

**Fordham Intellectual Property Law
Institute**

18th Annual Conference
INTELLECTUAL PROPERTY LAW & POLICY
www.fordhamipconference.com

Fordham University School of Law
Thursday and Friday, April 8-9, 2010

Hugh C. Hansen
Director

Learn Debate Have Fun

Wednesday, April 7th

Early Registration
Fordham Law School Atrium
3:00 p.m. to 5:00 p.m.

***Reception & Dinner for Faculty and
Sponsors***

Lowenstein Building, 12th Floor
Reception: 6:00 – 7:00 p.m.; Dinner: 7:00 p.m. to 9:30 p.m.

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CONFERENCE PROGRAM

Subject to Change

www.fordhamipconference.com

Program Updated on April 7, 2010

Thursday Morning, April 8th **Fordham Law School**

7:15 A.M. – 8:00 A.M.

Registration and Continental Breakfast

Please note:

Doors to the auditorium will close at 8:15 A.M.

Registrants not yet seated will be escorted to overflow room, 203.

Welcoming Remarks

8:00 A.M. – 8:15 A.M.

William M. Treanor

Dean, Fordham University School of Law

Prof. Hugh C. Hansen

Director, Fordham IP Conference

SESSION 1: Plenary Session

(Thursday, 8:15 A.M. – 1:10 P.M.)

McNally Amphitheatre

Thursday Morning Plenary Sessions Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law

A. IP Policy and the Obama Administration

8:15 A.M. – 9:10 A.M.

Speakers:

David Kappos

Under Secretary of Commerce for Intellectual Property and Director of U.S. Patent and Trademark Office, Wash. D. C.

(up to 25-30 minutes)

Panelists:

Nicholas Groombridge

Weil, Gotshal & Manges, New York

Harold C. Wegner

Foley & Lardner, Wash. D.C.

John Pegram

Fish & Richardson P.C., New York

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speaker and audience discussion

(20 minutes)

B. IP Issues & Policy Positions of the European Commission

9:15 A.M. – 10:15 A.M.

Panelists:

Prof. Jeremy Phillips

Director of Research, IP Institute (UK); Visiting Professorial Fellow, Queen Mary IP Research Institute

Dr. Tilman Lüder

Head of Unit, DG Internal Market, Copyright and Knowledge-based Economy, European Commission, Brussels

Hon. Paul Maier

President of the Boards of Appeal, OHIM, Alicante

James Nurton

Editor-in-chief, Managing Intellectual Property, London

Oliver Varhelyi

Head of Unit, Industrial Property, DG Internal Market & Services, European Commission, Brussels

Thomas Vinje

Clifford Chance, Brussels

Justin Watts

Freshfields Bruckhaus Deringer, London

(Panelists have no individual time allocated; they take part in the panel discussion)

(50 minutes)

BREAK

10:15 A.M. – 10:40 A.M.

*C. Multilateral, Plurilateral and Bilateral trade issues:
ACTA, WIPO, WTO, European Commission & USTR*

10:40 A.M. – 12:05 P.M.

Speakers:

James Pooley

Deputy Director General for Patents, WIPO, Switzerland

(up to 12 minutes)

Antony Taubman

Director, Intellectual Property Division, World Trade Organization, Geneva

(up to 12 minutes)

Luc Devigne

Head of Intellectual Property and Public Procurement, DG Trade, European Commission, Brussels

(up to 12 minutes)

Stanford McCoy

Assistant U.S. Trade Representative for Intellectual Property and Innovation, Washington D.C.

Recent Developments in U.S. Trade Policy on IP and Innovation

(up to 12 minutes)

Panelists:

James Love

Director, Knowledge Ecology International, Wash. D.C.

Hon. Don Weerawit Weeraworawit

Deputy Secretary General, National Human Rights Commission, Thailand, Bangkok

Mihaly Ficsor

President, Hungarian Copyright Council, Int'l Legal Consultant, Greenberg Traurig LLP

(Panelists have no individual time allocated; they take part in the panel discussion.)

Panel, speakers and audience discussion
(20 minutes)

D. Views from the Judiciary on IP in a Globalized World
12:10 P.M. – 1:10 P.M.

Panel Discussion

Panelists:

Dr. Klaus Grabinski

Judge at the Federal Supreme Court, Federal Supreme Court
(Bundesgerichtshof), Karlsruhe

Lord Hoffmann

Law Lord (ret.), House of Lords, Parliament, London

Hon. Rian Kalden

Vice President, District Court The Hague, The Netherlands

Hon. Sylvie Mandel

Judge, French Supreme Court

Hon. Pauline Newman

U.S. Court of Appeals for the Federal Circuit, Washington D.C.

Hon. Robert van Peurse

Vice President, District Court The Hague, The Netherlands

Hon. Randall R. Rader

U.S. Court of Appeals for the Federal Circuit, Washington D.C.

Hon. Jed Rakoff

U.S. District Court, Southern District of New York

Hon. Annabelle Bennett

Judge, Federal Court of Australia, Sydney

Panel Discussion
(50 minutes)

LUNCH

1:10 P.M. – 2:30 P.M.

Location: Atrium

Overflow: Room 430 B&C

Thursday Afternoon, April 8th
THREE CONCURRENT SESSIONS:
Copyright, Patent and Trademark Law

SESSION 2: COPYRIGHT LAW

Concurrent Session

(Thursday, 2:30 P.M. – 6:30 p.m.)

Amphitheatre

A. Developments in US Copyright Law

2:30 P.M. – 4:15 P.M.

Moderator:

Justin Hughes

Senior Advisor to the Undersecretary of Commerce for Intellectual Property, Professor of Law, Cardozo Law School
(up to 5 minutes to introduce subject matter)

Speakers:

Thomas Kjelberg

Cowan, Liebowitz & Latman, New York
(up to 15 minutes)

Salinger/Fairey, Golan and Cellco, et al: A Review & Analysis

Scott M. Martin

Executive Vice President, Intellectual Property, Paramount Pictures, Viacom, Los Angeles
(up to 10 minutes)

Reed Elsevier: Some Thoughts on Its Impact

David Carson

General Counsel, U.S. Copyright Office, Wash. D.C.
(up to 10 minutes)

The First Sale Doctrine: Case Law Developments

Prof. Ann Bartow

University of South Carolina School of Law, Columbia, S.C.
(up to 10 minutes)

Redefining Derivative Works: Some Thoughts on Achieving Clarity and Consistency

A discussion of inconsistencies in the ways that exclusive rights in derivative works are constructed and enforced by courts. Some seem to view “substantial similarity” and “unauthorized derivative works” as synonymous and interchangeable. Others treat the derivative works right as something copyright holders can deploy when a defendant work evokes or makes reference to another work but falls short of substantial similarity. Still others conflate derivative works rights with compilation copyrights.

Panelists:

Marybeth Peters

Register of Copyrights, Wash. D.C.

Michael Shapiro

Senior Counsel, Office of Intellectual Property and Enforcement, U.S. Patent and Trademark Office

Prof. Mary W.S. Wong

Franklin Pierce Law Center, Concord, N.H.

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(30 minutes)

BREAK

4:15 P.M. – 4:40 P.M.

B. Google Books Settlement: Review and Analysis

4:40 P.M. – 6:30 P.M.

Amphitheatre

Moderator:

Prof. Joel Reidenberg

Director, Center on Law and Information Policy, Fordham Law School
(up to 5 minutes to introduce subject matter)

Speakers:

Paul Aiken

Executive Director, The Authors Guild, New York
(up to 15 minutes including history of law suit)

Marybeth Peters

Register of Copyrights, Wash. D.C.
(up to 12 minutes)

Joseph Gratz

Durie Tangri LLP, San Francisco
(up to 12 minutes)

(First discussion period -- 20 minutes)

Dr. Tilman Lüder

Head of Unit, DG Internal Market, Copyright and Knowledge-based Economy, European Commission, Brussels
(up to 12 minutes)

Responses and Repercussions of the Proposed Settlement in the EU

Dr. Mira T. Sundara Rajan,

Faculty of Law, The University of British Columbia, Vancouver; Global Fellow, New York University School of Law
(up to 12 minutes)

Google Books Settlement and Moral Rights: What Role Have They Played? What Role Should They Play?

(second discussion period 20 minutes)

Panelists:

Sandra Aistars,

Vice President and Associate General Counsel, Time Warner Inc., New York

Prof. F. Willem Grosheide

Molengraaff Institute/Center for Intellectual Property Law, University of Utrecht

Howard Knopf

Macera & Jarzyna, LLP, Ottawa

Tom Rubin

Chief Counsel for Intellectual Property Strategy, Microsoft

(Panelists have no individual time allocated; they take part in the panel discussion)

RECEPTION

10 on the Park

6:30 P.M. – 8:30 P.M.

Sponsored by

Freshfields, Bruckhaus Deringer LLP

SESSION 3: PATENT LAW/IP ENFORCEMENT

Concurrent Session

(Thursday, 2:30 P.M. – 6:30 P.M.)

Room 204

A. Written Descriptions; Enablement, Industrial Applicability

2:30 P.M. – 3:30 P.M.

Moderator:

John White

Cooper & Dunham LLP, New York

(up to 5 minutes)

Speakers:

Lord Hoffmann

Law Lord (ret.), House of Lords, Parliament, London
(up to 10 minutes)

Ascertaining the Likelihood of industrial application/ utility: Who Has It Right?

Steven Lee

Kenyon & Kenyon LLP
(up to 10 minutes)

Justin Watts

Freshfields Bruckhaus Deringer, London
(up to 10 minutes)

Asymmetry in disclosure requirements: sufficient descriptions/ inadequate prior art.

Patentees frequently describe their inventions loosely, incorrectly, and unscientifically (which might be inevitable when attempting to describe something new). Because the burden is on the challenger to prove inadequacy, and an examiner looking only on paper has allowed the patent through, sufficiency challenges on bad science are very difficult to mount. The difficulties are especially acute when it comes to constructing experimental evidence to demonstrate the workability of a bad patent invention. This creates an asymmetry in the patent system in which rights can be established on the basis of disclosures that would not be held to anticipate.

Panelists:

Prof. Martin Adelman

George Washington University Law School, Washington, D.C.

Shimako Kato

Abe, Ikubo & Katayam, Tokyo

David Perkins

Arnold & Porter, London

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(20 minutes)

B. IP Enforcement in China

3:35 P.M. – 4:30 P.M.

Moderator:

Daryl Lim

Microsoft Teaching and Research Fellow, Intellectual Property Law Institute,
Fordham University School of Law
(up to 5 minutes to introduce subject matter)

Speakers:

Louise Pentland

Senior Vice President & Chief Legal Officer, Nokia Corporation, Helsinki
(up to 13 minutes)

IP Enforcement in China

China is a very exciting marketplace, not least in the area of IP. Success depends upon understanding how to navigate the enforcement environment. Nokia, as a European Headquartered Company operating extensively in China, has developed best practices with regard to IP including trademark protection, design right protection, anti-counterfeit action, patent protection and litigation. These will be shared in this talk along with recent legal developments. A first principal: leave your western expectations behind if you want to succeed.

Prof. Peter K. Yu

Drake University Law School, Des Moines, IA
(up to 13 minutes)

Intellectual Property Enforcement in China: WTO and Beyond

An update on US-China WTO dispute and challenges in enforcing intellectual property rights in China.

Panelists:

Jennifer Choe Groves

Hughes Hubbard & Reed, Wash. D.C.

Prof. Haochen Sun

University of Hong Kong

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(20 minutes)

BREAK

4:30 P.M. – 4:50 P.M.

C. The EU Patent Agenda

4:50 P.M. – 5:35 P.M.

Moderator:

David Perkins

Arnold & Porter, London
(up to 5 minutes)

Speaker:

Oliver Varhelyi

Head of Unit, Industrial Property, DG Internal Market & Services, European Commission, Brussels

(up to 15 minutes)

Panelists:

Prof. Johanna Gibson

Director, Queen Mary Intellectual Property Research Institute, University of London

Hon. Robert van Peurse

Vice President, District Court The Hague, The Netherlands

Justin Watts

Freshfields Bruckhaus Deringer, London

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

(20 minutes)

D. U.S. Patent Law Developments

5:40 P.M. – 6:40 P.M.

Moderator:

Prof. Martin Adelman

George Washington University Law School, Washington, D.C.

(up to 5 minutes)

Speaker:

Dimitrios Drivas

White & Case, New York

(up to 25 minutes)

Panelists:

Hon. Randall R. Rader

U.S. Court of Appeals for the Federal Circuit, Wash. D.C.

Prof. Clarisa Long

Columbia Law School, New York

Brian Murphy

Morgan, Lewis & Bockius LLP

Prof. John R. Thomas

Georgetown University School of Law, Wash. D.C.

Panel, speakers and audience discussion

(25 minutes)

RECEPTION

10 on the Park
6:30 P.M. – 8:30 P.M.

Sponsored by
Freshfields, Bruckhaus Deringer LLP

SESSION 4: TRADEMARK LAW

Concurrent Session

(Thursday, 2:30 P.M. – 6:00 P.M.)

Room 203

A. Developments in EU Trademark and Design Law

2:30 P.M. – 4:00 P.M.

Moderator:

James Nurton

Editor-in-chief, Managing Intellectual Property, London

(up to 5 minutes)

Speakers:

Oliver Varhelyi

Head of Unit, Industrial Property, DG Internal Market & Services, European Commission, Brussels

(up to 15 minutes)

The Commission's Perspective

Hon. Paul Maier

President of the Boards of Appeal, OHIM, Alicante

Genuine use in one Member State: the Controversy

(up to 10 minutes)

Hon. Harri Salmi

Member, Boards of Appeal, OHIM, Alicante

(up to 10 minutes)

Overlap of EU Community Design and Trade Mark Protection:

Grupo Promer Mon Graphic SA v. OHIM (EU General Court, 18 March 10)

Wolrad Prinz zu Waldeck

Freshfields Bruckhaus Deringer, Düsseldorf
(up to 10 minutes)

Comparative advertising - more questions than answers: What is the practical impact of the ECJ judgments in O2 and L'Oreal v. Bellure.

Prof. Spyros Maniatis

Director, Centre for Commercial Law Studies, Queen Mary University of London

(up to 10 minutes)

Lego and Functionality in Europe

Lego, the most recent challenge to the strict principles established in *Philips*, is not only important to clarify the doctrine but also because functionality influences the interpretation of provisions dealing with other aspects of registrability.

Panelist

Prof. David Llewelyn

King's College London; External Director, IP Academy, Singapore

Panelist, speakers and audience discussion
(30 minutes)

BREAK

4:00 P.M. – 4:25 P.M.

Room 203

B. Developments in U.S. Trademark Law

4:25 P.M. – 5:50 P.M.

Moderator:

Norman Zivin

Cooper & Dunham LLP, New York

(up to 5 minutes)

Speakers:

Prof. Marshall Leaffer

Indiana University, Bloomington

A Review of Trademark Developments

(up to 15 minutes)

Lynne Beresford

Commissioner for Trademarks, U.S. Patent and Trademark Office, Wash. D.C.

(up to 10 minutes)

Bose: The USPTO's Perspective

Mark V.B. Partridge

Partridge IP Law, Chicago

(up to 10 minutes)

Prof. Ann Bartow,

University of South Carolina School of Law, Columbia, S.C.

(up to 10 minutes)

Dilution Protection: Where are We? Where Should We Be?

Panelist:

Daniel Schloss

Greenberg Traurig, New York

Panel, speakers and audience discussion

(25 minutes)

RECEPTION

10 on the Park

6:30 P.M. – 8:30 P.M.

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Friday Morning, April 9th

Fordham Law School

7:30 A.M. *Continental Breakfast*

Sunrise Seminars

These sessions stress the “seminar” part of the name, with interchanges among speaker, panelists and those attending the seminar after a short introductory talk.

A. Green Patents: Gimmick or Answer?

7:30 A.M. – 8:40 A.M.

Room 203

Moderator:

Charles M. Fish

Chadbourne & Parke LLP, New York

(up to 5 minutes)

Speakers:

Carl Horton

Chief Intellectual Property Counsel, General Electric

(up to 10 minutes)

Prof. Johanna Gibson

Director, Queen Mary Intellectual Property Research Institute, University of London

(up to 5 minutes)

Arti Rai

Administrator for External Affairs, U.S. Patent and Trademark Office, Wash. D.C.

(up to 5 minutes)

Stuart Graham

Chief Economist, U.S. Patent & Trademark Office, Wash. D.C.

(up to 5 minutes)

Jason Albert

Associate General Counsel and Chief of Staff, Intellectual Property and Licensing Group, Microsoft Corporation, Redmond, WA

(up to 5 minutes)

Leonora Hoicka

Associate General Counsel for Intellectual Property Law, IBM Corp.

(up to 5 minutes)

Discussion: 25 minutes

B. Governmental IP Policy: By Whom & How Is It Made?

7:30 a.m. to 8:25 a.m.

Room 204

Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law, New York

Panelists:

Mihaly Ficsor,

President, Hungarian Copyright Council and International Legal Consultant, Greenberg Traurig LLP

Prof. Anne Fitzgerald

Queensland University of Technology, Australia

Prof. Justin Hughes

Senior Advisor to the Undersecretary of Commerce for Intellectual Property; Professor of Law, Cardozo Law School

James Love

Director, Knowledge Ecology International, Wash. D.C.

Dr. Tilman Lüder

Head of Unit, DG Internal Market, Copyright and Knowledge-based Economy, European Commission, Brussels

Stanford McCoy

Assistant U.S. Trade Representative for Intellectual Property and Innovation,
Washington D.C.

Ralph Oman

Pravel, Hewitt, Kimball & Krieger Professorial Lecturer in Intellectual
Property and Patent Law, George Washington School of Law, Wash. D.C.

Antony Taubman

Director, Intellectual Property Division, World Trade Organization, Geneva

(Discussion: 50 minutes)

Three Concurrent Sessions
Patent, Trademark and Copyright Law

SESSION 5: PATENT LAW

Concurrent Session

(Friday, 8:40 A.M. – 1:10 P.M.)

Room 203

A. Supplementary Protection Certificates

Patent term extension in the EU for medicinal and plant protection
products by means of Supplementary Protection Certificates

8:40 A.M. – 9:30 A.M.

Moderator:

Prof. John R. Thomas

Georgetown University School of Law, Wash. D.C.

(up to 5 minutes)

Speakers:

Prof. John R. Thomas

Georgetown University School of Law, Wash. D.C.

(up to 10 minutes)

Hon. Rian Kalden

Vice President, District Court The Hague, The Netherlands

(up to 10 minutes)

Trevor Cook

Bird & Bird, London

(up to 10 minutes)

SPC Regime: Questions and Concerns 20 Years Later

Although the SPC patent extension regime has been in existence
for nearly 20 years, it is attracting an ever increasing amount of
litigation, much of which puts into question whether it is

achieving its original aims. This includes issues such as what can constitute a basic patent for an SPC, especially for a combination product, and what is the first marketing authorization in the EU for the purposes of establishing SPC eligibility and term? Moreover the recent introduction of pediatric extensions for SPCs has already occasioned yet further controversies, such as whether one can secure an SPC for a negative term so as to be able to benefit subsequently from a pediatric extension.

Panelist:

Prof. Martin Adelman

George Washington University Law School, Washington, D.C.

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(15 minutes)

B. Developments in Japanese Patent Law

9:35 A.M. – 10:40 A.M.

Room 203

Moderator:

John Pegram

Fish & Richardson P.C., New York

(up to 5 minutes)

Speakers:

Hon. Tamotsu Shouji

High Court of Japan, IP Division, Tokyo

(up to 12 minutes)

The "Dual-Track" System in Japan: Will conflict result from Invalidity Decisions being made in both the JPO and the Courts?

Prof. Kazuo Makino

Omiya Law School, Tokyo

(up to 12 minutes)

Shimako Kato

Abe, Ikubo & Katayam, Tokyo

(up to 12 minutes)

Developments in Description Requirement in Japan

Panelists:

Patricia Martone

Ropes & Gray, New York

Harold C. Wegner

Foley & Lardner, Wash. D.C.

Tatsuo Takeshige

Deputy Director, Japan Patent Office, Tokyo

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

(20 minutes)

BREAK

10:40 A.M. – 11:00 A.M.

*C. Views from EPO, JPO, and USPTO; IP5 Group
Worksharing*

11:00 A.M. – 12:05 P.M.

Room 203

Moderator:

John Richards

Ladas & Parry

(up to 5 minutes)

Speakers:

Tatsuo Takeshige

Deputy Director, Japan Patent Office, Tokyo

(up to 11 minutes)

Arti Rai

Administrator for External Affairs, U.S. Patent and Trademark Office,
Wash. D.C.

(up to 11 minutes)

Eugen Stohr

Director for International Legal Affairs, European Patent Office, Munich

(up to 11 minutes)

Panelists:

John Pegram

Fish & Richardson P.C., New York

James Pooley

Deputy Director General for Patents, WIPO, Switzerland

Richard Wilder

Associate General Counsel, Intellectual Property Policy, Microsoft Corporation, Redmond, WA
(Panelists have no individual time allocated; they take part in the panel discussion)
Panel, speakers and audience discussion
(20 minutes)

D. Injunctions

12:10 P.M. – 1:10 P.M.
Room 203

Moderator:

David Perkins

Arnold & Porter, London
(up to 5 minutes)

Speakers:

Rutger Kleemans

Freshfields Bruckhaus Deringer, Amsterdam
(up to 10 minutes)

Descriptive Seizures and Corporate Privacy: A Need for Regulation of seizures and a Broader Duty to Disclose.

A descriptive seizure and in particular electronic seizures that skim entire servers, are a major breach of corporate privacy. The pressure seizures put on a defendant where good court supervision is lacking (which is often the case) seems to provide for broader discovery than appropriate. Descriptive seizure issues and breach of confidential information in this context occur much more frequently in civil law jurisdictions (France, Belgium where the saisie descriptive originated) and recently Germany and the Netherlands than in the UK and common law countries.

Michael Sandonato

Fitzpatrick, Cella, Harper & Scinto, New York
(up to 10 minutes)

Christian Harmsen

Bird & Bird LLP, Düsseldorf
(up to 10 minutes)

Territorial scope of national injunctions in the globalized market

Panelists:

John Golden

University of Texas School of Law

John Kenneth Felter

Ropes & Gray, Boston
(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(20 minutes)

LUNCH

Atrium and room 430
1:10 P.M. – 2:30 P.M.

Luncheon Speaker

Victoria Espinel

Intellectual Property Enforcement Coordinator
The White House
(up to 15 minutes)
(in Atrium)

SESSION 6: STANDARDS

Concurrent Session

(Friday, 8:30 A.M. – 10:10 A.M.)
Room 204

Moderator:

Carey Ramos

Paul, Weiss, Rifkind, Wharton & Garrison, New York
(up to 5 minutes)

Speakers:

Fabian Gonnell

Senior Director, Legal Counsel, Qualcomm Technology Licensing, Qualcomm, Inc., San Diego, CA

Patricia Martone

Ropes & Gray, New York
(up to 10 minutes)

Giovanni Casucci

Casucci Studio Legale, Milan
(up to 10 minutes)

Myles Jelf

Bristows, London

FRAND obligations: consequences and opportunities for national patent courts

National patent courts are now the main forum in which FRAND issues are adjudicated (the European Commission having declined to take up the Qualcomm complaint, saying “Such assessments [about the pricing of technology after its adoption as part of an industry standard] may be very complex, and any antitrust enforcer has to be careful about overturning commercial agreements”. How do national courts, however, procedurally achieve fairness between the interests of patentees in obtaining a fair reward for innovation, and the risk to defendants who are locked in to using standardised technology? Do the judgments of individual courts in relation to FRAND rates for individual patents risk having disproportionate – and potentially even market-distorting – effects for other market players in other jurisdictions around the world? Are, in fact, the conflicts between what is procedurally fair to each party so difficult to resolve that FRAND risks becoming virtually unjusticiable?

(up to 10 minutes)

John Temple Lang

Cleary, Gottlieb, Steen & Hamilton LLP, Brussels

(up to 10 minutes)

Carey Ramos

Paul, Weiss, Rifkind, Wharton & Garrison, New York

Substance or Form? Antitrust implications of conducting joint format development as an SDO or a JV.

(up to 10 minutes)

Cecilio Madero Villarejo

Director, Directorate C, Market Cases II, Information, Communication and Media, Directorate General for Competition, Brussels

(up to 10 minutes)

Speakers and audience discussion

(25 minutes)

BREAK

10:10 A.M. – 10:30 A.M.

SESSION 7: ANTITRUST/COMPETITION LAW

Concurrent Session

(Friday, 10:30 A.M. – 1:10 P.M.)

Room 204

A. Global Competition Law and Policy

10:30 A.M. – 11:50 P.M.

Moderator:

Prof Hugh C. Hansen

Fordham University School of Law

Speakers:

Cecilio Madero Villarejo

Director, Directorate C, Market Cases II, Information, Communication and Media, Directorate General for Competition, Brussels

(up to 15 minutes)

Daryl Lim

Microsoft Teaching and Research Fellow, Intellectual Property Law Institute, Fordham University School of Law

(up to 15 minutes)

The IP/Competition Interface and Asia: Critical Directions?

Panelists:

Prof. Eleanor Fox,

New York University School of Law

Barry Hawk

Director, Competition Law Institute, Fordham University School of Law

Carey Ramos

Paul, Weiss, Rifkind, Wharton & Garrison, New York

Thomas Vinje

Clifford Chance, Brussels

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

SESSION 7A: COPYRIGHT LAW

Concurrent Session

Room 204

Fair Use; Exceptions

11:55 P.M. – 1:10 P.M.

Moderator:

Mary Rasenberger

Skadden, Arps, Slate, Meagher & Flom

(up to 5 minutes)

Speakers:

Prof. Jeremy Phillips

Director Of Research, IP Institute (UK); Visiting Professorial Fellow, Queen Mary IP Research Institute, IP Consultant, Olswang

(up to 12 minutes)

The public domain: time for a health-check.

The public domain is a vast body of content from which many copyright-protected works are drawn and to which, at least in theory, all such works eventually migrate. How is the public domain faring these days? Is it an infinitely renewable resource, or are its limits being tested by predatory principles of copyright and other intellectual property rights?

William Patry

Senior Copyright Counsel, Google

(up to 12 minutes)

Mihaly Ficsor

President, Hungarian Copyright Council, Int'l Legal Consultant, Greenberg Traurig LLP

(up to 12 minutes)

Does Copyright Law Need New Exceptions?

Panelists:

David Carson

General Counsel, U.S. Copyright Office, Wash. D.C.

Dr. Tilman Lüder

Head of Unit, DG Internal Market, Copyright and Knowledge-based Economy, European Commission, Brussels

Prof. Haochen Sun

University of Hong Kong

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

(25 minutes)

LUNCH

Atrium, room 430

1:10 P.M. – 2:30 P.M.

Luncheon Speaker

Victoria Espinel

Intellectual Property Enforcement Coordinator

The White House
(up to 15 minutes)
(Atrium)

SESSION 8: TRADE/ENFORCEMENT LAW

Concurrent Session

(Friday, 8:30 A.M. – 1:10 P.M.)

Amphitheatre

A. Trade/Copyright: IP Trade Policy; WIPO Treaty for the Blind

8:30 A.M. – 9:55 A.M.

Moderator:

Coenraad Visser

University of South Africa, Pretoria

(up to 5 minutes)

Speakers:

James Pooley

Deputy Director General for Patents, World Intellectual Property Organization, Geneva

(up to 10 minutes)

James Love

Director, Knowledge Ecology International, Wash. D.C.

(up to 8 minutes)

Prof. Silke von Lewinski

Max Planck Institute for Intellectual Property, Competition & Tax Law, Munich; Franklin Pierce Law Center, Concord, N.H.

(up to 8 minutes)

Hon. Weerawit Weeraworawit

Deputy Secretary General, National Human Rights Commission, Thailand, Bangkok

(up to 8 minutes)

Michele Woods

Senior Counsel for Policy and International Affairs, U.S. Copyright Office, Wash. D.C.

(up to 8 minutes)

Discussion 25 minutes

BREAK

9:55 A.M. – 10:20 A.M.

B. Enforcement Issues, including ACTA/301

10:20 A.M. – 11:50 P.M.

Moderator:

Michael Schlesinger

Greenberg Traurig, Washington, D.C.

(up to 5 minutes)

Speakers:

Alvydas Stancikas

Head of Unit, Enforcement of IPR, DG Internal Market, European Commission, Brussels

(up to 15 minutes)

The Commission's Internal Market initiatives for Fighting Counterfeiting and Piracy

A review of the Commission's fresh range of internal market initiatives over the last two years, including its work on the Enforcement Directive, creation of the European Counterfeiting and Piracy Observatory and development of administrative cooperation.

Christopher Stothers

Arnold & Porter, London

(up to 8 minutes)

Nokia and in-transit border controls

Susy Frankel

Victoria University, New Zealand

Cross Retaliation in TRIPS: New Solutions or Problems?

(up to 8 minutes)

Stanford McCoy

Assistant U.S. Trade Representative for Intellectual Property and Innovation, Wash. D.C.

(up to 8 minutes)

Peter Fowler

Senior Counsel for Enforcement, Office of Intellectual Property Policy & Enforcement, U.S. Patent and Trademark Office, Wash., D.C.

(up to 8 minutes)

Game-Changers in the Enforcement Environment: Five Things Countries Can Do To Enhance Their Enforcement Regimes

Panelists:

James Love

Director, Knowledge Ecology International, Wash. D.C.

Tod Cohen

VP & Deputy General Counsel, Global Gov't Relations, Regulatory, Asset Protection, eBay Inc., San Jose

Antony Taubman

Director, Intellectual Property Division, World Trade Organization, Geneva

Prof. Peter K. Yu

Drake University Law School, Des Moines

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(25 minutes)

C. Parallel Imports & IP Law

11:55 A.M. – 1:10 P.M.

Moderator:

Anne Nielsen

Vice President and Associate General Counsel, Bristol-Myers Squibb Company,
New York

(up to 5 minutes to introduce subject matter)

Speakers:

Giovanni Casucci

Casucci Studio Legale, Milan

(up to 10 minutes)

John Temple Lang

Cleary, Gottlieb, Steen & Hamilton LLP, Brussels

(up to 10 minutes)

Prof. Kazuo Makino

Omiya Law School, Tokyo

(up to 10 minutes)

Parallel Imports: Recent Developments in Japan

Michael Schlesinger

Greenberg Traurig, Washington, D.C.

(up to 10 minutes)

Panelists:

Peter Fowler

Senior Counsel for Enforcement, Office of Intellectual Property Policy & Enforcement, U.S. Patent and Trademark Office, Wash., D.C.

Howard Knopf

Macera & Jarzyna, LLP, Ottawa

Christopher Stothers

Arnold & Porter, London
(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(25 minutes)

LUNCH

Atrium, room 430
1:10 P.M. – 2:30 P.M.

Luncheon Speaker

Victoria Espinel

Intellectual Property Enforcement Coordinator
The White House
(up to 15 minutes)
(Atrium)

Friday Afternoon, April 9th

Three Concurrent Sessions

Patent Law; Copyright Law; Trademark Law

SESSION 9: PATENT LAW

Concurrent Session

(Friday, 2:30 P.M. – 6:30 P.M.)

Amphitheatre

A. Damages and Reasonable Royalties

2:30 A.M. – 3:45 P.M.

Moderator:

Gonzalo Ulloa

Gomez-Acebo & Pombo, Madrid
(up to 5 minutes)

Speakers:

Hon. Randall R. Rader

U.S. Court of Appeals for the Federal Circuit, Washington D.C.
(up to 9 minutes)

Prof. John Golden

University of Texas School of Law
The U.S. Damages Debate: Recent developments and Proposed Guidelines
(up to 7 minutes)

Dr. Klaus Grabinski,

Judge at the Federal Supreme Court, Federal Supreme Court
(Bundesgerichtshof), Karlsruhe
(up to 9 minutes)

Dr. Frank-Erich Hufnagel

Freshfields Bruckhaus Deringer, Dusseldorf
(up to 7 minutes)

Johann Pitz

Vossius & Partner, Munich
(up to 7 minutes)

Steven Schwartz,

Senior Vice President, NERA, White Plains, New York
(up to 7 minutes)

Panelist:

Herbert F. Schwartz

Retired partner, Ropes & Gray LLP

Panelist, speakers and audience discussion
(20 minutes)

BREAK

3:45 P.M. – 4:05 P.M.

B. Patent Eligible Subject Matter

4:05 P.M. – 5:25 P.M.

Amphitheatre

Moderator:

Prof. Jeanne Fromer

Fordham University School of Law, New York
(up to 5 minutes introducing subject matter)

Speakers:

Prof. Rochelle Dreyfuss

New York University School of Law
(up to 10 minutes)

The Patentability of Genetic Diagnostics

In the run-up to *Bilski v. Kappos*, Justice Breyer cast doubt on the patentability of methods of diagnosis, see *Lab. Corp. of Am. Holdings v. Metabolite Labs., Inc.* Lab Corp., 548 U.S. 124 (2006) (dissenting from dismissal of certiorari as improvidently granted). The problem Breyer identified--the possibility that diagnostics express rules of nature--is especially prevalent in the case of genetic diagnostics. These methods rely on gene sequences, and these sequences are currently themselves subject to challenge, see *Association for Molecular Pathology v. USPTO*, 669 F.Supp. 3 65 (SDNY 2009). While gene patents are clearly important to spur research into gene therapies, the case for gene diagnostics is much weaker. Yet patents on genetic diagnostics can interfere significantly with patient care. This talk will discuss options for dealing with these patents, including the proposals suggested by the Secretary of Health & Human Services' Advisory Committee on Genetics, Health, and Society, see <http://oba.od.nih.gov/oba/SACGHS/SACGHS%20Patents%20Report%20Approved%202-5-20010.pdf>

Prof. Dan Ravicher

Executive Director, Public Patent Foundation; Lecturer in Law, Intellectual Property Law Program, Benjamin N. Cardozo Law School, New York
(up to 10 minutes)

Ass'n for Molecular Pathology: What Lies Ahead?

William Chandler

Member, Board of Appeal, European Patent Office, Munich

What the EPO referral G3/08 might tell us

(up to 10 minutes)

Hon. Pauline Newman

U.S. Court of Appeals for the Federal Circuit, Wash. D.C.

Some Thoughts on Current Issues

(up to 10 minutes)

Panelists:

Nicholas Groombridge,

Weil, Gotshal & Manges, New York

Lord Hoffman

Law Lord, House of Lords, Parliament, London

David W. Jones

Senior Attorney, Microsoft Corporation, Redmond

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(25 minutes)

C. Obviousness/Inventive Step: Comparative View

5:30 P.M. – 6:40 P.M.

Amphitheatre

Moderator:

Prof. Ron Lazebnik

Fordham University School of Law, New York

(up to 5 minute introduction of subject matter)

Speakers:

John Richards

Ladas & Parry, New York

(up to 12 minutes)

A Comparative Overview

William Chandler

(up to 9 minutes)

Member, Board of Appeal, European Patent Office, Munich

What the EPO referral G3/08 will probably not tell us

Brian Cordery

Bristows, London

(up to 9 minutes)

Inventive Step – Out of Step? Is European Harmonisation A Reality?

Are English Patents Courts in Sync with other EU national courts and the EPO? In relation to inventive step, Lord Justice Jacob observed in *Generics UK v Daiichi* (July 2009) that “Some have suggested that *Pozzoli/Windsurfing* is different from the EPO’s problem/solution approach. It is not.” But is this borne out in the cases?”

Hon. Robert van Peursem

Vice President, District Court The Hague, The Netherlands

(up to 9 minutes)

Is there a European approach to inventive step by the EPO and national judges? A Dutch Perspective

Structured approaches assessing obviousness in EPO, NL, UK and Germany do not differ principally but some differences remain.

Panelists:

Hon. Annabelle Bennett

Judge, Federal Court of Australia, Sydney

Robert J. Goldman

Ropes & Gray, Palo Alto, CA

Dr. Klaus Grabinski,

Judge at the Federal Supreme Court, Federal Supreme Court
(Bundesgerichtshof), Karlsruhe

Hon. Randall R. Rader

U.S. Court of Appeals for the Federal Circuit, Wash. D.C.
(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(25 minutes)

RECEPTION
Fordham Law Atrium
6:30 P.M. – 8:30 P.M.

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SESSION 10: COPYRIGHT LAW

Concurrent Session

(Friday, 2:30 P.M. – 6:30 P.M.)
Room 203

A. Developments in EU Copyright Law
2:30 P.M. – 3:50 P.M.

Moderator:

Dr. Tilman Lüder

Head of Unit, DG Internal Market, Copyright and Knowledge-based
Economy, European Commission, Brussels
(up to 5 minutes)

Speakers:

Prof. F. Willem Grosheide

Molengraaff Institute/Center for Intellectual Property Law, University of
Utrecht
(up to 10 minutes)

The ECJ Infopaq-decision

Tom Rivers

Copyright and Media Consultant, London
(up to 10 minutes)

Monika Tomczak

Miller Canfield, Warsaw

Online licensing of creative content - is there a way to close the transnational gap across the EU?

Consumers in various parts of the EU are prevented from legally purchasing creative content from sites operating in other Member States due to the various obstacles. A look at the efforts of the European Commission to provide an efficient platform for online licensing across the EU, the views of stakeholders and collective management societies and the current practice of licensing online music.

Tim Frain

Director of Intellectual Property Rights, Regulatory Affairs, Nokia Corporation, Helsinki

(up to 10 minutes)

Panelists:

Trevor Cook

Bird & Bird, London

John Temple Lang

Cleary, Gottlieb, Steen & Hamilton LLP, Brussels

Prof. Silke von Lewinski

Max Planck Institute for Intellectual Property, Competition & Tax Law, Munich; Franklin Pierce Law Center, Concord, N.H.

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(30 minutes)

BREAK

3:50 P.M. – 4:15 P.M.

B. Secondary Liability

4:15 P.M. – 5:30 P.M.

Room 203

Moderator:

Morton David Goldberg

Cowan, Liebowitz & Latman, New York

(up to 5 minutes)

Speakers:

Howard Knopf

Macera & Jarzyna, LLP, Ottawa
(up to 13 minutes)

Dr. Stanley Lai

Allen & Gledhill, Singapore
The perspectives in Singapore and Asia
(departure due to emergency)

Stanley Pierre-Louis

Vice President and Associate General Counsel, Intellectual Property &
Content Protection, Viacom, New York
(up to 13 minutes)

Ted M. Shapiro

Deputy Managing Director, Vice President & General Counsel, MPA, Brussels
(up to 13 minutes)

Panelists:

Prof. Kazuo Makino

Omiya Law School, Tokyo

Alain Strowel

Covington & Burling, LLP, Brussels

Panel, speakers and audience discussion
(25 minutes)

C. Worldwide Developments in ISP Participation

5:35 P.M. – 6:30 P.M.

Room 203

Moderator:

Morton David Goldberg

Cowan, Liebowitz & Latman, New York
(up to 5 minutes)

Speakers:

Prof. Valerie-Laure Benabou

University of Versailles, Visiting Professor, McGill University and University
of Montreal
(up to 13 minutes)

Shira Perlmutter

Executive Vice President, Global Legal Policy, IFPI, London
(up to 13 minutes)

The Evolution of A Graduated Response Approach to Illegal File-Sharing

Panelists:

Susy Frankel

Victoria University, New Zealand

Ted M. Shapiro

Deputy Managing Director, Vice President & General Counsel, MPA, Brussels

Mihaly Ficsor

President, Hungarian Copyright Council and International Legal Consultant,
Greenberg Traurig, LLP

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion
(20 minutes)

RECEPTION
Fordham Law Atrium
6:30 P.M. – 8:30 P.M.

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SESSION 12: TRADEMARK LAW

Concurrent Session

(Friday, 2:30 P.M. – 6:30 P.M.)

Room 204

A. Protection of Premium Products

2:30 P.M. – 3:40 P.M.

Moderator:

Prof. Susan Scafidi

Brooklyn Law School, New York

(up to 5 minutes)

Speakers:

Monika Tomczak

Miller Canfield, Warsaw

Brick&Mortar v. Virtual Shopper Paradise – a Review of the EU Vertical Restraints Regime in the Context of Online Sales

The regime for vertical restraints is due to be revamped in the EU with a new proposed regulation on the exemption of vertical restraints. What is the current regime, the projected change and when will it occur? The new regime is particularly important for premium and luxury brand products because of the nature of their distribution channels.

(up to 10 minutes)

Dr. Joseph Fesenmair

Bird & Bird, Munich

(up to 10 minutes)

Prof. Marshall Leaffer

Indiana University, Bloomington

(up to 10 minutes)

Dr. Peter Ruess

Professor of Law, International School of Management, Frankfurt

Better premium product protection after ECJ's Dior decision?

Is sale of a premium product in discount channels a violation of trademark law? A new and widely discussed ECJ decision seems to hold some benefits in store for licensors.

(up to 10 minutes)

Panelists:

Prof. Ann Bartow

University of South Carolina School of Law, Columbia, S.C.

Prof. David Llewelyn

King's College London, External Director, IP Academy, Singapore

Hon. Paul Maier

President of the Boards of Appeal, OHIM, Alicante

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

(20 minutes)

BREAK

3:40 P.M. – 4:05 P.M.

B. Geographic Terms, Including Geographical Indications

4:05 P.M. – 5:00 P.M.

Moderator:

Coenraad Visser

University of South Africa, Pretoria

Speakers:

Hon. Annabelle Bennett

Judge, Federal Court of Australia, Sydney

Prof. Justin Hughes

Senior Advisor to the Undersecretary of Commerce for Intellectual Property;
Professor of Law, Cardozo Law School

Dr. G.E. Evans

Queen Mary, University of London, Centre for Commercial Law Studies

Comparative Advantages of GIs and Trademarks in the Marketing of Agricultural Products in the EU

Panelist:

Mark V.B. Partridge

Partridge IP Law, Chicago

Hon. Harri Salmi

Member, Boards of Appeal, OHIM, Alicante

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

C. Trademark Use, Including Search Words: Comparative View

5:05 P.M. to 6:30 P.M.

Moderator:

Prof. Jeremy Phillips

Director of Research, IP Institute (UK); Visiting Professorial Fellow, Queen Mary IP Research Institute

Speakers:

Prof. Jeremy Phillips

Director of Research, IP Institute (UK); Visiting Professorial Fellow, Queen Mary IP Research Institute

(up to 12 minutes)

An Overview of "Use" Issues in Trade Mark law

Alain Strowel

Covington & Burling, LLP, Brussels

(up to 10 minutes)

Mark V.B. Partridge

Partridge IP Law, Chicago

(up to 10 minutes)

Prof. Peter Ruess

Professor of Law, International School of Management, Frankfurt

(up to 10 minutes)

Use and Misuse of trademarks in cyberspace

From eBay to Google, including the very recent ECJ decision on Adwords, cyberspace seems to have its own rules. What are they and the trends in the online world?

Hon. Sylvie Mandel

Judge, French Supreme Court

Genuine Use of Marks: on the Internet; as Registered

(up to 10 minutes)

Panelist:

Edward Vassallo, Fitzpatrick, Cella, Harper & Scinto, New York

(Panelists have no individual time allocated; they take part in the panel discussion)

Panel, speakers and audience discussion

(25 minutes)

RECEPTION

Fordham Law Atrium

6:30 P.M. – 8:30 P.M.

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See you next year!

April 28-29, 2011