17TH ANNUAL BERKELEY - STANFORD
ADVANCED PATENT LAW INSTITUTE
SILICON VALLEY
DECEMBER 8 & 9, 2016
FOUR SEASONS HOTEL
EAST PALO ALTO, CA

UC Berkeley School of Law certifies that this activity has been approved by the State Bar of California for 13.75 hours Continuing Legal Education credit, including 1.5 hours in Legal Ethics.

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THURSDAY MORNING, DECEMBER 8, 2016

PRESIDING OFFICER:
THOMAS FRIEL, COOLEY LLP

8:00 A.M. REGISTRATION OPENS

CONTINENTAL BREAKFAST SPONSORED BY:
Inflexion Point
New Directions in IP Strategy

8:50 A.M. WELCOMING REMARKS

9:00 A.M. 1.00 HR

§101 CASE UPDATE

This panel will discuss recent trends in §101 decisions, distinguishing key points regarding claim language, technical details in the specification, and procedural issues that have impacted the outcome of cases. Panelists will make recommendations for prosecuting applications and litigating cases that have §101 issues.

Moderator:
DAVID SIMON, Salesforce

Panelists:
ISABELLA FU, Microsoft Corp.
JOE C. HAO, Kilpatrick Townsend & Stockton LLP
RAJIV PATEL, Fenwick & West LLP

10:00 A.M. 0.50 HR

PLEADING STANDARDS

In December 2015, the Federal Rules of Civil Procedure were amended to eliminate Form 18. Venue for patent cases has come under increasing scrutiny. Rarely have developing issues of civil procedure been so central to patent litigation strategy. Two leading patent litigators will discuss key developments in civil procedure, illuminate emerging trends and standards under the changed rules, and share strategic insights for effectively navigating the pleading stage of patent litigation.

CHRIS MAMMEN, Hogan Lovells LLP
BIJAL VAKIL, White & Case LLP

11:00 A.M. 15 MINUTE BREAK

11:15 A.M. 0.50 HR

DTSA AND TRADE SECRETS

The recent ascendancy of trade secrets, including as an alternative form of protection for innovation, has been reinforced by the Defend Trade Secrets Act, which establishes newly powerful and efficient enforcement remedies. This session will consider how the provisions of the new law might affect the already dynamic environment for corporate IP strategy and litigation practice.

JIM POOLEY, Orrick, Herrington & Sutcliffe LLP

THURSDAY AFTERNOON, DECEMBER 8, 2016

PRESIDING OFFICER:
CHRISTOPHER J. BYRNE, SAMSUNG ELECTRONICS

12:45 P.M. LUNCH

LUNCH SPONSORED BY:

1:15 P.M. 0.50 HR

LUNCH KEYNOTE:
WHAT ROBOTS AND AI CAN TEACH US ABOUT BEING HUMAN

While some say we’re on the brink of a revolution where robots will steal 50% of our jobs, Ken Goldberg will explain why humans still have many good years ahead. He will explore how Cloud Robotics combines advances in cloud computing, big data, deep learning, open-source, and the Internet of things. He will explain his concept of “Multiplicity,” which mobilizes diverse groups of humans and machines to solve difficult problems.

KEN GOLDBERG, EECS, UC Berkeley

11:45 A.M. 1.00 HR

WILLFUL INFRINGEMENT AND ENHANCED DAMAGES AFTER HALO

By rewriting the rules on willful infringement, the Supreme Court’s decision in Halo wrought significant changes in litigation risk and strategy, trial strategy, opinion practice, and employee management. Among the questions to be addressed in this session:

- Has Halo’s focus on “egregious infringement” changed the way courts instruct on, or evaluate, willfulness?
- Are courts now more likely to increase damages by some percentage? 2x or 3x?
- After Halo, what can you do to mitigate your willful infringement risk and to combat such claims at trial?
- Is there a renewed role for opinions, and opinion counsel, at trial?
- Is it better to review patents as they are asserted and create a record of good faith or to ignore all patents?

Moderator:
G. HOPKINS GUY, III, Baker Botts LLP

Panelists:
YAR CHAIKOVSKY, Paul Hastings LLP
BUZZ FRAHN, Simpson Thacher & Bartlett LLP
ASHOK RAMANI, Keker & Van Nest LLP

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The Supreme Court’s decision in Octane Fitness, LLC v. Icon Health & Fitness, Inc. has made it easier for patent litigants to seek an attorney’s fee award for exceptional cases. This presentation will focus on what, if any, impact Octane has had on attorney’s fee awards, the role that litigation misconduct can play in determining those awards, and who owns or must pay the fee awards.

Moderator:
ALEXANDRA MCTAGUE, Winston & Strawn LLP
Panelists:
ED REINES, Weil, Gotshal & Manges LLP
MARTA BECKWITH, PacTech Law

INTERNATIONAL ATTITUDES TOWARDS INJUNCTIONS AND SEPs
Two leading practitioners with broad international experience will discuss changing currents in international injunctive relief jurisprudence, with emphasis on injunctions in SEP-based litigations. They will address recent developments in the injunctive relief landscape, with a focus on Asia and Europe (and the impact Brexit may have).

ALEXANDER KORENBERG, Kilbourn & Strode LLP
KEITH SLENKOVIČ, WilmerHale

INVESTMENT PORTFOLIOS: BUYING, SELLING & LITIGATING
This session will “follow the money” to see how investors view patent portfolios and patent litigation. We’ll discuss how companies like Fortress make investment decisions where the patents are critical to the investment. How do patent holders evaluate their options and what are the values of those options? We’ll talk about how investors and patent holders use data like the overall patent market and litigation success rates to model their returns.

MICHELE MORELAND, Fortress Investment Group
KENT RICHARDSON, Richardson Oliver Law Group

ATTORNEY’S FEES
The Supreme Court’s decision in Octane Fitness, LLC v. Icon Health & Fitness, Inc. has

Moderator:
TERRY REA, Crowell & Morning LLP
Panelists:
MICHAEL DE VRIES, Kirkland & Ellis LLP
JUDGE PETER CHEN, USPTO
BRIAN KWOK, Haynes & Boone LLP

PERSPECTIVES AND PRIORITIES FROM THE USPTO
Silicon Valley USPTO Director John Cabeca will review priority initiatives at the USPTO, including updates on enhancing patent quality, examiner training, and guidance. He will also discuss the PTO’s open data models and will provide a snapshot of filing trends and trial proceedings before the Patent Trial and Appeal Board.

JOHN CABECA, USPTO

GEOPHYSICAL AND CONTRACTUAL LIMITATIONS ON PATENT EXHAUSTION
Under the Federal Circuit’s en banc decision in Lexmark International, Inc. v. Impression Products, Inc., patent exhaustion is not triggered by foreign sales or sales that are made subject to a “clearly communicated, otherwise-lawful restriction as to the post-sale use or resale.” This session will review some of the implications of the decision for patent holders and consumers of goods covered by patents, as well as the status of the certiorari petition to the Supreme Court.

WINSLAW TAUB, Covington & Burling LLP

CLAIM CONSTRUCTION POST-TEVA
This panel will discuss current developments in claim construction, including the impact of Cuozzo, the use of expert opinions post-Teva, and recent data points from the Federal Circuit on its approach to claim construction.

SONAL MEHTA, Durie Tangri
EMILY O’BRIEN, Google Inc.
SECTION 112: MEANS PLUS FUNCTION CLAIMING
This session will review recent functional claim trends at the U.S. Patent Office and the courts and will discuss the implications for software and life sciences patents. Key questions to be addressed: Did you mean to invoke Section 112(f)? What are the pros and cons of invoking Section 112(f)? How should you draft patent specifications and claims to avoid Section 112(b) problems or Section 101 issues if functional claims are interpreted to invoke 112(f)?

MICHAE L S CHALLOP, Van Pelt, Yi & James LLP
JEFF WEAVER, Weaver Austin Villeneuve & Sampson
WALTER WU, Cooley LLP

PROSECUTION ETHICS & PTAB
A review of the evolving ethical obligations governing practice before the PTAB – and how to avoid running afoul of them. Recent developments include new Rule 11-type certification, sanctions decisions, and more.

JULIE HOLLOWAY, Latham & Watkins LLP

ODDBALL DEFENSES
Noninfringement, prior art, and §112 defenses are a dime a dozen. But what about laches, equitable estoppel, Walker Process, Handsards, obviousness-type double patenting, or the prior user defense? This panel will explore some of the lesser-used defenses that you should think about when preparing your case. Remember—just a few years ago, §101 was an oddball defense.

KAREN BOYD, Turner Boyd
FABIO MARINO, McDermott Will & Emery

PATENTS IN THE BOARDROOM
In many high-tech (as opposed to pharma) companies, patents are seldom discussed at the board level, either in terms of their positive impact (e.g., stock price or M&A acquisition value) or in terms of their downside risk (e.g., treble damages infringement liability or injunctive relief). One of the primary reasons may be that it is very difficult to translate patent value and risk into the metrics that boards, top management and investors understand, except where there is a history of significant licensing revenue.

RON LAURIE, Inflexion Point Strategy

PATENT STRATEGY IN ASIA
CHRIS GREEN, Fish & Richardson
PETER KANG, Sidley Austin LLP
ALEX ZHANG, King & Wood Mallesons

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REGISTRATION

REGISTER ONLINE

Whether you are paying by credit card or check, you must register online. Speakers and Moderators are also required to register online to answer key scheduling questions and initial the “authorization to publish” your slides and the audio recordings of the event.

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REGISTRATION RATES

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<thead>
<tr>
<th>Rate Type</th>
<th>Cost</th>
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<tr>
<td>Earlybird Registration (by Nov 10)</td>
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<tr>
<td>Regular Registration (by Dec 5)</td>
<td>$990</td>
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<tr>
<td>Late Registration* (after Dec 5)</td>
<td>$1200*</td>
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*on a space available basis

GROUP REGISTRATION DISCOUNT (REGISTER ONLINE)

10% off for 5 or more people from the same organization

CANCELLATION POLICY

Refunds (full cost, less $100 cancellation fee) available for paid registrations cancelled in writing to aplisv@law.berkeley.edu by November 28. No refunds after November 28.

You may substitute a different person by writing to aplisv@law.berkeley.edu by December 4.

LOGISTICS

CONFERENCE LOCATION:

FOUR SEASONS HOTEL
SILICON VALLEY
2050 University Avenue
East Palo Alto, CA 94303

To make your room reservation, please contact the hotel directly:
Phone: (650) 470-3847
Email: reservations.pal@fourseasons.com
Fax: (650) 566-1221

Availability is limited and the room block expires on Monday, November 7. Please request a room in the “APLI SV 2016” room block to secure the proper rate of $415/night.

PARKING:
Day parking (valet only): $9
Overnight self-parking: $12
Overnight valet parking: $22

KEY DATES:

NOVEMBER 10
Last day for early registration

NOVEMBER 28
Last day for refunds
(full cost, less $100 cancellation fee)

DECEMBER 4
Last day to substitute names of attendees

DECEMBER 5 AT 10 AM
Last chance for regular registration

AFTER DECEMBER 5 AT 10 AM
Registrations will be accepted at a higher rate on a space available basis. Walk-up registrations may not be available.

DECEMBER 8
Institute begins

QUESTIONS:

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