

**Fordham Intellectual Property Law  
Institute**

**18th Annual Conference**  
**INTELLECTUAL PROPERTY LAW & POLICY**  
[www.fordhamipconference.com](http://www.fordhamipconference.com)

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

**Hugh C. Hansen**  
**Director**

***Learn Debate Have Fun***

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**Wednesday, April 7<sup>th</sup>**

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

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

***Lowenstein Building, 12<sup>th</sup> 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 8<sup>th</sup>** **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 Peursem**

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*  
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**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 9<sup>th</sup>**

**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 9<sup>th</sup>**

### **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.

*Sponsored by*  
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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***