of the CNIPA and patent-focused courts, and integration of its patent system into an ambitious global innovation agenda. This warrants understanding in order to effectively deal with the rapidly evolving global IP ecosystem. Moderator: Robert Greene Sterne, Sterne, Kessler, Goldstein & Fox P.L.L.C. - Washington, DC Panelists: Mark Cohen, Berkeley Center for Law & Technology - Berkeley, CA Richard Seidel, U.S. Patent and Trademark Office - Alexandria, VA
4:25 pm	**Adjourn**

Wednesday Afternoon, Mar. 24, 2021

Presiding Officer:
Karin Ferriter, U.S. Patent and Trademark Office - Alexandria, VA

12:00 pm 0.75 hr	**The USPTO & COVID-19 – Innovation through Adversity** Learn more about the high-level filing trends in various COVID-19 related technological fields; plus hear an overview of the Cooperative Patent Classification (CPC) System, as it relates to these technologies. Antoinette F. Konski, Foley & Lardner LLP - Palo Alto, CA Jerry Lorengo, U.S. Patent and Trademark Office - Alexandria, VA
12:45 pm	**Break**
12:55 pm 0.50 hr	**License Agreements: Hot Topics** A discussion of the Rule 56 implications of *Immunex Corp. v. Sandoz Inc.* when licensing patent rights, and an overview of compulsory licensing and government march-in rights during a pandemic. Jeffrey A. Wolfson, Haynes and Boone, LLP - Washington, DC
1:25 pm	**Break**
1:35 pm 0.50 hr	**How to Think Like an Examiner** Eddie Lefkowitz, U.S. Patent and Trademark Office - Alexandria, VA
2:05 pm	**Break**

2:15 pm 0.50 hr	**AI Tools for Patents at the USPTO** The USPTO Strategic Plan (2018-2022) emphasizes the development and delivery of artificial intelligence (AI) and machine learning (ML) within our information technology tools for users of the patent system. Explore the AI-based solutions under development at the USPTO for patent search and patent classification. Matthew Such, U.S. Patent and Trademark Office - Alexandria, VA
2:45 pm	**Break**
2:55 pm 1.00 hr ethics	**Professional Responsibility and Practice Before the USPTO** Examine the ethics rules issued by the USPTO and how they are applied and enforced by today's Office of Enrollment and Discipline, including ethics scenarios and applicable case law. Plus, explore current developments overseen by the OED, including current cases and the Diversion Pilot Program as well as USPTO pro bono programs. Tim Rooney, U.S. Patent and Trademark Office - Alexandria, VA
3:55 pm	**Adjourn**

Thursday Afternoon, Mar. 25, 2021

Presiding Officer:
William LaMarca, U.S. Patent and Trademark Office - Alexandria, VA

12:00 pm 0.50 hr	**PTAB Update** Hear an update from the Chief Judge on recent trends and developments in PTAB appeal and trial proceedings. Hon. Scott R. Boalick, Chief Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office - Alexandria, VA
12:30 pm	**Break**
12:40 pm 1.00 hr	**Practice and Issues Before the PTAB** Discuss changes to the PTAB with the advent of the new administration, including the latest developments with discretionary denials of institution and which party has the burden on a particular issue. Plus, explore any new decisions by the courts as to whether protective orders will prevent litigation counsel from also acting as IPR counsel. Moderator: Teresa Stanek Rea, Crowell & Moring, LLP - Washington, DC Panelists: Hon. Linda E. Horner, U.S. Patent and Trademark Office - Alexandria, VA Joe Matal, Haynes and Boone, LLP - Washington, DC Hon. Michael Tierney, U.S. Patent and Trademark Office - Alexandria, VA
1:40 pm	**Break**
1:50 pm 0.75 hr	**Best Practices for Ex Parte Appeals** Learn what's new in ex parte appeals, including current average appeal timelines and the new option to expedite frames, the LEAP program to promote and encourage oral argument by less experienced

	practitioners, and practice tips from both sides of the bench. Hon. Ken Barrett, U.S. Patent and Trademark Office - Alexandria, VA Courtenay C. Brinckerhoff, Foley & Lardner LLP - Washington, DC
2:35 pm	**Break**
2:45 pm 0.50 hr	***Arthrex*: Where Are We Now?** In *Arthrex, Inc. v. Smith & Nephew, Inc.*, the Supreme Court will decide the constitutionality of the PTAB, and whether the APJs in the PTAB are principal officers who must be appointed by the President and confirmed by the Senate. If they are, their appointment by the Director of the USPTO is unconstitutional and the Supreme Court will decide if the Federal Circuit properly remedied this constitutional defect by severing the APJ job-security protections, and thereby converting them into inferior officers. Explore this case and the oral argument, which is being held on March 1. Adam Mossoff, Antonin Scalia Law School, George Mason University - Arlington, VA
3:15 pm	**Break**
3:25 pm 1.00 hr	**Federal Circuit Judicial Panel** Hear from a panel of judges from the Court of Appeals for the Federal Circuit as they discuss their experiences hearing and trying patent cases. Moderator: Hon. Paul R. Michel, Chief Judge, Retired, U.S. Court of Appeals for the Federal Circuit - Washington, DC Panelists: Hon. Pauline Newman, U.S. Court of Appeals for the Federal Circuit - Washington, DC Hon. Kathleen M. O'Malley, U.S. Court of Appeals for the Federal Circuit - Washington, DC
4:25 pm	**Adjourn**