

11TH ANNUAL
**ADVANCED PATENT LAW
INSTITUTE**



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March 10–11, 2016
United States Patent and Trademark Office ■ Alexandria, Virginia

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Special rules apply in VA: 12.00 Hours of MCLE Credit including 2.00 Hours of Ethics Credit

THURSDAY MORNING, MAR. 10, 2016

Presiding Officer:

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

7:30 a.m. Registration Opens

Includes continental breakfast.

8:15 a.m. Welcoming Remarks

8:30 a.m. .75 hr

Patent Eligible Claims Post-Alice: Section 101 and the New USPTO Guidelines

You've read *Alice* 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 W. Bahr, Acting Deputy Commissioner for Patent Examination Policy, U.S. Patent and Trademark Office, Alexandria, VA

9:15 a.m. .75 hr

Sequenom and Section 101 Challenges in Diagnostics and Personalized Medicine

Explore the significant challenges facing diagnostics and personalized medicine in the wake of *Mayo*, *Myriad* and *Alice*, as illustrated by the Federal Circuit decision in *Sequenom*, 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 a.m. Break

10:15 a.m. .75 hr

Indefiniteness

In *Nautilus v. Biosig*, the Supreme Court announced a "new" standard for indefiniteness. Hear about that "new" standard, *Nautilus's* progeny, and how that standard is or isn't being applied in the courts and at the USPTO.

Kevin Kudlac, Greenberg Traurig, LLP, Austin, TX
Kristi L. Sawert, Office of the Solicitor, U.S. Patent and Trademark Office, Alexandria, VA

11:00 a.m. 1.00 hr ethics

Harmonization and Enforcement of USPTO Ethical Standards in the AIA Era

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.

William R. Covey, Deputy General Counsel for Enrollment and Discipline and Director, Office of Enrollment and Discipline, U.S. Patent and Trademark Office, Alexandria, VA

12:00 p.m. Pick Up Lunch

THURSDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:20 p.m. .50 hr

Update from the USPTO

Hear about the most current priorities, programs and initiatives underway at the Agency.

Hon. Michelle K. Lee, Under Secretary of Commerce for Intellectual Property and Director, U.S. Patent and Trademark Office, Alexandria, VA

12:50 p.m. Break

1:05 p.m. .50 hr

The Enhanced Patent Quality Initiative: Where Are We Now?

Anthony Caputa, Director, Office of Patent Quality Assurance, U.S. Patent and Trademark Office, Alexandria, VA

1:35 p.m. .75 hr

Proposed U.S. Patent Law Reforms: Is the Desirable Achievable?

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.

Philip S. Johnson, Johnson & Johnson, New Brunswick, NJ

2:20 p.m. .75 hr

Fee Shifting – Will the Exception Become the Rule?

Engage in a discussion about what makes a case "exceptional" under 35 U.S.C. § 285 after *Octane Fitness*, including an analysis of developing trends, pitfalls and exceptions.

Gregory L. Hillyer, Feldman Gale, Washington, DC

3:05 p.m. Break

3:15 p.m. .75 hr

Trends in Injunctive Relief

The availability of injunctive relief changed a decade ago with the Supreme Court's ruling in *eBay*. Explore recent developments in the application of the four-part test for injunctive relief, and the insights they provide to litigators.

John Bruce Campbell, Jr., McKool Smith, Austin, TX

4:00 p.m. 1.25 hrs

**The Patent Landscape:
Economics of Enforceability and Licensing**

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.

Moderator:

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

Panelist:

Eric R. Lamison, Cisco Systems, Inc., San Jose, CA
Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit, Washington, DC
Chris Ruggeri, Deloitte, New York, NY
Robert L. Stoll, Drinker Biddle & Reath LLP - Washington, DC
Caren A. Yusem, Olympic IP - Chicago, IL

5:15 p.m. Adjourn

FRIDAY MORNING, MAR. 11, 2016

Presiding Officer:

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

8:00 a.m. Auditorium Opens

Includes continental breakfast.

8:45 a.m. .75 hr

**Customs and Border Patrol Enforcement of
ITC Exclusion and Cease/Desist Orders**

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.

Stephen G. Kunin, Oblon, McClelland, Maier & Neustadt, L.L.P., Alexandria, VA

9:30 a.m. .50 hr

Update from the PTAB

An update on PTAB statistics, rulemaking, and pilot programs.

Hon. Scott Boalick, Vice Chief Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office, Alexandria, VA

10:00 a.m. Break

10:15 a.m. 1.25 hrs

The Evolving PTAB and Best Practices

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.

Moderator:

Hon. Teresa Stanek Rea, Crowell & Moring, LLP, Washington, DC

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

11:30 a.m. 1.00 hr

Judicial Panel

Distinguished judges discuss their experiences hearing and trying patent cases, with a focus on concurrent proceedings, stays, and IPRs.

Moderator:

Hon. Paul R. Michel, Chief Judge, Retired, United States Court of Appeals for the Federal Circuit, Washington, DC

Panelists:

Hon. Ron Clark, 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

12:30 p.m. Pick Up Lunch

FRIDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

1:00 p.m. .75 hr

View from the Federal Circuit

Hon. Sharon Prost, Chief Judge, U.S. Court of Appeals for the Federal Circuit, Washington, DC

1:45 p.m. Break

2:00 p.m. .50 hr

Update from the Office of the Solicitor

An update on the recent cases handled by the Solicitor's Office.

Scott C. Weidenfeller, Acting Deputy Solicitor for Intellectual Property Law and Senior Counsel for Patent Law and Litigation, Office of the Solicitor, U.S. Patent and Trademark Office, Alexandria, VA

2:30 p.m. .75 hr

**Due Diligence in Competitor-to-Competitor
Licensing**

Explore practical patent diligence and related considerations in the licensing context, particularly competitor-related considerations as distinct from other types of licensing relationships.

Jeffrey A. Wolfson, Haynes and Boone, LLP, Washington, DC

3:15 p.m. 1.00 hr ethics

Ethics at the USPTO, from Filing through IPR

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.

David Hricik, Mercer University School of Law and Taylor English Duma LLP, Macon and Atlanta, GA

4:15 p.m. Adjourn



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INSTITUTE HIGHLIGHTS

The 11th Annual Advanced Patent Law Institute at the U.S. Patent and Trademark Office offers a unique opportunity to join USPTO senior staff, leading practitioners, academics and members of the federal judiciary for two days of presentations on the latest developments in patent law, including:

- Section 101: Current requirements, interpretations and guidelines from the USPTO and practical guidance for patent practitioners
- A review of *Nautilus* and *Packard* and discussion of indefiniteness at the USPTO
- PTAB proceedings: Practice tips and strategies and the impact on patent practice and patent owners
- An overview of ITC proceedings and examination of enforcement of exclusion and cease/desist orders
- Practical due diligence considerations in competitor-to-competitor licensing
- An in-depth discussion on the current patent landscape and key issues impacting enforceability and licensing, including pending legislative efforts, trends in injunctive relief and more
- Keynote presentation by Hon. Michelle K. Lee, Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office
- Presentations from members of the judiciary including a keynote presentation by Federal Circuit Chief Judge of the Federal Circuit, Hon. Sharon Prost and the popular Judicial Panel, moderated by former Chief Judge of the Federal Circuit, Hon. Paul R. Michel
- Earn up to 14.25 hours of credit including 2.00 hours of ethics credit

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REGISTRATION—Includes Course Materials and Thursday and Friday Luncheon Presentations

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1. Select Registration Type

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USPTO

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ALEXANDRIA, VIRGINIA

March 10–11, 2016

CONFERENCE LOCATION

USPTO – Main Auditorium

Concourse Level of the Madison Building
 (Main Building on the USPTO Campus)
 600 Dulany Street
 Alexandria, VA 22313-1450

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

ACCOMMODATIONS

Hilton Alexandria Old Town

1767 King Street
 Alexandria, VA 22314
 703.837.0440

KEY DATES

February 24, 2016

*last day for early registration
 add \$50 for registrations
 received after this time*

March 4, 2016

last day for cancellation (full refund)

March 7, 2016

*last day for cancellation (partial refund)
 \$50 processing fee applied*

March 10, 2016, 8:15 a.m.

Institute begins

ADVANCED PATENT LAW INSTITUTE ACCREDITATION

CALIFORNIA—14.25 hrs | 2.00 hrs ethics

The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944).

DELAWARE—13.00 credits | 2.00 credits ethics

The 11th Annual Advanced Patent Law Institute, scheduled for March 10-11, 2016 in Alexandria, has been approved for 13.00 credits, including 2.00 Enhanced Ethics credits, by the Delaware Judiciary Commission on CLE.

ILLINOIS—14.25 Total General CLE (including Professional Responsibility) (Expected)

This course has been submitted for CLE approval by the Minimum Continuing Legal Education Board of the Supreme Court of Illinois for 14.25 total general CLE (including Professional Responsibility).

NEW JERSEY—14.40 hrs | 2.00 hrs ethics

As The University of Texas School of Law is a State Bar of Texas approved MCLE provider (Sponsor #13), our courses are presumptively approved for MCLE credit based on a 50-minute credit hour, and in accordance with the Regulations of the Supreme Court of New Jersey Board on Continuing Legal Education.

NEW YORK—14.00 hrs | 2.00 hrs ethics

As The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), our courses are presumptively approved for MCLE credit based on a 50-minute credit hour, and in accordance with the Program Rules and the Regulations and Guidelines of the New York State Bar Association.

OHIO—12.25 Standard hrs | 2.00 hrs ethics (Expected)

This course has been submitted to the Supreme Court of Ohio Commission on Continuing Legal Education for 14.25 total CLE hours, with 2.00 of ethics instruction.

OKLAHOMA—17.00 hrs | 2.00 hrs ethics

The University of Texas School of Law is an Oklahoma Bar Association presumptively approved provider (#169).

PENNSYLVANIA—12.00 hrs | 2.00 hrs ethics

This program has been submitted to the Pennsylvania Continuing Legal Education Board for 12.00 hours of substantive law, practice and procedure CLE credit and 2.00 hours of ethics, professionalism or substance abuse CLE credit.

TEXAS—14.25 hrs | 2.00 hrs ethics

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.25 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit.

VIRGINIA—12.00 hrs | 2.00 hrs ethics (Expected)

This course has been submitted for MCLE approval to the Virginia State Bar Mandatory Continuing Legal Education Board.

OTHER STATES

Many jurisdictions accept conferences offered by The University of Texas School of Law, and approved by the State Bar of Texas, for CLE credit. Please check with your jurisdiction's regulatory authority. A Certificate of Attendance and credit reporting documentation will be provided at the conference.