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Intellectual Property Law Institute 2014

Cutting-edge, comprehensive coverage of key cases, events, legislation and government agency developments in all areas of IP!

- Learn the current state of copyright law, including the latest on *Aereo* and the rights of public performance, and Google Books and fair use
- Get up-to-date on the latest privacy and data protection developments
- Find out how patent owners should expect to fare in the Supreme Court
- Get the latest expertise on proving and defending against trade secrets claims
- Hear the most recent developments in false advertising, collateral estoppel and keyword advertising, in a trademark update

Special Features:

- In-house corporate counsel on today's hottest IP topics and best practices
- Four breakout sessions focusing on licensing, copyright, patent and trademark law
- Earn one hour of Ethics credit

New York City, September 15-16, 2014

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Intellectual Property Law Institute 2014

Why You Should Attend – PLI’s Intellectual Property Law Institute is a “must” for every IP lawyer!

Don’t miss this once-a-year opportunity to learn from the best in the industry and network with intellectual property lawyers and business professionals from around the world, *and* earn one hour of Ethics credit!

In just two days, you’ll get the very latest expertise on:

- Key events in all areas of IP, including updates on cases, legislation and government agency developments
- Best practices for maximizing the value of intellectual property assets
- The Supreme Court’s increasing scrutiny of patent law, trademark hot topics, a trade secret update, recent developments in privacy law, copyright fair use and the Google Books case, the *Aereo* cases and public performance rights

This year’s program will also feature four breakout sessions, each with three current topics focusing respectively on copyrights, licensing, patents, and trademarks. Among the breakout topics will be discussions of:

- IP licensing in the U.S., China and the EU
- The requirements for showing irreparable harm in trademark litigation
- Termination of copyright grants
- The status of software patents and business method patents

What You Will Learn – get the latest updates and changes in patent, copyright, trademark and trade secrets law, including:

- Recent developments regarding NPEs, encompassing patent valuation issues and entitlement to attorney’s fees
- The latest privacy and data protection advances
- Up-to-the-minute copyright developments, including *Aereo* cases that are headed to the Supreme Court for a determination of public performance rights, and copyright fair use after the Google Books decision
- Significant trade secret developments
- How patent owners should expect to fare in the Supreme Court
- Expertise on proving and defending against trade secrets claims
- Developments in false advertising, collateral estoppel and keyword advertising, in a trademark update.

Who Should Attend

General practitioners, intellectual property attorneys, in-house counsel and other business professionals who need a comprehensive update on the major areas of intellectual property law. Join **Institute** Co-Chairs David Bender and Robert P. Taylor, and a faculty of distinguished intellectual property practitioners from major corporations and law firms in the United States and Europe.

“Excellent speakers and topics.”

– 2013 Attendee

“Very good coverage of topics.”

– 2013 Attendee

“I thought that this was one of the best programs of PLI that I have attended.”

– Christopher Risetto, Reed Smith LLP

“This is the best CLE presentation I’ve seen in ten years of practice.”

– 2013 Attendee

“Worthwhile!”

– Stuart Moskowitz, IBM Corporation

“Very diverse and stimulating mix of topics.”

– Mary Luria, Davis & Gilbert LLP

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PROGRAM SCHEDULE

Day One: 9:00 a.m. – 5:00 p.m.

Morning Session: 9:00 a.m. – 12:30 p.m.

9:00

Program Overview

NYC: David Bender

SF & WEB: Robert P. Taylor

9:15

Developments in Privacy and Data Protection

- Proposed privacy legislation
- The evolving NSA saga
- More on data security breaches
- Fourth Amendment issues
- EU developments
- Google's privacy predicaments

NYC, SF & WEB: David Bender

10:15

From *Cartoon Network* to *Aereo*:

Applying Copyright Law to DVR Technology

- New methods of DVR use of copyrighted television broadcasts
- The application of the Supreme Court decisions in the *Fortnightly* and *Teleprompter* cable broadcasting cases
- Commercial DVR service and the fair use doctrine
- Extending *Sony Betamax* "time-shifting" principles to DVR "space-shifting" applications
- Commercial DVR use and the exclusive right of public performance
- Reconciling the split between the Second, Ninth, and D.C. Circuits

NYC, SF & WEB: Lateef Mtima

11:15 *Networking Break*

11:30

Is the Supreme Court Reshaping the Patent System?

- Should patent owners expect to fare badly in the Supreme Court?
- What drives the Court's selection of cases?
- Are patent trolls different from other litigants?
- Of what significance are the four currently pending cases – *Alice Corp.*, *Akamai*, *Highmark/Octane* and *Nautilus*?
- Lessons from *KSR*, *eBay*, *Quanta* and others that are relevant today

NYC, SF & WEB: Robert P. Taylor

12:30 *Lunch*

Afternoon Session: 1:45 p.m. – 5:00 p.m.

[Concurrent Breakout Sessions]

1:45

Breakout Session No. 1a – LICENSING

Licensing in the EU

- Key issues affecting licensing within the EU
- Common pitfalls in licensing with EU partners
- The impact of the European Unitary Patent and the Unified Patent Court on licensing practice

NYC: Lindsey J. Canning

SF & WEB: Dr. Justin Watts

Licensing in China

- Comparative review of (and recent developments in) IP laws of China and how differences affect specific license provisions
- Common "gotchas" in cross-border licensing arrangements
- Review of governing law, arbitration and other similar enforcement issues in the context of cross-border licensing arrangements
- Specific issues that arise in licensing to joint ventures in China
- Practical measures to protect your IP

NYC, SF & WEB: Charan J. Sandhu

Licensing in the U.S.

- Owning vs. licensing custom software commissioned from a vendor
- IP rights and wrongs in collaborative improvements
- Licensing Big Data
- Assignability of licenses
- Pitfalls of joint inventorship

NYC: William A. Tanenbaum

SF & WEB: Mark S. Holmes

1:45

Breakout Session No. 1b – COPYRIGHT

A Lot of Bull: *Petrella v. MGM* and the Clash of Law and Equity

- The conflict between laches and statutes of limitations in copyright
- Continued availability of injunctive relief
- How to evaluate damage claims in copyright cases

NYC, SF & WEB: William Sloan Coats

Exhausting Developments in Copyright Law

- Resulting state of the law of copyright exhaustion/first sale following *Kirtsaeng*
- Comparison to patent exhaustion
- Comparison to trademark exhaustion
- Impact of the decision on copyright owners/users

NYC: Jonathan E. Moskin

SF & WEB: Anne Haring Hocking

Please plan to arrive with enough time to register before the conference begins.
A networking breakfast will be available upon your arrival.

Copyright Termination

- Joint works
- Work for hire pre-1978
- Loan-out corporations
- "Spec" scripts and the *Superman* cases

NYC: *Kenneth N. Swezey*

SF & WEB: *Katherine C. Spelman*

3:15 *Networking Break*

3:30

Breakout Session No. 2a – PATENT

Federal Circuit Developments

- En banc decisions – including the *Lighting Ballast* decision on claim construction review
- Important developments in litigation – injunction standards, damage awards, and other matters
- Reexamination and IPR review
- Reviews of PTO *ex parte* examination decisions

NYC, SF & WEB: *Joseph P. Lavelle*

Post-AIA: Strategic Considerations in Litigation

- Strategies for instituting, avoiding and managing litigation and related PTO proceedings
- Discovery issues, including interplay of protective orders and discovery limitations, in litigation and related PTO proceedings
- Effect of PTO rulings on litigation – limits of collateral estoppel, admissibility in litigation of evidentiary and other non-final PTO rulings
- Litigation management post-AIA – strategies for joinder, consolidation and timing of litigation relative to related PTO proceedings

NYC: *Terri Gillis*

SF & WEB: *Jennifer Sklenar*

New Models for Patent Monetization: Are All NPEs Inherently Evil?

- What is an NPE anyway? Established and emerging assertion and defensive models
- Current NPE-focused government patent reform initiatives in Congress, the White House and the USPTO
- Private action solutions to the frivolous patent assertion problem
- The other side of the problem: free riders and stubborn infringers
- Combining infringement risk mitigation and monetization in a single model

NYC, SF & WEB: *Ron Laurie*

3:30

Breakout Session No. 2b – TRADEMARK

May Irreparable Harm Still Be “Presumed” in Awarding Injunctive Relief in Trademark Cases After *eBay v. MercExchange* (US 2006)?

- Which courts have held irreparable harm is no longer presumed in trademark cases
- Which courts have continued to recognize a presumption of irreparable harm in trademark cases
- What the commentators have said about the issue
- If there is no presumption, how do you go about proving “irreparable harm”?
- Preliminary vs. permanent injunctions – does the concern apply to both?
- Should trademark cases be treated the same as patent or copyright cases in terms of the irreparable harm requirement?

NYC: *Kathleen E. McCarthy*

SF & WEB: *Kenneth B. Germain*

Recent Developments in TTAB Practice and Procedure

- Noteworthy cases – the year in review
- Recent decisions on procedural and evidentiary issues
- Tips on practice/procedure

NYC: *Helen Hill Minsker*

SF & WEB: *Katherine M. Basile*

The New gTLD Landscape; Where We’ve Been, Where We Are, and Where We Are Going

- Has the introduction of new gTLDs met expectations, for better or for worse?
- The New U.S. Patent and Trademark Office Guidelines for registering gTLD-Formative Trademarks
- The Trademark Clearinghouse (TMCH), Domains Protected Marks List Service (DMPL), and other rights-protection mechanisms
- A review of Uniform Rapid Suspension System (URS) case law in its first year

NYC, SF & WEB: *Douglas A. (Chip) Rettew*

5:00 *Adjourn*

LIVE WEBCAST

Same Great Program – From Your Location

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Day Two: 9:00 a.m. – 4:15 p.m.

Morning Session: 9:00 a.m. – 12:15 p.m.

9:00

The Misuse of Fair Use: Google Books and Other Transformative Purpose Cases

- Does fair use require a balance between rights owners and infringers?
- Transformative fair use doctrine was meant to focus on limited uses (copying) that users employed along with other expression to create new works by placing a narrow limit on the copyright owner's exclusive right to control derivative works made from its original work. Has this doctrine been applied to allow third parties to usurp important markets that copyright law reserves exclusively for the copyright owner?
- What is the effect on licensing and development of copyright markets?

NYC, SF & WEB: Raymond T. Nimmer

10:00

Trade Secrets Update

- New legislation regarding misappropriation? A look at U.S., state law, and EU proposals
- Keeping ahead of the threats: establishing, implementing and updating best practices for protecting trade secrets in a networked world
- How can the Obama Administration's strategies concerning trade secrets help?
- Safely sharing trade secrets with others
- Proving and defending against trade secrets claims
- Remedies for trade secret misappropriation: designing equitable orders and calculating money awards
- Handling international trade secrets disputes
- How can alternative dispute resolution help resolve trade secrets disputes?

NYC, SF & WEB: Victoria A. Cundiff

11:00 *Networking Break*

11:15

Trademark Hot Topics

- False advertising: who has standing to bring a false advertising claim under the Lanham Act? The Supreme Court renders its decision in *Lexmark v. Static Control*
- Collateral estoppel: what is the influence of TTAB decisions on federal courts? *B&B Hardware's* trek to the Supreme Court
- Keyword advertising: the trend in applying the likely confusion factors
- Supplementing discovery: the duty and the penalties for failure to comply
- Dilution: lessons from the Second Circuit decision finding CHARBUCKS not likely to dilute STARBUCKS – tips on constructing a persuasive survey
- Cybersquatting: proving bad faith in a cybersquatting dispute under the ACPA

NYC: Siegrun D. Kane

SF & WEB: Karen Frank

12:15 *Lunch*

Afternoon Session: 1:30 p.m. – 4:15 p.m.

1:30

Corporate Counsel Panel: Hot Topics and Best Practices

New York City

- How corporate counsel can add value once an NPE threat has been identified
- How corporate counsel are dealing with NPE litigation and patent quality issues
- What corporate counsel are thinking about recent legal developments in patent reform
- In a joint development with a vendor (or customer)-competitor: who should own what part of the IP? Who should indemnify whom for what? And when are license-back rights enough? (And what are license-back rights?)

Carolyn H. Blankenship, Laura Sheridan, Phyllis T. Turner-Brim, Joel Wolfson

San Francisco & Live Webcast

- Driving scale in a complicated licensing business
- Licensing and the consumer electronics business
- Patent issues affecting software: portfolio management
- Pharmaceutical patents: filing early vs. filing complete
- Pharmaceutical patents: U.S. vs. OUS patent strategies
- What is top-of-mind dollar-wise at big and small tech companies?
- Pros and cons of the many patent reform proposals: are there consequences?

Marta Beckwith, Jean I. Liu, Michael Okada, Michelle E. Park, Phyllis T. Turner-Brim

3:00 *Networking Break*

3:15

IP Lawyer Ethical Issues

- Conflicts and disqualification: latest updates on conflicts and advance waivers; managing risk for the IP lawyer
- Discovery update: the proposed new federal rules and developments in e-discovery
- Malpractice issues: recent case law concerning standard of care, causation and damages

NYC: Steven C. Bennett

SF & WEB: Merri A. Baldwin

4:15 *Adjourn*

FACULTY

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Dobbs Ferry, New York
Adjunct Professor
University of Houston Law Center
Houston



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