



THE EVER-CHANGING STATE OF INTELLECTUAL PROPERTY LAW: THE 22ND ANNUAL INTELLECTUAL PROPERTY INSTITUTE

Friday, March 10, 2017
Washington State Convention Center
Rooms 4C1, 4C2, 4C3
705 Pike Street
Seattle, WA 98101



Approved for 6.75 CLE credits (1 Ethics and 5.75 Law & Legal Procedure)



\$320 Standard Tuition
 \$295 IP Section member tuition and new lawyer* tuition
 \$320 Join the IP Section [\$25] and pay \$295 Section member tuition



SCHEDULE

7:30 a.m. Check-in, Registration, Coffee and Pastry Service

MORNING CONCURRENT SESSIONS

Choose between two content tracks during each morning time period. Attendees are free to move back and forth between the concurrent tracks.

PATENT LAW TRACK

8:25 a.m. Welcome and Introductions by Program Chair

Elizabeth Reilly - Patentpending PLLC, Tacoma

8:30 a.m. Patent Law Year In Review

This presentation will recount the wild, zany, and otherwise eventful developments in patent law in 2016. We will talk about the Supreme Court's rejections of the Federal Circuit's damages frameworks in *Halo/Stryker* and *Apple v. Samsung*, and we will look ahead to the key issues it will decide in 2017. We also will discuss the Federal Circuit's most notable 2016 opinions.

Theodore Angelis - K&L Gates LLP, Seattle

9:30 a.m. Patent Litigation Strategies in Light of *Alice Corp. v. CLS Bank Int'l*

Alice v. CLS Bank has wreaked havoc upon enforcement of method patents, especially software and Internet patents, making "unpatentable subject matter" a critical litigation defense. Sufficient decisions from both District Courts and the Federal Circuit have occurred to provide guidance on strategies for both plaintiffs and defendants. This session will explore the best and worst of those strategies.

Jerry A. Riedinger - Perkins Coie LLP, Seattle

10:30 a.m. Break

10:45 a.m. The Evolution of PTAB Trial Practice - Just Because You Can, Doesn't Mean You Should!

From motion practice to development of the trial record to discovery tactics, there are plenty of opportunities to shoot oneself in the foot at the PTAB. This segment will explore the significant differences between administrative trial before the PTAB and district court practices. Best practices will be discussed along with expected changes and trends going forward.

Scott Mckeown - Oblon, McClelland, Maier and Neustadt LLP, Alexandria, VA

11:45 a.m. Luncheon with the Intellectual Property Section Annual Meeting and Elections

Keynote Presentation: Hon. Benjamin Settle, United States District Court Judge

COPYRIGHT/TRADEMARK LAW TRACK

8:25 a.m. Welcome and Introductions by Program Chair

Kevin A. Zeck - Perkins Coie LLP, Seattle

8:30 a.m. Copyright Law - Year in Review: Key Developments and Pending Cases

We'll review an active year of copyright law, looking at key decisions and pending cases concerning copyright ability/originality, fair use, public performance rights and streaming, the DMCA safe harbor, and copyright infringement and substantial similarity determinations. We'll be looking at litigation about cheerleader uniforms, the Batmobile, monkey selfies, Star Trek fan fiction, chicken sandwiches, Madonna's "Vogue," Led Zeppelin's "Stairway to Heaven," PlumbBobs, pre-1972 sound recordings, mobile device software, stream-ripping, "Who's on First?" -- and more.

Mark Wittow - K&L Gates LLP, Seattle



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SCHEDULE CONT.

9:30 a.m. Trademark Law - Year in Review

We will review recent developments in trademark law, including: (1) the constitutionality of § 2(a) of the Lanham Act following *In re Tam*; (2) the effect of B&B Hardware; (3) the availability of preliminary injunctive relief and the presumption of irreparable harm; and (4) initial interest confusion under the Ninth Circuit's recent decision in *Multi Time Machine, Inc. v. Amazon*.

Patchen Haggerty - Perkins Coie LLP, Seattle

10:30 a.m. Break

10:45 a.m. Recent Developments in Generic Top Level Domain Names

11:45 a.m. Luncheon with the Intellectual Property Section Annual Meeting and Elections

Keynote Presentation: Hon. Benjamin Settle, United States District Court Judge

AFTERNOON PLENARY SESSIONS

1:00 p.m. Data Privacy & Cybersecurity: Why It Matters to the IP Practitioner

Hackers and cyber attackers are not just after personal data, many (including nation-state actors) are after trade secrets and intellectual property. Thus, preparing for such attacks and ensuring we are appropriately and reasonably protecting such information is key. In this session, we will cover proactive cybersecurity and the interplay with trade secret protections.

Aravind Swaminathan - Orrick, Herrington & Sutcliffe LLP, Seattle

2:00 p.m. DTSA -- A Review of the Defend Trade Secrets Act and its Application in the First Year Since Enactment

This discussion will cover the key provisions of the federal Defend Trade Secrets Act, enacted in 2016, and review the early cases in which the Act has been interpreted and applied. We will touch on the data, including individual cases, preferred jurisdictions, and the outcomes. We will discuss the extraordinary seizure provisions, temporary restraining orders involving the Act, and assess the materiality of the differences between the Act and state law trade secrets remedies.

Nagendra Setty - Orrick, Herrington & Sutcliffe LLP, Seattle

3:00 p.m. Break

3:15 p.m. Recent Developments in Cannabis Law and Intellectual Property

This session will cover the current state of intellectual property in the cannabis industry as it pertains to federal and state trademarks, trademark licensing, copyrights, trade secrets, and IP litigation.

Alison Malsbury - Harris Bricken, Seattle

4:00 p.m. Surviving The Perfect Protostorm: An Anthology of Recent IP Malpractice Decisions

The threat of legal malpractice looms large in the private practice of intellectual property law. Whether your work is in the field of IP prosecution, litigation, or licensing, it makes no difference. Attorneys who practice in the field of IP law are at significant risk of malpractice litigation by dissatisfied clients. Moreover, although IP malpractice lawsuits are relatively rare compared to similar types of actions in other practice areas, when an IP malpractice claim hits, it usually hits hard. Relatively high defense costs, time and energy consumed on defending a claim, and the possibility of a substantial damages award can create the "perfect storm." This session will tell the stories behind some of the most important recent IP malpractice decisions and the lessons IP practitioners and law firms can learn from those cases.

Michael E. McCabe, Jr. - Funk & Bolton PA, Baltimore, MD

5:00 p.m. Adjourn

5:15 - 6:45 p.m. Meet and Greet immediately following the Seminar!

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FRIDAY, MARCH 10, 2017

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Coursebook and lunch included with price of tuition.

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***Attorneys who have been admitted to practice in Washington for fewer than five years are eligible to receive the new lawyer tuition.**

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