

22nd Annual Advanced Patent Law Institute
November 2-3, 2017 • Four Seasons Hotel • Austin, TX
November 2-3, 2017 • Live Webcast

Thursday Morning, Nov. 2, 2017

Presiding Officer:

Michael P. Adams, Austin, TX

7:30 am In Austin Only	Registration Opens Includes continental breakfast.
8:20 am	Welcoming Remarks
8:30 am 1.00 hr	Year in Review: Key Federal Circuit and U.S. Supreme Court Decisions A summary of the most significant Supreme Court and Federal Circuit decisions of the past year. Mark A. Lemley, Stanford Law School and Durie Tangri LLP - Stanford and San Francisco, CA
9:30 am 0.75 hr	Recent Developments in Claims Construction Claim construction continues to be the axis about which patent preparation/prosecution, trials, appeals, and AIA post grant review proceedings all revolve. Hear the latest Federal Circuit and trial court claim construction cases, and the PTAB's claim construction "rules, practices and so-forth," including revived <i>O2 Micro</i> issues and latest Dell/SAS and APA restrictions. Kenneth R. Adamo, Kirkland & Ellis LLP - Chicago, IL
10:15 am	Break
10:30 am 0.50 hr	Section 101 Update The courts and the USPTO continue to apply <i>Alice</i> in determining whether a patent contains eligible subject matter. Review recent decisions and developments involving eligibility and any lessons to be learned. Steve Borgman, Vinson & Elkins LLP - Houston, TX
11:00 am 0.50 hr	Design Patents: In Anticipation of Functionality Anticipation and functionality are two of the most shrouded and misunderstood areas of design patent law. This presentation unpacks these two areas, providing ample ammunition for overcoming rejections and countering defenses. Perry Saidman, Saidman DesignLaw Group, LLC - Silver Spring, MD

11:30 am 0.75 hr	<p>Patent Litigation Around the World: Canada, China, and Germany</p> <p>Explore the good, the bad and the ugly of patent litigation jurisdictions that are growing in popularity, including Canada, China, and Germany.</p> <p>Kevin Kudlac, Greenberg Traurig, LLP - Austin, TX</p>
12:15 pm In Austin Only	<p>Pick Up Lunch (in Austin)</p> <p>Included in registration.</p>

Thursday Afternoon, Nov. 2, 2017

Presiding Officer:

James J. Nawrocki, IPFC Corp. - Houston, TX

LUNCHEON PRESENTATION

	<p>Thank You to Our Sponsor</p> <p>Baker Botts L.L.P.</p>
12:35 pm 0.50 hr ethics	<p>Emerging Technologies: Law and Regulation</p> <p>Discuss emerging technologies—artificial intelligence, internet of things, and 3D printing—and their impact on the legal landscape.</p> <p>Hilda C. Galvan, Jones Day - Dallas, TX</p>
1:05 pm	<p>Break</p>
1:20 pm 1.00 hr	<p>Patenting in the Life Sciences: Prosecution Issues, Key Cases, and Hot Topics</p> <p>Hear updates on the USPTO's position on Section 101 and relevant case law decisions, and take a tour of the recent CRISPR patent wars.</p> <p>Ana C. Ward, Austin, TX</p>
2:20 pm 0.50 hr	<p>Patent Portfolio Strategies</p> <p>Changes in legislation, case law, and administrative procedures, coupled with broader societal changes such as globalization and the shift to information-based technologies, are profoundly impacting the ways in which patents are exploited and valued as business assets. Strategies for acquiring, managing, and asserting patent portfolios are discussed in light of these influences.</p> <p>Steven H. Slater, Slater Matsil, LLP - Dallas, TX</p>

2:50 pm 0.50 hr	<p>Infringement Remedies</p> <p>Remedies for infringement are in play. Damages law continues to evolve, including whether or when transactions, sales or uses abroad can be recovered for U.S. patents. <i>Halo</i> changed the law on enhanced damages, but the results in the district courts and the Federal Circuit. The record of cases since <i>Octane Fitness</i> show attorneys' fee awards are becoming bigger and more common. Damages law post-VirnetX and post-D-Link continues to develop in patent cases. Equitable remedies and administrative remedies (exclusion orders) are examined.</p> <p>Danielle Joy "DJ" Healey, Fish & Richardson P.C. - Houston, TX</p>
3:20 pm	Break
3:30 pm 0.50 hr	<p>Defending Against Allegations of Willful Infringement Post-<i>Halo</i></p> <p>A discussion on the various strategies to consider in defending against allegations of willful infringement since the <i>Halo</i> decision.</p> <p>Christa Brown-Sanford, Baker Botts - Dallas, TX</p>
4:00 pm 0.50 hr	<p>Standard Essential Patents and FRAND Royalties</p> <p>With SEPs and FRAND commitments remaining critical in the high-tech sectors, several recent district court and Trade Commission actions centered on the valuing and enforcing of FRAND commitments and royalties. Hear what that means to SEP holders and standard users.</p> <p>John R. Keville, Winston & Strawn LLP - Houston, TX</p>
4:30 pm 1.00 hr 0.50 hr ethics	<p>Judicial Panel</p> <p>Hear distinguished judges from the District Court discuss their experiences hearing and trying patent cases.</p> <p>Moderator: Alan D Albright, Bracewell - Austin, TX</p> <p>Panelists: Hon. Cathy Ann Bencivengo, U.S. District Court, Southern District of California - San Diego, CA Hon. Mitchell S. Goldberg, U.S. District Court, Eastern District of Pennsylvania - Philadelphia, PA Hon. Robert W. Schroeder III, U.S. District Court, Eastern District of Texas - Texarkana, TX</p>
5:30 pm	Adjourn
In Austin Only	<p>Networking Reception (in Austin from 5:30 p.m. - 6:30 p.m.)</p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p> <p>Thank You to Our Sponsor Vinson & Elkins LLP</p>

Friday Morning, Nov. 3, 2017

Presiding Officer:

Shirley Webster, Ocean Tomo, LLC - Houston, TX

7:30 am In Austin Only	Conference Room Opens Includes continental breakfast.
BREAKFAST PRESENTATION	
8:00 am 0.75 hr ethics	Women in IP Friday Breakfast Presentation: Ethical Considerations of Career Transitions A discussion on the ethical considerations involved in making transitions between professional avenues including private practice, in-house counsel, and government roles. Moderator: Elise Selinger, Conley Rose, PC - Plano, TX Panelists: Mollybeth Kocialski, U.S. Patent and Trademark Office, Rocky Mountain Region - Denver, CO Betty Ellsworth Ungerman, Lennox International Inc. - Richardson, TX
8:45 am	Break
9:00 am 0.50 hr	Patent Prosecution Tips and Traps Drawing upon several “traps” observed in litigation or IPR practice, this presentation discusses patent prosecution tactics with an eye toward eventual assertion. Kirk Dorius, Dorius Law PC - Austin, TX Stephen A. Mason, Michael Best - Austin, TX
9:30 am 0.50 hr	The PTAB: Five Years Later We have come a long way since the start of the PTAB on September 16, 2012. Hear how the PTAB has significantly impacted the patent holder, challengers, and the courts, with some focus on changes within the PTAB itself and discussion of the possible directions for its continuing evolution. Hon. Teresa Stanek Rea, Crowell & Moring, LLP - Washington, DC
10:00 am 0.50 hr	ITC Update: Hot Topics and Trends Stay up-to-date about the latest trends and issues at the ITC, including subject matter patent invalidity under Section 101, antitrust, importation, and domestic industry. Veronica Ascarrunz, Wilson Sonsini Goodrich & Rosati, P.C. - Washington, DC
10:30 am	Break
10:45 am 0.50 hr ethics	Recent Developments in Attorney-Client Privilege and Work Product in Patent Litigation Explore two recent developments in attorney-client privilege and work product in patent litigation. As more plaintiffs use litigation funding as a means to pursue their claims, case law is developing as to the discoverability of communications with the litigation funder. In addition, the Texas Supreme Court is considering whether communications with patent agents are protected under Texas law. Lindsay Leavitt, McKool Smith - Austin, TX Kat Li, McKool Smith - Austin, TX

11:15 am 0.50 hr	<p>Strategies for Strengthening your PTAB Trial Record for Appeal</p> <p>Learn how to provide substantial evidence support for factual findings, preserve error, and otherwise maximize your chances for success at the Federal Circuit.</p> <p>Raghav Bajaj, Haynes and Boone, LLP - Austin, TX J. Andrew Lowes, Haynes and Boone, LLP - Richardson, TX</p>
11:45 am 0.50 hr	<p>IPR Case Studies: Why and How to Obtain an Earlier Effective Filing Date</p> <p>Obtaining an earlier effective filing date in an IPR proceeding is not always straightforward. Hear a discussion of cases in which patent owners and petitioners alike have sought to obtain an earlier effective date, and identify the reasons for their success or failure.</p> <p>Andrew Liddell, Norton Rose Fulbright - Austin, TX</p>
12:15 pm In Austin Only	<p>Pick Up Lunch (in Austin)</p> <p>Included in registration.</p>

Friday Afternoon, Nov. 3, 2017

Presiding Officer:

William D. Wiese, DuBois, Bryant & Campbell, L.L.P. - Austin, TX

LUNCHEON PRESENTATION

	<p>Thank You to Our Sponsor</p> <p>Dickinson Wright PLLC</p>
12:35 pm 0.75 hr	<p>The Evolving Patent Valuation Landscape</p> <p>The implementation of the America Invents Act, as well as judicial decisions over the past decade relating to injunctive relief, to apportionment for the value of the patented invention relative to implementing products as a whole, and to the effect of industry standards on valuation have sparked debate. From both an economic and a practical perspective, this panel discusses whether valuations appropriately recognize and encourage innovation considering the rising costs of enforcement.</p> <p>Moderator: Richard L. Wynne Jr., Thompson & Knight LLP - Dallas, TX Panelists: W. Christopher Bakewell, Duff and Phelps, LLC - Houston, TX Robert H. Heath, RPX Corporation - San Francisco, CA Jennifer B. Wuamett, NXP Semiconductors - Austin, TX</p>
1:20 pm	<p>Break</p>

1:35 pm 0.75 hr	<p>Patent Valuation and Due Diligence in Negotiation</p> <p>In today's high-tech markets, developing technology or securing the rights to technology is an important part of launching successful products and services. Firms differentiate their products and services by developing or procuring unique technology/IP that they hope will provide their products and services with enhanced commercial value and/or a competitive advantage. Review the effect recent court decisions have had on the value of patents/technology, company valuation, licensing arrangements and fees, and patent strategies in various contexts and various transactions.</p> <p>Abha Divine, Techquity Capital Management - Austin, TX Keith E. Witek, Tesla Motors - Austin, TX James D. Woods, Economic Analytics Consulting, LLC - Houston, TX</p>
2:20 pm 0.50 hr	<p>The "New" On-Sale Bar Under the AIA</p> <p>Discuss the change of the on-sale bar rule under the AIA and the impact of the Federal Circuit's decision in <i>Helsinn Healthcare S.A. v. Teva Pharmaceuticals USA Inc.</i> regarding "secret" sales and offers for sale as prior art under Section 102 (post-AIA).</p> <p>Ross Spencer Garsson, Dickinson Wright PLLC - Austin, TX</p>
2:50 pm 1.00 hr ethics	<p>Patent Prosecution and Malpractice</p> <p>Understand conflicts of interest and other forms of liability and risk that can arise during patent prosecution, addressing recent cases, and potential means to reduce exposure.</p> <p>David Hricik, Mercer University School of Law and Taylor English Duma LLP - Macon and Atlanta, GA</p>
3:50 pm	<p>Adjourn</p>