

Program Updated on April 13, 2012 (Subject to Change)

**Fordham Intellectual Property Law Institute
&
Emily C. & John E. Hansen Intellectual Property Institute**

**20th Annual Intellectual Property Law & Policy
Conference**

www.fordhamipconference.com

**Fordham University School of Law
Thursday and Friday, April 12-13, 2012**

**Hugh C. Hansen
Director**

Learn Debate Have Fun

CONFERENCE PROGRAM

Subject to Change

Wednesday, April 11

Reception & Dinner for Faculty and Sponsors

Reception – Plaza/Atrium, Plaza Level, Lowenstein

6:15 PM to 7:30 PM

Dinner: 12th Floor, Lowenstein

7:30 PM to 9:00 PM

Sponsored by

McKool Smith

Thursday Morning, April 12

Breakfast

Platt Atrium
7:00 AM – 9:00 AM

Sponsored by:

Crowell & Moring LLP

Registration

Platt Atrium
7:00 AM – 8:00 AM

Please note: Doors to the McNally Amphitheatre will close at 8:00 AM. People arriving after 8:00 AM should go to the overflow rooms. Registrants not yet seated will be escorted to overflow in Room 311.

Welcoming Remarks:

Thursday 8:00 AM – 8:15 AM
McNally Amphitheatre

Prof. Hugh C. Hansen

Fordham University School of Law, New York

Dean Michael M. Martin

Fordham University School of Law, New York

Honoree:

Dean John Feerick

Fordham University School of Law, New York

SESSION 1: Plenary Session

Thursday 8:20 AM – 1:10 PM
McNally Amphitheatre

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1A. Patents in the 21st Century: Change and Uncertainty in the US, including discussion of the AIA

Thursday 8:20 AM – 9:05 AM (45 minutes)

McNally Amphitheatre

Moderator:

Prof. Martin J. Adelman

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

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

David J. Kappos

Under Secretary of Commerce for Intellectual Property & Director of the United States Patent and Trademark Office, Alexandria

(up to 15 minutes)

Panelists:

Prof. Rochelle C. Dreyfuss

New York University School of Law, New York

Henry B. Gutman

Simpson Thacher & Bartlett LLP, New York

Daniel Ilan

Cleary Gottlieb Steen & Hamilton LLP, New York

Hon. Randall R. Rader

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

Prof. Arti K. Rai

Duke University School of Law, Durham

Harold C. Wegner

Foley & Lardner LLP, Washington, D.C.

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

1B. Multilateral IP Issues & Policy

Thursday 9:10 AM – 10:10 AM (60 minutes)

McNally Amphitheatre

Program Updated on April 13, 2012

Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

James Pooley

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

The Philosophy of Harmonization: Horse Trading vs. Best Practices

(up to 10 minutes)

Anders Jessen

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

(up to 10 minutes)

Stanford McCoy

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

(up to 10 minutes)

Panelists:

Dr. Mihály Ficsor

President, Hungarian Copyright Council; International Legal Consultant, Budapest

Prof. Justin Hughes

Senior Advisor to the Undersecretary of Commerce for Intellectual Property, United States Patent and Trademark Office, Alexandria; Cardozo Law School, New York

Shira Perlmutter

Acting Administrator for Policy and External Affairs, United States Patent and Trademark Office, Alexandria

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

Panel discussion: up to 20 minutes (speakers, panelists and members of the audience)

1C. Patents in the 21st Century: Change and Uncertainty in the EU, including discussion of the Unitary Patent

Thursday 10:15 AM – 11:00 AM (45 minutes)

McNally Amphitheatre

Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

James Tumbridge

Is the Unified Patent Court worth it?

This talk will provide a short overview of the Court and proposals, and then to look at the political issues and concerns of business. The talk will consider whether a political acceptable court is acceptable to business. This talk also intends to give some insight on expected outcomes and negotiations presently ongoing.

Gowlings LLP, London

(up to 10 minutes)

Dr. Klaus Grabinski

Federal Supreme Court (Bundesgerichtshof), Karlsruhe

The European Patent with Unitary Effect and Unified Patent Court

After opinion 1/09 of the European Court of Justice of March, 8th 2011, 25 out of the 27 Member States of the European Union joined in Enhanced cooperation in the area of the creation of unitary patent protection. Several drafts of the envisaged Regulation on unitary patent protection were published. In parallel an Agreement on the creation of a Unified Patent Court was drafted. On December 6th 2011 the Polish EU Presidency submitted a final compromise proposal which, however, was not agreed in all points. In a statement of January, 30th 2012, the participating Member States commit for the latest in June 2012 on the last outstanding issue of the patent package. In the talk the general structure of the new system will be explained.

(up to 10 minutes)

Panelists:

Hon. Mr. Justice Floyd

Chancery Division, High Court, London

Hon. Alice Pezard

Cour de Cassation, Paris

Justin Watts

Freshfields Bruckhaus Deringer LLP, London

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

Break

11:00 AM – 11:25 AM

1D. What is Legitimate IP Protection? Is it Possible in Light of the Anti-IP Backlash? (Discussion including ACTA, SOPA, & Megaupload)

Thursday 11:25 AM – 1:10 PM (105 minutes)

McNally Amphitheatre

Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers –

just name and affiliation, please see bios in print materials and online.)

WHAT IS LEGITIMATE IP PROTECTION?

Speaker:

Rick Cotton

Executive Vice President and General Counsel, NBC Universal Media LLC, New York

(up to 15 minutes)

Panelists:

Andrew P. Bridges

Fenwick & West LLP, San Francisco

Tod Cohen

Vice President and Deputy General Counsel, eBay, Inc., Palo Alto

Prof. Bernt Hugenholtz

University of Amsterdam, Amsterdam

Shira Perlmutter

Acting Administrator for Policy and External Affairs, United States Patent and Trademark Office, Alexandria

Tom Rubin

Chief Intellectual Property Strategy Counsel, Microsoft Corporation, Redmond

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

ACTA

Program Updated on April 13, 2012

Panelists:

Rick Cotton

Executive Vice President and General Counsel, NBC Universal Media LLC, New York

Prof. Bernt Hugenholtz

University of Amsterdam, Amsterdam

Anders Jessen

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

Howard P. Knopf

Macera & Jarzyna LLP, Ottawa

Stanford McCoy

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

Ted Shapiro

Senior Vice President, General Counsel and Deputy Managing Director, EMEA, Motion Picture Association, Brussels

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

SOPA

Panelists:

Paul Aiken

Executive Director, The Authors Guild, New York

Andrew P. Bridges

Fenwick & West LLP, San Francisco

Tod Cohen

Vice President and Deputy General Counsel, eBay, Inc., Palo Alto

Rick Cotton

Executive Vice President and General Counsel, NBC Universal Media LLC, New York

Carey R. Ramos

Quinn Emanuel Urquhart & Sullivan LLP, New York

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

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MEGAUPLOAD & AFTEREFFECTS

Speaker:

Michael Schlesinger

Mitchell Silberberg & Knupp LLP, Washington, D.C.

Rogue Foreign Sites Including Megaupload

(up to 12 minutes to introduce the subject matter)

Panelists:

Paul Aiken

Executive Director, The Authors Guild, New York

Tod Cohen

Vice President and Deputy General Counsel, eBay, Inc., Palo Alto

Lucy Nichols

Global Director of Legal & Intellectual Property Anti-Counterfeiting & Brand Enforcement, Nokia Corporation, New York

Carey R. Ramos

Quinn Emanuel Urquhart & Sullivan LLP, New York

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

Lunch

Platt Atrium & 12th Floor Lounge, Lowenstein Building

1:10 PM – 2:20 PM

Sponsored by:

Cravath Swaine & Moore LLP

Speaker

Lord Neuberger

Master of the Rolls, Judiciary of England and Wales, London

(up to 15 minutes)

Thursday Afternoon, April 12

THREE CONCURRENT SESSIONS:
Patent, Copyright and Trademark Law

SESSION 2: PATENT LAW

Concurrent Session

Thursday 2:30 PM – 6:30 PM

NYIT Auditorium on Broadway (1871 Broadway between 61st and 62nd Street)

Directions: Exit the Main Doors of the Law School, Turn right (east) and walk along 62nd Street to Broadway; Turn right (South) onto Broadway and the auditorium is on your right.

2A. U.S. Patent Law: Where Has It Been? Where Is It Going?

Thursday 2:30 PM – 3:45 PM (75 minutes)

NYIT Auditorium on Broadway (1871 Broadway between 61st and 62nd Street)

Moderator:

Prof. Martin J. Adelman

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

(up to 5 minutes to introduce the subject matter; intro of speakers –

just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. John R. Thomas

Georgetown University Law Center, Washington, D.C.

Into a Silver Age: US Patent Law 1992-2012

Twenty years of our gatherings have seen the US patent regime transition from a Golden to a Silver Age. After two decades the domestic patent community has lost its sense of confidence and solidarity, with new voices questioning the effectiveness and moral worth of patents. Yet reason for optimism persists: The US patent system, once archaic and hidebound, has again become an innovator.

(up to 15 minutes)

Hon. Pauline Newman

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

30 Years of the Federal Circuit

(up to 15 minutes)

Prof. Arti K. Rai

Duke University School of Law, Durham

(up to 10 minutes)

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Panelists:

John B. Pegram

Fish & Richardson P.C., New York

Harold C. Wegner

Foley & Lardner LLP, Washington, D.C.

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

2B. Business Method Patents and Related Issues

Thursday 3:50 PM – 4:50 PM (60 minutes)

NYIT Auditorium on Broadway (1871 Broadway between 61st and 62nd Street)

Moderator:

Brian P. Murphy

Edwards Wildman Palmer LLP, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

William Chandler

Member, Board of Appeal, European Patent Office, Munich

Amazon's one-click patent in the EPO and elsewhere

To what extent the different outcomes in the various jurisdictions are based in differences in the claims themselves, differences in the law (excluded subject-matter), or differences in evaluation of the same aspects of the law.

(up to 8 minutes)

Prof. John M. Golden

The University of Texas School of Law, Austin

Patent Eligibility After Bilski and Before Prometheus

(up to 8 minutes)

James Moore Bollinger

Troutman Sanders LLP, New York

Challenges to Patent Validity Based on Subject Matter Eligibility: Selected Procedural Issues

With two 9-0 rulings in less than two years – each invalidating patent claims on eligibility grounds – the Supreme Court has sent a clear and unmistakable message:

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remove these patents from the marketplace. But how? Formally challenging patent eligibility may proceed on several paths – which will be discussed.
(up to 8 minutes)

Panelists:

HH Judge Birss, QC

Specialist Circuit Judge, Patents County Court, London

David Jones

Microsoft Corporation, Redmond

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

Break

4:50 PM – 5:15 PM

2C. U.S. Patent Law: Recent Developments

Thursday 5:15 PM – 6:30 PM (75 minutes)

NYIT Auditorium on Broadway (1871 Broadway between 61st and 62nd Street)

Moderator:

Tiffany Mahmood

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dimitrios T. Drivas

White & Case LLP, New York

Current Developments in US Patent Law

An overview of legislative and case law developments over the past year with an emphasis on Supreme Court and significant Federal Circuit decisions.

(up to 30 minutes)

Alfred R. Fabricant

Winston Strawn LLP, New York

Strategies, trends and techniques that defendants are using to combat NPE

litigation taking advantage of both procedural and substantive changes in the law.

Recent developments in the law have made it more burdensome for NPE's to enforce their patents against multiple defendants. Section 299 of the Leahy-Smith America Invents Act (AIA), effective on September 16, 2011, prohibits joinder in a single

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action of unrelated defendants selling different accused products. As a practical matter, section 299 inhibits a plaintiff's ability to sue multiple geographically-diverse defendants in one case to reduce the likelihood of a transfer for convenience under 28 U.S.C. Section 1404(a). Motions to sever and transfer have now become commonplace. In addition, defendants are bringing more motions to dismiss for failure to state a claim under Twombly and Iqbal against NPE's who fail to provide sufficient factual support for direct and indirect infringement claims. Will these strategies help to deter repetitively plead common allegations against large numbers of defendants? Have these developments sufficiently leveled the playing field for defendants?

(up to 8 minutes)

Panelists:

Dr. Steven J. Lee

Kenyon & Kenyon LLP, New York

Prof. John R. Thomas

Georgetown University Law Center, Washington, D.C.

Harold C. Wegner

Foley & Lardner LLP, Washington, D.C.

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

Panel discussion: 30 minutes (speakers, panelists and members of the audience)

Reception

10 on the Park

Time Warner Center

North Tower, 10th Floor

60 Columbus Circle (entrance on 60th St btw Broadway & Columbus)

6:30 PM – 8:30 PM

Sponsored by:

Freshfields Bruckhaus Deringer LLP

SESSION 3: COPYRIGHT LAW

Concurrent Session

Thursday 2:30 PM – 6:30 PM

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McNally Amphitheatre

3A. Fair Use: Is It Working? What Does the Future Hold?

Thursday 2:30 PM – 3:40 PM (70 minutes)

McNally Amphitheatre

Moderator:

Prof. Joel Reidenberg

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. Barton Beebe

New York University School of Law, New York

An Empirical Study of U.S. Copyright Fair Use Cases, 1978-2011

This presentation will report the updated results of an empirical study of all 395 federal court opinions applying the Section 107 four-factor test for copyright fair use from the 1978 effective date of the U.S. Copyright Act through 2011. Through a variety of forms of statistical analysis, the presentation will evaluate fair use win rates, which factors and subfactors drive the overall outcome of the test, how the factors interact, how courts inflect certain individual factors, and the extent to which courts “stampede” the factors to conform to the overall outcome of the test.

(up to 8 minutes)

William F. Patry

Google, Inc., Mountain View

(up to 8 minutes)

Howard P. Knopf

Macera & Jarzyna LLP, Ottawa

Fair Use and Fair Dealing: Are USA and Canada as "Kissing Cousins"?

Comparison of Canadian and American law. What did Canada and USA inherit from the UK? Update on two Supreme Court of Canada cases under reserve and pending legislation that could affect the future of "fair" in Canada and elsewhere.

(up to 8 minutes)

Panelists:

Andrew P. Bridges

Fenwick & West LLP, San Francisco

David O. Carson

General Counsel, United States Copyright Office, Washington, D.C.

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Prof. Jane C. Ginsburg

Columbia Law School, New York

Emily Hudson

University of Oxford, Oxford

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

3B. IP Developments in China

Thursday 3:45 PM – 5:05 PM (80 minutes)

McNally Amphitheatre

Moderator:

Prof. Mark Cohen

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Hon. Zhu Li

IPR Tribunal, Supreme People's Court of China, Beijing

(up to 15 minutes)

Zhang Ye

Director of Telecommunication Division, Utility Model Examination Department, State Intellectual Property Office of the People's Republic of China, Beijing

The Utility Model System in China

China's patent law was promulgated 1984. There are three kinds of patent in China's law: invention, utility model and industrial design. The utility model plays a very important role in Chinese patent system, based on the experiences of others. Most of the utility model applications were from China, accounting for 99.3%. The U.M. is a complementary patent system to invention, protecting invention-creations with lower inventiveness. the Utility model system is suitable to China's national conditions of developing countries.

(up to 15 minutes)

Benjamin Bai

Allen & Overy LLP, Shanghai

(up to 10 minutes)

Panelists:

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Prof. Liu Chuntian (invited)

Law School, Renmin University of China, Beijing

He Jing

ZY Partners, Beijing

Stanford McCoy

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

Michael Schlesinger

Mitchell Silberberg & Knupp LLP, Washington, D.C.

Yin Xintian (invited)

Wan Hui Da Law Firm & Intellectual Property Agency, Beijing

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Break

5:05 PM – 5:30 PM

3C. Golan, *the Constitution*, and *Copyright: Blueprint or Misstep?*

Thursday 5:30 PM – 6:30 PM (60 minutes)

McNally Amphitheatre

Moderator:

Morton David Goldberg

Cowan, Liebowitz & Latman, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Robert J. Bernstein

The Law Office of Robert J. Bernstein, New York

A Précis of the Supreme Court Opinion

(up to 12 minutes)

Panelists:

Andrew P. Bridges

Fenwick & West LLP, San Francisco

Dr. Mihály Ficsor

President, Hungarian Copyright Council; International Legal Consultant, Budapest

Prof. John M. Golden

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The University of Texas School of Law, Austin

Prof. Hugh C. Hansen

Fordham University School of Law, New York

Shira Perlmutter

Acting Administrator for Policy and External Affairs, United States Patent and Trademark Office, Alexandria

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

Panel discussion: 35 minutes (speakers, panelists and members of the audience)

Reception

10 on the Park

Time Warner Center

North Tower, 10th Floor

60 Columbus Circle (entrance on 60th St btw Broadway & Columbus)

6:30 PM – 8:30 PM

Sponsored by:

Freshfields Bruckhaus Deringer LLP

SESSION 4: COMPETITION LAW

Concurrent Session

Thursday 2:30 PM – 6:30 PM

Room 311

4A. U.S. Antitrust Perspectives & Developments

Thursday 2:30 PM – 3:35 PM (65 minutes)

Room 311

Moderator:

Prof. Daryl Lim

The John Marshall School of Law, Chicago

(up to 5 minutes to introduce the subject matter; intro of speakers –

just name and affiliation, please see bios in print materials and online.)

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Speakers:

Prof. William E. Kovacic

The George Washington University Law School, Washington, D.C.
(15 minutes)

Panelists:

Prof. Barry E. Hawk

Fordham University School of Law, New York

Henry B. Gutman

Simpson Thacher & Bartlett LLP, New York

Prof. Valentine Korah

University College, London

Carey R. Ramos

Quinn Emanuel Urquhart & Sullivan LLP, New York

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

4B. Competitive Implications of Acquiring and Asserting Patent Portfolios and Technology Transfer Agreements

Thursday 3:40 PM – 4:50 PM (70 minutes)

Room 311

Moderator:

Patricia Martone

Morrison & Foerster LLP, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dr. John Temple Lang

Cleary Gottlieb Steen & Hamilton LLP, Brussels

Competitive Implications of Technology Transfer Agreements

Agreements such as those in the proposed EU regulations relating to technology transfer usually improve economic efficiency and be pro-competitive as they can reduce duplication of research and development, strengthen the incentive for the initial research and development, spur incremental innovation, facilitate diffusion and generate product market competition. However, licensing agreements may also be used for anti-competitive purposes, e.g. where two competitors use a licensing

agreement to share out markets between themselves or where an important licence holder excludes competing technologies from the market.

(up to 10 minutes)

Dr. Kai-Uwe Kühn

Chief Competition Economist, DG Competition, European Commission, Brussels
Patent hold up and Injunctions: The Economic Rationale for Competition Policy Intervention

The talk will give a brief overview of the economics of patent holdup and the role of injunctions for holdup. Then, it will discuss why the current legal framework is currently inadequate to address the issue and to what extent competition policy can and should intervene. This is then put into context of the European Commission approach to standard essential patents.

(up to 10 minutes)

Gerald Sobel

Kaye Scholer LLP, New York

Implications of the recent extraordinary patent portfolio acquisitions relating to wireless devices

(up to 10 minutes)

Adrian Looney

Assistant General Counsel, Pfizer, New York

Using Technology Transfer and IP to Drive the Pace of Innovation

Innovation in many industries is driven by a combination of factors including the generation of large amounts of information by for-profit and non-for-profit research organizations. The ability to access and interrogate the information or data generated is a key limiting factor in determining the pace of advancement for technology solutions to important societal problems. Challenges continue to exist in developing information infrastructures and information technology capabilities to support integration and cross-disciplinary analysis of information generated to drive innovation. In the pharmaceutical industry the role of technology transfer is increasingly providing information to create tailored solutions for patients with the advent of personalized medicines. The practical implications and hurdles provided by technology transfer, intellectual property and their implications on the pace of innovation will be explored.

(up to 10 minutes)

Panelists:

Prof. Mark R. Patterson

Fordham University School of Law, New York

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

Break

4:50 PM – 5:15 PM

4C. EU Competition Perspectives & Developments

Thursday 5:15 PM – 6:30 PM (75 minutes)

Room 311

Moderator:

Prof. Eleanor Fox

New York University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. Valentine Korah

University College, London

(up to 15 minutes)

Monika Tomczak-Gorlikowska

Miller Canfield P.L.C., Gdynia, Poland

Decentralised enforcement in the EU and national IP/Competition cases

Recently a number of cases (Pfeiderer, VEBIC, Tele2Polska) have demonstrated that a number of important issues regarding decentralised enforcement in the EU still requires guidance. This presentation shall discuss these issues (including such hotly debated themes as the relationship between leniency applications and disclosure of documents for the purposes of private actions) and explain the current challenges for the enforcement of competition law in Europe at national level. Additionally the presentation shall cover a broad overview of notable cases regarding IP and Competition Law decided at national level (covering pharmaceutical industry, collecting societies and new technologies).

(up to 10 minutes)

Giovanni Casucci

Casucci Studio Legale, Milan

Antitrust defence in IP litigations: from Orange book (D) to Samsung vs Apple (IT)

(up to 10 minutes)

Panelists:

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Dr. Marcus Grosch

Quinn Emanuel Urquhart & Sullivan LLP, Mannheim

Dr. Kai-Uwe Kühn

Chief Competition Economist, DG Competition, European Commission, Brussels

Dr. John Temple Lang

Cleary Gottlieb Steen & Hamilton LLP, Brussels

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Reception

10 on the Park

Time Warner Center

North Tower, 10th Floor

60 Columbus Circle (entrance on 60th St btw Broadway & Columbus)

6:30 PM – 8:30 PM

Sponsored by:

Freshfields Bruckhaus Deringer LLP

Friday Morning, April 13

Breakfast

Platt Atrium

7:00 AM – 9:00 AM

Sponsored by:

Paul Hastings

Three Sunrise Seminars

The Judiciary and IP in the 21st Century: Views from the Judges

Friday 7:30 AM – 8:40 AM (70 minutes)

McNally Amphitheatre

Moderator

Rt. Hon. Professor Sir Robin Jacob

Faculty of Laws, University College London, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Hon. Annabelle Bennett

Justice, Federal Court of Australia, Sydney

Computer Technology: A Ghost in the Judicial Machine?

(up to 10 minutes)

HH Judge Birss, QC

Specialist Circuit Judge, Patents County Court, London

Come over to Patents County (Lessons learned from the work of the London Patents County Court)

HHJ Colin Birss will review the recent changes to the procedures for handling intellectual property cases in the Patents County Court in London. The new system was introduced in October 2010 to seek to improve the conduct of IP cases in order to improve access to justice for smaller and medium sized IP litigants. The paper explains the nature of those changes and seeks to highlight lessons which might be learned from them.

(up to 10 minutes)

Hon. Roger T. Hughes

Federal Court of Canada, Ottawa

Is it time for an international forum to hear IP cases?

(up to 10 minutes)

Panelists:

Hon. Mr. Justice Peter Charleton

Justice, High Court of Ireland, Dublin

Lord Neuberger

Master of the Rolls, Judiciary of England and Wales, London

Hon. Alice Pezard

Cour de Cassation, Paris

Hon. Hideko Takemiya

Program Updated on April 13, 2012

Intellectual Property High Court, Tokyo

Hon. Zhu Li (invited)

IPR Tribunal, Supreme People's Court of China, Beijing

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

Technology and Intellectual Property: Out of Sync or Hope for the Future?

Friday 7:30 AM – 8:25 AM (55 minutes)

Room TBA

Moderator:

Zachary A. Slates

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Brad Smith

General Counsel, Microsoft Corporation, Redmond

(up to 15 minutes)

Panelists:

Nicholas Groombridge

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

David J. Kappos

Under Secretary of Commerce for Intellectual Property & Director of the United States Patent and Trademark Office, Alexandria

James Love

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

Steven J. Metalitz

Mitchell Silberberg & Knupp LLP, Washington D.C.

Carey R. Ramos

Quinn Emanuel Urquhart & Sullivan LLP, New York

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Plain Packaging and Label Regulation: Proper Health Legislation or Fundamental Violation?

Friday 7:30 AM – 8:25 AM (55 minutes)

Room TBA

Moderator:

Prof. Robert Burrell

TC Beirne School of Law, The University of Queensland, Brisbane St. Lucia
(up to 5 minutes to introduce the subject matter; intro of speakers –
just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. David Brennan

Melbourne Law School, Melbourne

Australia v Tobacco Brands: Investment Treaties, the takings clause & TRIPS

Last year Australia enacted measures which both proscribed the use of logo and colour marks on tobacco packaging while at the same time protected the affected marks from removal for non-use. So far the legislation has triggered action against Australia by:

- (i) Philip Morris Asia Limited (under a Hong Kong-Australia bi-lateral investment treaty) for the measures comprising an improper expropriation;
- (ii) Several tobacco companies (under the Australian Constitution) for the measures being an ultra vires acquisition of property not on just terms;
- (iii) Ukraine (under the WTO Dispute Settlement Understanding) seeking consultations about the measures because they appear to violate TRIPS.

Given the controversy surrounding by these Australian measures, an overview will be given with reference to similar measures in other national laws.

(up to 10 minutes)

Prof. Daniel Gervais

Vanderbilt University Law School, Nashville

TRIPS and Plain Packaging: Fish in a Barrel?

(up to 8 minutes)

Panelists:

Dr. Phillip Johnson

Queen Mary, University of London, London

Emily Hudson

University of Oxford, Oxford

Emmanuel Ronco

Cleary Gottlieb Steen & Hamilton LLP, Paris

Prof. Susy Frankel

Program Updated on April 13, 2012

Victoria University of Wellington, Wellington

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

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

FOUR CONCURRENT SESSIONS:
Patents, Copyright, Trademark, Trade & Enforcement

SESSION 5: PATENT LAW

Concurrent Session

Friday 8:45 AM – 1:10 PM

McNally Amphitheatre

5A. Remedies

Friday 8:45 AM – 10:05 AM (75 minutes)

McNally Amphitheatre

Moderator:

David Perkins

Arnold & Porter, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

DAMAGES

Speaker:

Robert J. Goldman

Ropes & Gray LLP, East Palo Alto

U.S. Patent Damages After Uniloc: Problems of Proof, Persuasion and Procedure - The Federal Circuit's 2009-2011 decisions on damages require proof of the "economic footprint" of the claimed invention to establish a reasonable royalty. In response, Courts and litigants have faced the emerging issues of what evidence will satisfy this standard, how best to present it at trial, and how best to implement the trial Court's "gatekeeper" role to evaluate damages claims and defenses in pretrial proceedings.

(up to 10 minutes)

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Panelists:

Dawn Hall

FTI Consulting, Inc., New York

Hon. Roger T. Hughes

Federal Court of Canada, Ottawa

Dan McGavock

Charles River Associates, Chicago

Hon. Randall R. Rader

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

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

INJUNCTIONS

Speaker:

Elizabeth S. Weiswasser

Weil, Gotshal & Manges LLP, New York

The evolving standard for obtaining injunctive relief in the patent context

(up to 8 minutes)

Peter Hendrick

Freshfields Bruckhaus Deringer LLP, Amsterdam

The evolving standard for obtaining injunctive relief in the patent context

(up to 8 minutes)

Panelists:

Alfred R. Fabricant

Winston Strawn LLP, New York

Hon. Annabelle Bennett

Justice, Federal Court of Australia, Sydney

Bart J. van den Broek

Hoyng Monegier LLP, Amsterdam

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

Break

10:05 AM – 10:30 AM

5B. EU Patent Law: Where Has It Been? Where Is It Going?

Friday 10:30 AM – 11:45 AM (75 minutes)

McNally Amphitheatre

Moderator:

Justin Watts

Freshfields Bruckhaus Deringer LLP, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Rt. Hon. Professor Sir Robin Jacob

Faculty of Laws, University College London, London

Patents in the European Union: Who are the Players and What Can the Past Tell Us About the Future?

This talk will cover the consequence of judicial rapprochement over the last 20 years, the achievements of the Boards of Appeal and the danger posed by the Court of Justice of the European Communities. Are we heading for major uncertainty?

(up to 15 minutes)

Justin Watts

Freshfields Bruckhaus Deringer LLP, London

The EU Patent Litigator - 20 years ago, Today, what lies ahead?

(up to 10 minutes)

Panelists:

William Chandler

Member, Board of Appeal, European Patent Office, Munich

Dr. Marcus Grosch

Quinn Emanuel Urquhart & Sullivan LLP, Mannheim

Hon. Rian Kalden

Vice President, District Court of The Hague, The Hague

Niklas Östman

Head of Patent Licensing, Nokia IPR, Nokia Corporation, Finland

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

Panel discussion: 30 minutes (speakers, panelists and members of the audience)

5C. Global Patent Developments

Friday 11:50 AM – 1:10 PM (80 minutes)

McNally Amphitheatre

Moderator:

Gonzalo Ulloa

Gómez-Acebo & Pombo Abogados, Madrid

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dr. Myles Jelf

Bristows, London

Harmonizing Patent Law: An obviously impossible task?

The difficulties of harmonizing ‘obviousness / inventive step’ decisions across different jurisdictions and indeed different technical discipline remains a difficult task. Why, despite many years of growing awareness and cross-fertilisation between jurisdictions do we still routinely see different decisions being made on the same patents in different forums? What role is played in such cases by linguistic and cultural factors, procedural and systematic differences, and are there underlying social policies consciously or unconsciously in play?

(up to 8 minutes)

Dr. Jürgen Dressel

Novartis Pharma AG, Basel

Enforcement of second medical use/method of treatment patents in view of skinny labels and off-label prescriptions

In most countries new medical uses of drugs can be patented. Usually generic manufacturers can avoid infringement by carving out patented indications from their labels. However due to off-label use of the patented indications and mandatory substitution second medical use patents have become difficult or impossible to enforce.

(up to 8 minutes)

Hon. Alice Pezard

Cour de Cassation, Paris

Generic use of Trademarks in Branded Products

(up to 8 minutes)

Prof. Dr. Heinz Goddar

Boehmert & Boehmert, Munich; University of Bremen, Bremen

Novelty Grace Periods Worldwide

In a comparative analysis, the grace period provisions under EPC, Germany, and Japan will be compared with those of the America Invents Act (AIA). Novelty grace periods, in the aforementioned jurisdictions outside U.S., reach from a mere protection against unauthorised disclosures by third parties to the detriment of the inventor via protection against early disclosures by the applicant herself/himself anticipating the filing date to protection against early disclosures based on the invention preceding the Paris Convention priority date, with varying durations of 6 – 12 months. AIA, however, creates even a “first-inventor-to-disclose” system, different from a first-to-file system as existing in the aforementioned jurisdictions outside of U.S.A.. The consequence might be that some kind of “mini-interference-procedures” will have to take place, e.g. at the USPTO, under the AIA to determine which inventor actually disclosed first, irrespective of a possibly later filing date, compared with another inventor, and therefore is entitled in the patent. Does this help the aim of international harmonization towards first-to-file?

(up to 8 minutes)

Jansen Viana

Clarke, Modet & Co., Rio de Janeiro

ADR, Generics and Pharma in Brazil

Arbitration and other ADRs such as Mediation are in the rise in Brazil for solving commercial disputes. A strong and active local Generic industry and the interference of ANVISA (the Brazilian National Agency of Sanitary Surveillance) in the prosecution of pharmaceutical patents creates a real issue for big pharma in their enforcement efforts in Brazil. Latest case Law, recommended strategies and new developments will be explored.

(up to 8 minutes)

Panelist:

John Richards

Ladas & Parry LLP, New York

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Lunch

Platt Atrium & 12th Floor Lounge, Lowenstein Building

1:10 PM – 2:20 PM

Sponsored by:

Bloomberg Law

Speaker

Hon. Denny Chin

U.S. Court of Appeals for the Second Circuit
(up to 15 minutes)

SESSION 6: TRADE

Concurrent Session

Friday 8:30 AM – 1:10 PM

Room 302

6A. Multilateral Developments and Related IP Issues

Friday 8:30 AM – 10:05 AM (95 minutes)

Room 302

Moderator:

Michael Schlesinger

Mitchell Silberberg & Knupp LLP, Washington, D.C.

(up to 5 minutes to introduce the subject matter; intro of speakers –
just name and affiliation, please see bios in print materials and online.)

Speakers:

Michele Woods

Associate Register for Policy and International Affairs, United States Copyright
Office, Washington, D.C.

Developments in the WIPO Standing Committee on Copyrights

*An update on the June 2012 Diplomatic Conference on a treaty for audiovisual
performers, prospects for a treaty to protect broadcast signals, ongoing negotiations
on a proposed treaty on exceptions and cross-border transfer of accessible works for
blind and visually impaired persons, discussions on exceptions for libraries and
archives, and possible future agenda items.*

(up to 10 minutes)

Prof. Susy Frankel

Victoria University of Wellington, Wellington

What Might the Trans-Pacific Partnership (TPP) Negotiations Achieve?

*The TPP is a plurilateral free trade agreement (FTA), touted as “a trade agreement
for the 21st century,” that includes an IP chapter. The negotiating parties include the
United States, New Zealand, Singapore, Australia, Chile, Brunei, Malaysia, Vietnam,
Chile and Peru. Canada and Japan may also join. The leaked proposed IP chapter
shows more extensive intellectual property protection than ever seen in any trade*

agreement. This paper will discuss what's likely to be in the IP-related parts of the TPP, what are the motivations for the grouping of the parties who are part of the negotiation, and what relationship the TPP will have to other FTAs and TRIPS.
(up to 10 minutes)

Hon. Weerawit Weeraworawit

Deputy Secretary General, National Human Rights Commission, Thailand

Mutual Impacts of Emerging IPRs and Human Rights?

Human rights are frequently used as the justification for granting legal protection to traditional knowledge (TK), traditional cultural expressions (TCEs), and genetic resources (GRs) but it is often overlooked how the emergence of these new rights are unavoidably impacting on the evolution of basic human rights principles. We are seeing the strengthening of the symbiotic relationship between human rights and intellectual property rights. How this is happening?

(up to 10 minutes)

Panelists:

James Love

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

Steven J. Metalitz

Mitchell Silberberg & Knupp LLP, Washington, D.C.

James Pooley

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

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

Panel discussion: 45 minutes (speakers, panelists and members of the audience)

Break

10:05 AM – 10:30 AM

6B. Enforcement

Friday 10:30 AM – 11:55 AM (85 minutes)

Room 302

Moderator:

Michael Schlesinger

Mitchell Silberberg & Knupp LLP, Washington, D.C.

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

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Speakers:

Dr. Mihály Ficsor

President, Hungarian Copyright Council; International Legal Consultant, Budapest
Assessment of ACTA from the viewpoint of EU "acqui"
(up to 10 minutes)

James Love

Director, Knowledge Ecology International, Washington, D.C.
(up to 10 minutes)

Dr. Marcus von Welser

Vossius & Partner, Munich

The proposed EU Customs Enforcement Regulation and enforcement issues concerning goods in transit

In 2011, the EU-Commission proposed a new Customs Enforcement Regulation. Although there has been much debate and two WTO complaints from India and Brazil against the practice of some EU member states in seizing goods in transit, the proposal for a new EU Customs Enforcement Regulation does not explicitly deal with this problem. The presentation summarizes the current practice and gives an outlook.
(up to 10 minutes)

Panelists:

Anders Jessen

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

Stanford McCoy

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

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

Panel discussion: 35 minutes (speakers, panelists and members of the audience)

6C. IP Developments in Japan

Friday 12:00 PM – 1:10 PM (70 minutes)

Room 302

Moderator:

Patricia Martone

Morrison & Foerster LLP, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

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Speakers:

Setsuko Asami

Director-General of the Examination Office, Japan Patent Office, Tokyo
(up to 10 minutes)

Hon. Hideko Takemiya

Intellectual Property High Court, Tokyo
(up to 10 minutes)

Shimako Kato

Abe, Ikubo & Katayama, Tokyo
Has Japan become a patentee-friendly forum?
(up to 10 minutes)

Panelists:

John B. Pegram

Fish & Richardson P.C., New York

Eiji Katayama

Abe, Ikubo & Katayama, Tokyo

Harold C. Wegner

Foley & Lardner LLP, Washington, D.C.

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Lunch

Platt Atrium & 12th Floor Lounge, Lowenstein Building

1:10 PM – 2:20 PM

Sponsored by:

Bloomberg Law

Speaker

Hon. Denny Chin

U.S. Court of Appeals for the Second Circuit

(up to 15 minutes)

SESSION 7: COPYRIGHT

Friday 8:30 AM – 1:10 PM

Room TBA

7A. *U.S. Copyright Law: Where Has It Been? Where Is It Going?*

Friday 8:30 AM – 10:05 AM (95 minutes)

Room 311

Moderator:

Morton David Goldberg

Cowan, Liebowitz & Latman, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

U.S. COPYRIGHT

Prof. Jane C. Ginsburg

Columbia Law School, New York

U.S. Copyright Law: 20 Years Ago, Today, and What the Future Holds

This talk will consider copyright (recently) past, present and future through the lens of a particular development that brings to the fore internet exploitation, fair use, and the role of authorship in contemporary copyright.

(up to 15 minutes)

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

THE COPYRIGHT OFFICE

Speakers:

Marybeth Peters

Oblon, Spivak, McClelland, Maier & Neustadt LLP, Alexandria

The U.S. Copyright Office: Yesterday, Today, and Tomorrow

(up to 10 minutes)

David O. Carson

General Counsel, United States Copyright Office, Washington, D.C.

The Policy & Legislative Initiatives Agenda of the Copyright Office

(up to 10 minutes)

Panelists:

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Andrew P. Bridges

Fenwick & West LLP, San Francisco

Tom Rubin

Chief Intellectual Property Strategy Counsel, Microsoft Corporation, Redmond

Michael S. Shapiro

Senior Counsel for Copyright, Office of Policy and External Affairs, United States Patent and Trademark Office, Alexandria

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

Break

10:05 AM – 10:30 AM

7B. Music Industry Issues including Collecting Societies

Friday 10:30 AM – 11:50 AM (80 minutes)

Room 311

Moderator:

Anderson J. Duff

Wolf, Greenfield & Sacks, P.C., Boston

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Judith Finell

Judith Finell MusicServices Inc., Bronxville

(up to 10 minutes)

David O. Carson

General Counsel, United States Copyright Office, Washington, D.C.

Protection of Pre-1972 Sound Recordings

(up to 10 minutes)

Howard P. Knopf

Macara & Jarzyna LLP, Ottawa

Music Industries and Copyright Tribunals

The music industry receives billions of dollars each year from "collectives". What are the tribunal and judicial oversight mechanisms in place in the major common law

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jurisdictions, i.e. USA, UK, Canada, Australia, New Zealand? What about the EC & CJEU?

(up to 10 minutes)

Panelists:

Dr. Mihály Ficsor

President, Hungarian Copyright Council; International Legal Consultant, Budapest

Maria Martin-Prat

Head of Unit – Copyright, DG Internal Market & Services, European Commission, Brussels

Steven J. Metalitz

Mitchell Silberberg & Knupp LLP, Washington, D.C.

Justice William J. Vancise

Chairman, Copyright Board of Canada, Ottawa

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

Panel discussion: 40 minutes (speakers, panelists and members of the audience)

7C. View from the European Commission

Friday 11:55 AM – 1:10 PM (75 minutes)

Room 311

Moderator:

Ted Shapiro

Senior Vice President, General Counsel and Deputy Managing Director, EMEA, Motion Picture Association, Brussels

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speaker:

Maria Martin-Prat

Head of Unit – Copyright, DG Internal Market & Services, European Commission, Brussels

(up to 20 minutes)

Panelists:

Hon. Mr. Justice Peter Charleton

Justice, High Court of Ireland, Dublin

Hon. Alice Pezard

Cour de Cassation, Paris

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Jerker Ryden

Senior Legal Adviser, National Library of Sweden, Stockholm

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

Panel discussion: 40 minutes (speakers, panelists and members of the audience)

Lunch

Platt Atrium & 12th Floor Lounge, Lowenstein Building

1:10 PM – 2:20 PM

Sponsored by:

Bloomberg Law

Speaker

Hon. Denny Chin

U.S. Court of Appeals for the Second Circuit

(up to 15 minutes)

SESSION 8: TRADEMARK

Friday 8:30 AM – 1:10 PM

Room 203

8A. European Trademark Law: Where Has It Been? Where Is It Going?

Friday 8:30 AM – 9:45 AM (75 minutes)

Room 203

Moderator:

Prof. Spyros Maniatis

Queen Mary, University of London, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Paper:

William Robinson

Freshfields Bruckhaus Deringer LLP, London

Trade Marks in Europe: 20 Years Ago, Today, and What the Future Holds

Speakers:

Prof. Graeme Dinwoodie

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University of Oxford, Oxford

Trade Marks in Europe: 20 Years Ago, Today, and What the Future Holds

(up to 15 minutes)

Hon. Paul Maier

President of the Boards of Appeal, OHIM, Alicante

OHIM and its role in the past, today and where it is going

IP is not originally an EU competence. The EU has become competent in these matters only progressively. OHIM is the registration office for EU trade marks (CTM) and designs (RCD). The CTM and RCD proved to be huge successes from the point of view of the users but this has also brought with it problems of many kinds, e.g., important backlogs built up and were only eliminated recently, relations with national offices were strained, the volume of filings (the one million mark was passed last Fall for the CTM), decisions and judgments cause important problems of coherence and knowledge management. This being said, the Council and European Parliament showed their trust in OHIM in that they gave it new competences in enforcement. The ambitious strategic plan of the OHIM sets the scene for the coming years. The EU trade mark and design network is under way.

(up to 15 minutes)

Panelists:

Dr. Dev S. Gangjee

London School of Economics, London

Prof. Dr. Annette Kur

Max Planck Institute for Intellectual Property and Competition Law, Munich

James Nurton

Managing Intellectual Property, London

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

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

8B. Recent Developments in EU Trade Mark & Design Law

Friday 9:50 AM – 11:20 AM (90 minutes)

Room 203

Moderator:

James Nurton

Managing Intellectual Property, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dr. Dev S. Gangjee

London School of Economics, London

Smart Cookies or Careless Browsers: Adwords in EU Trademark Law

Courts across the EU are currently recalibrating the application of the confusion and dilution tests to search engine keyword advertising. In Google v Louis Vuitton (2010), the CJEU identified the 'normally informed and reasonably attentive internet user' as the benchmark for determining whether an adword corresponding to a trademark is likely to confuse consumers. This leaves a number of issues unresolved, including three of particular importance: (1) the interpretation of this standard by national courts; (2) the extent to which we can make assumptions based on the context of use by the advertiser; and (3) divergences between this legal standard and empirical assessments of real world internet users. While Google concerns the application of a familiar test in a new technological context, in Interflora v Marks & Spencer (2011) the CJEU explored the murkier boundaries of 'double identity infringement', the extended functions of trademarks and the application of dilution standards - both blurring as well as unfair advantage - to keyword advertising. Engaging in a balancing analysis, it recognised that genuine competitive use would constitute 'due cause' and be permissible. The presentation concludes by identifying criteria for national courts engaged in sifting through permissible and impermissible advertising, in response to dilution claims.

(up to 15 minutes)

Gordon Humphreys

Member of the Boards of Appeal, OHIM, Alicante

A selective review of year 2 of OHIM design cases before Luxembourg

(up to 12 minutes)

Prof. Dr. Peter Ruess

International School of Management, Frankfurt; ARNOLD RUESS, Düsseldorf

Territorial Scope of Community Trademark Injunctions After the ECJ's Decision in Chronopost vs DHL

The ECJ has held that a prohibition against infringement, issued by a national court sitting as a Community trade mark court extends, as a rule, to the entire area of the European Union and that the same is true for coercive measures such as, e.g. a periodic penalty payment. This may leave courts with some issues such as applying remedies of other EU countries unheard of in their jurisdiction.

(up to 12 minutes)

Panelists:

Prof. Graeme Dinwoodie

University of Oxford, Oxford

Dr. Joseph Fesenmair

Bird & Bird LLP, Munich

Prof. Dr. Annette Kur

Max Planck Institute for Intellectual Property and Competition Law, Munich

Andrea Lensing-Kramer

Freshfields Bruckhaus Deringer LLP, Düsseldorf

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

Panel discussion: 35 minutes (speakers, panelists and members of the audience)

8C. OHIM Boards of Appeal and U.S. Trademark Trial and Appeal Board: A Close Look and Comparison

Friday 11:45 AM – 1:10 PM (90 minutes)

Room 203

Moderator:

Prof. Hugh C. Hansen

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Hon. Gerard F. Rogers

Chief Judge, Trademark Trial and Appeal Board, United States Patent and Trademark Office, Alexandria

(up to 15 minutes)

Jeffrey Handelman

Brinks, Hofer, Gilson & Lione, Chicago

(up to 10 minutes)

Hon. Paul Maier

President of the Boards of Appeal, OHIM, Alicante

The Boards of Appeal of OHIM

The Boards of Appeal of OHIM are a internal review mechanism for all decisions of examiners, opposition and cancellation divisions of the Office that are detrimental to a party. the BoAs are independent in their decision making and are bound only by the law (i.e. guidelines of the Office do not bind them). Their decisions are subject to a legal review by the General Court of the EU and such judgments are eventually subject to a further review on points of law by the Court of Justice. BoAs have made

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more than 17,000 decisions in total. How can coherence be maintained with such high numbers of decisions (2,200 more every year) and judgments?
(up to 15 minutes)

Panelists:

Craig Mende

Fross Zelnick Lehrman & Zissu, P.C., New York

Dr. Dev S. Gangjee

London School of Economics, London

Gordon Humphreys

Member of the Boards of Appeal, OHIM, Alicante

Prof. Dr. Peter Ruess

International School of Management, Frankfurt; ARNOLD RUESS, Düsseldorf

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

Panel discussion: 35 minutes (speakers, panelists and members of the audience)

Lunch

Platt Atrium & 12th Floor Lounge, Lowenstein Building

1:10 PM – 2:20 PM

Sponsored by:

Bloomberg Law

Speaker

Hon. Denny Chin

U.S. Court of Appeals for the Second Circuit

(up to 15 minutes)

Friday Afternoon, April 13

Four Concurrent Sessions:

Patent Law; Copyright Law; Trademark Law

SESSION 9: PATENT LAW

Concurrent Session

Friday 2:30 PM – 6:30 PM

Room 311

9A. Claim Construction & Repair

Friday 2:30 PM – 3:45 PM (75 minutes)

Room 311

Moderator:

David Perkins

Arnold & Porter LLP, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Huw Evans

Allen & Overy LLP, London

What claim construction means in Europe and why it matters in international patent litigation.

(up to 10 minutes)

Hon. Mr. Justice Floyd

Chancery Division, High Court, London

Infringement by Repair and the Troublesome Definition of “Making” the Invention: A Critique of Schutz v. Werit

(up to 10 minutes)

Don Cameron

Bereskin & Parr LLP, Toronto

About 30 years ago, the UK House of Lords (to whom Canada has often looked for direction) adopted the Catnic patent claimconstruction approach that required “purposive construction”, while at the same time deciding what claim elements were “essential” and which could not be varied, and “non-essential” and which could be varied or omitted. A few years later, inImprover, Lord Hoffman took what was an almost impossible test to apply and made it workable.

About ten years ago, the Canadian Supreme Court in Free World said they were embracing the Catnic test as a test of general application, but mis-spoke it when they repeated it (turning “and” to “or” at an important point in the test), thereby varying its logic significantly. About eight years ago, now sitting in the House of Lords, in Kirin-Amgen, the same Lord Hoffman said “purposive construction” should be used in all cases but the “essential/non-essential” Catnic analysis was never meant to be a general rule, merely a guide for rare circumstances. The real question, according to

Lord Hoffman is “What would a person skilled in the art have understood the patentee to have used the language of the claim to mean?” – effectively an “all elements are essential but construe them purposively” test.

The question is: Why has this become so hard? How do we make it more simple and predictable given the judicially made mess we have inherited? What solutions can we borrow from other jurisdictions?

(up to 10 minutes)

Bruce M. Wexler

Paul Hastings LLP, New York

(up to 10 minutes)

Panelists:

Dr. Klaus Grabinski

Federal Supreme Court (Bundesgerichtshof), Karlsruhe

Eiji Katayama

Abe, Ikubo & Katayama, Tokyo

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

Break

3:45 PM – 4:10 PM

9B. Supplementary Protection Certificates

Friday 4:10 PM – 5:10 PM (60 minutes)

Room 311

Moderator:

Brian Cordery

Bristows, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dr. Christine Kanz

Reimann Osterrieth Köhler Haft, Düsseldorf

SPCs – Introduction, Medeva and the German Reaction

· 2011 was a big year for SPCs. This first talk will give a reminder of the concepts and then analyse the seminal Medeva/Georgetown rulings of the CJEU

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· *This talk will also consider the German reaction to Medeva and how the Patent Office is struggling to implement the ruling.*
(up to 10 minutes)

Brian Cordery

Bristows, London

The UK Reaction to Medeva and other issues

· *This talk will look at the UK reaction to Medeva and the judicial dissatisfaction that has been expressed.*

· *It will also look at the enforcement of SPCs and the reference in the Novartis v Actavis case from the UK and German Courts as well as other SPC issues either under consideration now or likely to arise in the future.*

(up to 10 minutes)

Panelists:

HH Judge Birss, QC

Specialist Circuit Judge, Patents County Court, London

Marleen H.J. van den Horst

BarentsKrans N.V., The Hague

Hon. Rian Kalden

Vice President, District Court of The Hague, The Hague

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

9C. Biotech & Related Issues including Prometheus

Friday 5:15 PM – 6:30 PM (75 minutes)

Room 311

Moderator:

John Richards

Ladas & Parry LLP, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

HGS v. ELI LILLY

Speakers:

Penny Gilbert

Powell Gilbert LLP, London

HGS v Eli Lilly - Industrial Application of Gene Sequences

The HGS case was the first patent case to be considered by the UK's Supreme Court. It was also the first UK case to focus on the requirements for industrial application as a pre-requisite for patentability. This issue takes on particular importance in biotech patents: what level of function must be disclosed for a novel gene sequence? Is experimental support required? When is the invention complete enough to justify the grant of a patent?

(up to 8 minutes)

Rt. Hon. Lord Justice Kitchin

Court of Appeals, Civil Division, London

Lowering the bar – the requirement of industrial application in biotech cases

What is necessary to satisfy the requirement that the industrial application of a gene must be disclosed in the patent application? Setting the bar too high may give patentees unjustified control over an unexplored field of research; setting it too low may discourage investment in bioscience. Does the decision of the Supreme Court in HGS v Eli Lilly strike the right balance?

(up to 8 minutes)

Panelists:

Lord Neuberger

Master of the Rolls, Judiciary of England and Wales, London

William Chandler

Member, Board of Appeal, European Patent Office, Munich

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

PROMETHEUS/MYRIAD

Speakers:

Nicholas Groombridge

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

Prometheus - Where Do 'Natural Phenomena' Begin And End?

(up to 8 minutes)

Gerald J. Flattmann, Jr.

Paul Hastings, New York

Myriad: What Does the Future Hold?

(up to 8 minutes)

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Panelists:

Richard J. Stark

Cravath, Swaine & Moore LLP, New York

Dr. Steven J. Lee

Kenyon & Kenyon LLP, New York

Dr. Jane Love (invited)

Wilmer Hale LLP, New York

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

Panel discussion: 15 minutes (speakers, panelists and members of the audience)

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SESSION 10: PATENT LAW

Concurrent Session

Friday 2:30 PM – 6:30 PM

Room 302

10A. Telecoms

Friday 2:30 PM – 3:45 PM (75 minutes)

Room 302

Moderator:

Prof. Olivier Sylvain

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers –
just name and affiliation, please see bios in print materials and online.)

Speakers:

Ari Laakkonen

Powell Gilbert LLP, London

(up to 10 minutes)

Program Updated on April 13, 2012

Hon. Rian Kalden

Vice President, District Court of The Hague, The Hague
(up to 10 minutes)

Charles M. Fish

Perkins Coie, New York
(up to 10 minutes)

Panelists:

Prof. David Brennan

Melbourne Law School, Melbourne

Tobias Hahn

Reimann Osterrieth Köhler Haft, Düsseldorf

Daniel Ilan

Cleary Gottlieb Steen & Hamilton LLP, New York

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

Break

3:45 PM – 4:10 PM

10B. Discovery

Friday 4:10 PM – 5:10 PM (60 minutes)

Room 302

Moderator:

Yijun Ge

Fordham Intellectual Property Institute, New York

(up to 5 minutes to introduce the subject matter; intro of speakers –
just name and affiliation, please see bios in print materials and online.)

Speakers:

Dr. Klaus Grabinski

Federal Supreme Court (Bundesgerichtshof), Karlsruhe

Inspections and Access to Evidence in Patent Litigation – German Approach

Pretrial discovery is an essential part of US patent litigation while it is not known in German patent litigation where only a claim for inspection can be required under particular circumstances. The talk explores the reasons for this difference and explains which requirements have to be met in order to get an order for inspection and which are the proceedings.

(up to 10 minutes)

Hon. Randall R. Rader

Chief Judge, U.S. Court of Appeals for the Federal Circuit, Washington, D.C.
Creation and Propagation of the Federal Circuit Advisory Council Model E-discovery Order
(up to 10 minutes)

Eric C. Osterberg

Fox Rothschild LLP, Stamford
Electronic Discovery in Copyright Cases
The Federal Circuit Advisory Council recently adopted a Model E-Discovery Order that includes limits on the amount of electronic discovery presumptively allowable in patent cases. The Eastern District of Texas has adopted a variation of that the Federal Circuit model order. Are such orders the wave of the future? Should they be? Should there be similar limits in copyright and trademark cases? To what extent has electronic discovery been abused in IP cases and why? What are the most effective ways of combating such abuse? What needs to be "fair game" in IP cases?
(up to 10 minutes)

Panelists:

Hon. Jed S. Rakoff

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

Rt. Hon. Lord Justice Kitchin

Court of Appeals, Civil Division, London

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

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6:30 PM – 8:30 PM

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SESSION 11: COPYRIGHT LAW

Concurrent Session

Program Updated on April 13, 2012

Friday 2:30 PM – 6:30 PM
McNally Amphitheatre

11A. European Copyright Law: Where Has It Been? Where Is It Going?

Friday 2:30 PM – 3:30 PM (60 minutes)
McNally Amphitheatre

Moderator:

Nick Bartelt

Fordham University School of Law, New York
(up to 5 minutes to introduce the subject matter; intro of speakers –
just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. Bernt Hugenholtz

University of Amsterdam, Amsterdam
Copyright in Europe: 20 Years Ago, Today, and What the Future Holds
(up to 15 minutes)

Trevor Cook

Bird & Bird LLP, London
Fair Use: By any Other Name, Just as Sweet?
Attracted by the flexibility of the "fair use" doctrine, the UK, Ireland and the Netherlands are consulting on how to broaden the application of the specific exceptions and reservations from copyright infringement that they are permitted by the EU copyright in the Information Society Directive of 2001. Several other European countries are sympathetic and may initiate similar exercises. How will such countries go about doing so, how far can they go absent amendment of the Directive, and to what extent will the Court of Justice of the EU, with its increasingly teleological approach to interpreting European copyright legislation, support their efforts if they are challenged?
(up to 10 minutes)

Panelists:

Prof. Lionel Bently

University of Cambridge, Cambridge

Maria Martin-Prat

Head of Unit – Copyright, DG Internal Market & Services, European Commission,
Brussels

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

11B. EU Copyright Law: Recent Developments

Friday 3:35 PM – 5:05 PM (90 minutes)

McNally Amphitheatre

Moderator:

Prof. Bernt Hugenholtz

University of Amsterdam, Amsterdam

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. Pamela Samuelson

University of California, Berkeley, School of Law, Berkeley

The Past, Present, and Future of Software Copyright Interoperability Rules

In the early 1990s a general consensus emerged that it is lawful to extract interface information from another program and reuse it insofar as this is necessary to achieving interoperability. This consensus may be disrupted by the Court of Justice of the European Union which has before it an important case, SAS Institute Inc. v. World Programming Ltd., calling for an interpretation of the interoperability provisions of the Council Directive on the legal protection of computer programs.

This talk will explain why the CJEU should uphold the UK High Court ruling that WPL did not infringe copyright by developing a program that emulates the functionality of the SAS program and makes use of the SAS programming language and data formats.

(up to 10 minutes)

Dr. Mihály Ficsor

President, Hungarian Copyright Council; International Legal Consultant, Budapest

European Copyright Code

(up to 10 minutes)

Jerker Ryden

Senior Legal Adviser, National Library of Sweden, Stockholm

Extended Collective Licensing not “a bridge too far” - a bridgehead to mass digitization and new business models enabling mass usage of copyright protected works in the 21st Century?

Mass usage of copyright protected works with so called outsiders [non members as well as Orphan Works] is not possible. The commercial, culture and educational sectors desire to make such cultural content available. Governments in the EU have

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concluded that traditional licensing solutions do not provide the means for such enterprises. Could ECL be the solution?

(up to 10 minutes)

Graham Smith

Bird & Bird LLP, London

Review of Aggregating and Related Cases in the EU

(up to 10 minutes)

Panelists:

Prof. Bernt Hugenholtz

University of Amsterdam, Amsterdam

Prof. Lionel Bently

University of Cambridge, Cambridge

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

Panel discussion: 35 minutes (speakers, panelists and members of the audience)

Break

5:05 PM – 5:30 PM

11C. CJEU: A Review & Critique of Its Case Law

Friday 5:30 PM – 6:30 PM (60 minutes)

McNally Amphitheatre

Moderator:

Trevor Cook

Bird & Bird LLP, London

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Prof. Lionel Bently

University of Cambridge, Cambridge

Harmonization by Stealth

(up to 8 minutes)

Hon. Mr. Justice Peter Charleton

Justice, High Court of Ireland, Dublin

Copyright as One of Several Competing Rights in European Law

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(up to 8 minutes)

Christopher M. Stothers

Arnold & Porter LLP, London

Free Movement and Copyright: A Review of the Decoder Cases

(up to 8 minutes)

Panelists:

Rt. Hon. Professor Sir Robin Jacob

Faculty of Laws, University College London, London

Dr. Silke von Lewinski

Max Planck Institute for Intellectual Property and Competition Law, Munich

Ted Shapiro

Senior Vice President, General Counsel and Deputy Managing Director, EMEA,
Motion Picture Association, Brussels

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

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SESSION 12: TRADEMARK LAW

Concurrent Session

Friday 2:30 PM – 6:30 PM

Room 203

12A. Functionality and Trademark Law in the U.S. & EU, including a discussion of Louboutin

Friday 2:30 PM – 3:45 PM (75 minutes)

Room 203

Moderator:

Prof. Susan Scafidi

Fordham University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Harley I. Lewin

McCarter & English, LLP, New York

Registering, enforcing and defending against non-traditional trademarks in the United States

The discussion will include current case law on the defense of functionality and fair use.

(up to 8 minutes)

Prof. Rebecca Tushnet

Georgetown University Law Center, Washington, D.C.

Aesthetic functionality as a doctrine for protecting competition and preserving the boundary between trademark and design patent

Single-color claims are inherently troubling for fashion items, which regularly appeal based on appearance as well as or instead of the source.

(up to 8 minutes)

Richard Z. Lehv

Fross Zelnick Lehrman & Zissu, P.C., New York

Painting With Too Broad a Brush

In Louboutin, the District Court's broad rule precluding the use of color as a trademark in the fashion field was unnecessary. Moreover, the court failed to see the distinction between ornamentation and aesthetic functionality, which it appeared to have conflated. The Second Circuit should reject that broad rule, and remand the case for decision based on the actual facts in this particular dispute.

(up to 8 minutes)

Prof. Spyros Maniatis

Queen Mary, University of London, London

Competition Considerations in Trademark Cases: Viking, eBay, Louboutin

Competition considerations often influence the outcome of trademark cases. The reality of the specific market where the claim is made is increasingly being taken into account. Recent cases in the United States District Court (Christian Louboutin v. Yves Saint Laurent) and Court of Justice in the European Union (Viking Gas A/S v. Kosan Gas A/S, and L'Oréal SA v. eBay International AG) demonstrate that the principles of competition also influence courts' rationalization of basic trademark concepts. In Louboutin, the court declined to grant the designer a market monopoly for red soles, in part, because in the fashion industry, freedom use of color serves ornamental and aesthetic functions essential to competition. In Viking Gas, the CJEU held that the trademark on the bottle shape would not be upheld as it would unduly reduce competition on the downstream

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market for the refilling of gas bottles. In eBay, when considering the unboxed luxury products, the court found that in some cases the removal of packaging would have a detrimental effect on a product's prestigious image, while in other cases the opposite would be true. The court considered the online marketplace versus the brick and mortar stores. Competition concerns about the reality of the market and nature of the industry industry in which the claim is being made are increasingly taken into account in trademark enforcement litigation.

(up to 8 minutes)

Panelists:

Prof. Robert Burrell

TC Beirne School of Law, The University of Queensland, Brisbane St. Lucia

Robert L. Raskopf

Quinn Emanuel Urquhart & Sullivan, LLP, New York

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

Panel discussion: 20 minutes (speakers, panelists and members of the audience)

12B. U.S. Trademark Law: Where Has It Been? Where Is It Going?

Friday 3:50 PM – 4:50 PM (60 minutes)

Room 203

Moderator:

Prof. Jeremy Sheff

St. John's University School of Law, New York

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speaker:

Prof. Marshall Leaffer

Maurer School of Law, Indiana University, Bloomington

A Twenty Year Retrospective on U.S. Trademark Law in 10 Cases

(up to 15 minutes)

Panelists:

Prof. Barton Beebe

New York University School of Law, New York

Prof. Jane C. Ginsburg

Columbia Law School, New York

Annabelle DanielVarda

Senior Trademark Counsel, Google Inc., Mountain View

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Prof. Graeme Dinwoodie

University of Oxford, Oxford

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

Panel discussion: 30 minutes (speakers, panelists and members of the audience)

Break

4:50 PM – 5:15 PM

12C. U.S. Trademark Law: Recent Developments

Friday 5:15 PM – 6:30 PM (75 minutes)

Room 203

Moderator:

Prof. Marshall Leaffer

Maurer School of Law, Indiana University, Bloomington

(up to 5 minutes to introduce the subject matter; intro of speakers – just name and affiliation, please see bios in print materials and online.)

Speakers:

Dickerson M. Downing

Crowell & Moring LLP, New York

(up to 8 minutes)

Matthew D. Asbell

Ladas & Parry LLP, New York

Licensing of Trademarks and Social Media

(up to 8 minutes)

Peter Willsey

Cooley LLP, Washington D.C.

Secondary Liability for Trademark Infringement: A need for legislation

This talk will address the potential benefits and negatives of enacting legislation to provide a safe harbor for companies doing business on the Internet from trademark infringement liability. In the copyright context, the DMCA safe harbor has been important in mitigating the risk of liability to companies hosting third party content and allowing those companies to continue to offer a variety of popular services. However, the DMCA has been subject to criticism as well. Currently, there is no parallel safe harbor for trademark infringement liability. The potential for trademark infringement liability is governed by case law and thus is somewhat uncertain. A statutory safe harbor scheme would bring some certainty to this area. However, crafting legislation that appropriately allocates risk and burden in the

context.
(up to 8 minutes)

Joel D. Leviton

Fish & Richardson P.C., Minneapolis

The Evolving First Amendment Defense to Right of Publicity Claims

Recently there have been a number of district court decisions attempting to construe the bounds of right of publicity claims and when the First Amendment provides a complete defense to the use of another's likeness in a work of art. Not surprisingly, courts are reaching different conclusions, even when applying the same test to similar facts. In the District of New Jersey, video game publisher Electronic Arts obtained dismissal of a case brought by former Rutgers quarterback based on the First Amendment. In California, Electronic Arts has not fared as well (at least not yet). The Third and Ninth Circuits are poised to hear cases involving the use of an athlete's likeness in video games and whether such uses are protected by the First Amendment.

(up to 8 minutes)

Panelists:

Prof. Barton Beebe

New York University School of Law, New York

Annabelle DanielVarda

Senior Trademark Counsel, Google Inc., Mountain View

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

Panel discussion: 25 minutes (speakers, panelists and members of the audience)

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