



Institute for
**LAW AND
TECHNOLOGY**

54th Annual Conference on Intellectual Property Law



54th Annual Conference on Intellectual Property Law

November 14 - 15, 2016

The Center for American
and International Law
Plano, Texas

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**THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW**

Highlights

- Networking Breakfast Presented by the Women in IP Committee
- Annual IP Law Year in Review Presentations
- Section 101 Deep Dive for Both Prosecutors and Litigators
- USPTO Enhanced Patent Quality Initiative
- Drafting Claims while Avoiding Indefiniteness and Other Pitfalls
- Changes to Pleading and Discovery Rules in ED Tex.
- 5 Things You Should Know About the Amended PTAB Rules
- Two In-House Counsel Panels
- Comparison of Federal and Texas Trade Secret Acts
- F/RAND Issues from Both Sides of the 'V.' – the Good, the Bad, and the Ugly

MCLE credit will be available

54th Annual Conference on Intellectual Property Law

PROGRAM AT A GLANCE

November 14-15

Conference Co-Chairs

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Monday, November 14

7:15 NETWORKING BREAKFAST PRESENTED BY THE WOMEN IN IP COMMITTEE - STATE BAR OF TEXAS

8:45 WELCOME

THE IP YEAR IN REVIEW AND JUDICIAL PANEL

9:00 PATENT YEAR IN REVIEW

9:45 COPYRIGHT YEAR IN REVIEW

10:15 BREAK

10:30 JUDICIAL PANEL

11:45 TRADEMARK YEAR IN REVIEW

12:15 BREAK

12:30 WORKING LUNCH: THE FIRST PATENT LITIGATION EXPLOSION

1:30 BREAK

SECTION 101 / ETHICS

1:45 ALICE AT 2 ½: EVOLVING CASE LAW AND PERSPECTIVES ON USPTO GUIDELINES

2:30 101 - REVISED PTO SEC. 101 GUIDELINES

3:15 BREAK

3:30 ETHICS AND 101

4:15 ETHICS AND INEQUITABLE CONDUCT

5:00 ADJOURN

5:00 RECEPTION

Tuesday, November 15

7:45 BREAKFAST PRESENTATION MODERATED BY THE DBA IP SECTION'S NEW LAWYERS COMMITTEE

PATENT PROSECUTION AND PATENT LITIGATION

PATENT PROSECUTION		PATENT LITIGATION	
9:00	THE USPTO ENHANCED PATENT QUALITY INITIATIVE (EPQI) PROGRAM - THREE PERSPECTIVES	9:00	THE SUPREME COURT'S IMPACT ON IP IN 2016
		9:30	"I'LL SEE YOU IN COURT!" – PATENT INFRINGEMENT REMEDIES FROM INJUNCTIONS TO ATTORNEY FEES

10:00 BREAK

10:15 FUNCTIONAL FUN WITH CLAIMS WHILE AVOIDING INDEFINITENESS AND ALICE PLUS OTHER TOPICS

10:15 CHANGES TO SCOPE OF DISCOVERY; NEW PLEADING RULES POST-FORM 18 WITHDRAWAL

11:15 AMENDED PTAB RULES: 5 THINGS YOU SHOULD KNOW ABOUT THE NEW RULES

11:15 ARE PATENT AGENTS PRIVILEGED: IN RE QUEENS UNIVERSITY (FED CIR. 2016) V. IN RE SILVER (2016)

12:15 BREAK

12:30 WORKING LUNCH: IN-HOUSE COUNSEL PANEL GENERAL DISCUSSION

1:30 BREAK

TRADE SECRETS / CYBER SECURITY / DESIGN / FRAND

1:45 WHAT'S NEW IN TRADE SECRETS?

2:45 CYBER SECURITY

3:30 BREAK

3:45 DESIGN PATENTS

4:15 IEEE PATENT POLICY / FRAND LITIGATION ISSUES PANEL

5:00 ADJOURN

7:15 NETWORKING BREAKFAST PRESENTED BY THE WOMEN IN IP COMMITTEE – STATE BAR OF TEXAS
HAVING THE HARD CONVERSATIONS: THE ETHICAL AND PRACTICAL CONSIDERATIONS FOR
ADVISING CLIENTS ON PROSECUTION, LITIGATION, POST-GRANT, AND TRANSACTIONAL MATTERS IN
LIGHT OF NEW AND CHANGING LAWS

MODERATOR:

— **Hope Shimabuku**, U.S. Patent and Trademark Office, Dallas, Texas

PANELISTS:

— **Virginia Driver**, Page White, London, United Kingdom

— **Lisa K. Jorgensen**, AIPLA, Arlington, Virginia

— **Mieke K. Malmberg**, Skiermont Derby LLP, Los Angeles, California

— **Bea Koempel-Thomas**, Lee & Hayes, Spokane, Washington

8:45 WELCOME

THE IP YEAR IN REVIEW AND JUDICIAL PANEL

Module Chair: **Wei Wei Jeang**, Grable Martin Fulton PLLC, Dallas, Texas

9:00 PATENT YEAR IN REVIEW

— **Gale R. (“Pete”) Peterson**, Law Offices of Gale R. Peterson, San Antonio, Texas

9:45 COPYRIGHT YEAR IN REVIEW

— **Kevin J. Meek**, Baker Botts L.L.P., Austin, Texas

10:15 BREAK

10:30 JUDICIAL PANEL

MODERATOR:

— **Theodore Stevenson, III**, McKool Smith, Dallas, Texas

PANELISTS:

— **The Hon. Amos L. Mazzant, III**, U.S. District Court Eastern District of Texas, Sherman, Texas

— **The Hon. Barbara M.G. Lynn**, U.S. District Court Northern District of Texas, Dallas, Texas

11:45 TRADEMARK YEAR IN REVIEW

— **Shannon Bates**, Griffith Bates Champion & Harper LLP, Dallas, Texas

12:15 BREAK

12:30 WORKING LUNCH: THE FIRST PATENT LITIGATION EXPLOSION

In this all-too-timely talk, Professor Beauchamp outlines the forgotten history of the first patent litigation explosion, starting by describing the rise of large-scale patent enforcement in the middle of the nineteenth century, and then exploring the leading causes of the litigation boom. Finally, he examines the profound consequences of this phenomenon for the law and politics of the patent system, and suggests that the history of patent law during this formative era offers fresh perspectives on the patent reform debates of today.

— **Professor Christopher Beauchamp**, Brooklyn Law School, Brooklyn, New York

1:30 BREAK

7:15 NETWORKING BREAKFAST PRESENTED BY THE WOMEN IN IP COMMITTEE – STATE BAR OF TEXAS
HAVING THE HARD CONVERSATIONS: THE ETHICAL AND PRACTICAL CONSIDERATIONS FOR
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— **Professor Christopher Beauchamp**, Brooklyn Law School, Brooklyn, New York

1:30 BREAK

SECTION 101 / ETHICS

Module Chair: **Max Ciccarelli**, Thompson & Knight LLP, Dallas, Texas

1:45 **ALICE AT 2 ½: EVOLVING CASE LAW AND PERSPECTIVES ON USPTO GUIDELINES**

— **Ryan P. McCarthy**, Fish & Richardson, Austin Texas

2:30 **101 - REVISED PTO SEC. 101 GUIDELINES**

— **Ann M. LaFeir**, Intellectual Property Counsel, USAA, San Antonio, Texas

3:15 **BREAK**

3:30 **ETHICS AND 101**

More than three years after the Federal Circuit's en banc opinion in *CLS Bank Int'l v. Alice Corp.*, the question of "what is patentable" remains somewhat in flux. With such indefinite boundaries, we will discuss ethical considerations in asserting and challenging patents in light of current 35 U.S.C. §101 jurisprudence.

— **Vishal H. Patel**, Thompson & Knight LLP, Dallas, Texas

4:15 **ETHICS AND INEQUITABLE CONDUCT**

Even after *Therasense*, the inequitable conduct plague won't go away.

— **Thomas L. Irving**, Finnegan, Henderson, Farabow, Garrett & Dunner, Washington, D.C.

5:00 **ADJOURN**

5:00 **RECEPTION FOR ALL PARTICIPANTS AND FACULTY**

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TUESDAY, NOVEMBER 15

7:45 **BREAKFAST PRESENTATION MODERATED BY THE DBA IP SECTION'S NEW LAWYERS COMMITTEE**

Roundtable discussions between litigators and prosecutors concerning PTAB proceedings.

COORDINATOR:

— **Austin Champion**, Griffith Bates Champion & Harper LLP, Dallas, Texas

CONCURRENT SESSIONS

PATENT PROSECUTION

Module Chair: **Gerald T. Welch**, Harness, Dickey & Pierce, PLC, Frisco, Texas

9:00 **THE USPTO ENHANCED PATENT QUALITY INITIATIVE (EPQI) PROGRAM - THREE PERSPECTIVES**

Panel discussion regarding the meaning of the "Q" in EPQI, how that differs from the meaning

PATENT LITIGATION

Module Chair: **Jason Wietjes**, Polsinelli PC, Dallas, Texas

9:00 **THE SUPREME COURT'S IMPACT ON IP IN 2016**

— **Christa Brown-Sanford**, Baker Botts L.L.P., Dallas, Texas

PATENT PROSECUTION, CONT.

to other stakeholders, and how this might prompt changes in their prosecution strategy.

- **USPTO: Dan Ryman**, Office of Patent Quality, Denver, Colorado
- **Intellectual Property Counsel: Ann M. LaFeir**, Intellectual Property Counsel at USAA, San Antonio, Texas
- **Practitioner: Steven H. Slater**, Slater & Matsil, Dallas, Texas

10:00 BREAK

10:15 FUNCTIONAL FUN WITH CLAIMS WHILE AVOIDING INDEFINITENESS AND ALICE PLUS OTHER TOPICS

- **Kevin Cronin**, Acelity, San Antonio, Texas
- **Bill Mason**, CeloNova BioSciences, Inc., San Antonio, Texas
- **Michael R. Nye**, Harness Dickey & Pierce, Troy, Michigan

11:15 AMENDED PTAB RULES: 5 THINGS YOU SHOULD KNOW ABOUT THE NEW RULES

What are the new rules and what was omitted from the new rules; how they will affect post grant proceedings going forward.

- **Nadeem Bridi**, Acelity, San Antonio, Texas
- **Matthew L. Cutler**, Harness Dickey & Pierce, Saint Louis, Missouri
- **Chris Dunstan**, Ericsson, Plano, Texas
- **Nainesh Shah**, ST Microelectronics, Coppel, Texas

12:15 BREAK

12:30 WORKING LUNCH: IN-HOUSE COUNSEL PANEL GENERAL DISCUSSION

MODERATOR:

- **Wei Wei Jeang**, Grable Martin Fulton PLLC, Dallas, Texas

PANELISTS:

- **Jody Bishop**, Genband, Frisco, Texas
- **Tim Dyll**, AT&T, Dallas, Texas
- **Suzy Fulton**, Appspace, Dallas, Texas

1:30 BREAK

PATENT LITIGATION, CONT.

9:30 "I'LL SEE YOU IN COURT!" – PATENT INFRINGEMENT REMEDIES FROM INJUNCTIONS TO ATTORNEY FEES

The infringement remedies available to patent owners continue to evolve under Supreme Court and Federal Circuit precedent. This session will examine the current landscape, including injunctions, monetary damages, increased damages for willful infringement and attorney fees.

- **Jason A. Wietjes**, Polsinelli PC, Dallas, Texas

10:00 BREAK

10:15 CHANGES TO SCOPE OF DISCOVERY; NEW PLEADING RULES POST-FORM 18 WITHDRAWAL

- **Michael C. Smith**, Siebman, Burg, Phillips & Smith, LLP, Marshall, Texas
- **Jay E. Heidrick**, Polsinelli PC, Kansas City, Missouri

11:15 ARE PATENT AGENTS PRIVILEGED: IN RE QUEENS UNIVERSITY (FED CIR. 2016) V. IN RE SILVER (2016)

MODERATOR:

- **Prof. W. Keith Robinson**, SMU Dedman School of Law, Dallas, Texas
- **Brett C. Govett**, Norton Rose Fulbright US LLP, Dallas, Texas
- **Timothy Shelby**, Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C., Houston, Texas

TRADE SECRETS / CYBER SECURITY / DESIGN / FRAND Module Chair: **Russ Emerson**, Haynes and Boone, LLP, Dallas, Texas

1:45 WHAT'S NEW IN TRADE SECRETS?

Learn about the new federal Defend Trade Secrets Act, how it compares to the Texas Uniform Trade Secrets Act, and recent developments in state and federal trade secret law.

— **Austin Champion**, Griffith Bates Champion & Harper LLP, Dallas, Texas

2:45 CYBER SECURITY

— **David Kinsinger**, L-3 Communications Integrated Systems, Greenville, Texas

3:30 BREAK

3:45 DESIGN PATENTS

The discussion will cover recent developments concerning design patents in the areas of validity, infringement, and damages, including a discussion of the October 2016 Supreme Court oral arguments in *Apple v. Samsung*.

— **Charles M. Jones, II**, Haynes and Boone LLP, Dallas, Texas

4:15 IEEE PATENT POLICY / FRAND LITIGATION ISSUES PANEL

— **James Harlan**, InterDigital Administrative Solutions, Inc., Washington, D.C.

5:00 ADJOURN

ABOUT THE INSTITUTE FOR LAW AND TECHNOLOGY (ILT)



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Established in 2003 as part of The Center for American and International Law (CAIL), the Institute for Law and Technology (ILT), sponsors educational programs for lawyers and other professionals with a principal focus on intellectual law and practice.

ILT is a membership organization and counts leading intellectual property practitioners, both in-house and in private practice, among its members. For more information, visit cailaw.org/ilt.

ABOUT THE CENTER FOR AMERICAN AND INTERNATIONAL LAW (CAIL)



**THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW**

CAIL is a nonprofit educational institution dedicated to improving the quality of justice through continuing education to lawyers and law enforcement officials in the U.S. and throughout the world. Founded in 1947 by Robert Storey, Dean of the Southern Methodist University School of Law, CAIL was a pioneer back in a time when the notion of continuing formal education beyond law school was a relatively new idea. Today, tens of thousands of lawyers and law enforcement officers from all 50 states and 130 countries have participated in CAIL's high quality, cutting-edge programs. Learn more at cailaw.org.



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New Cybersecurity and Data Privacy Conference



Cybersecurity and Data Privacy Conference

January 25 - 26, 2017

The Center for American
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Plano, Texas

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Highlights Include

- Regulations: Staying Up-to-Date on Changes in Laws and Regulations
- Cybersecurity Litigation and Enforcement Trends
- Your Weakest Link: Understanding Your Vulnerability and Policies to Reduce It
- Planning Ahead: Provisions Your Response Plan Should Have
- What Should Your Cyber Investigation and Response Look Like?
- Dealing Away Cybersecurity Risks:
- Cybersecurity in M&A Transactions

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54th Annual Conference on Intellectual Property Law

November 14-15, 2016

The Center for American and International Law
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Registration includes the Conference, course materials, continental breakfasts, boxed luncheons on Monday and Tuesday and networking reception.

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Regular Registration Fee	<input type="checkbox"/> \$595	<input type="checkbox"/> \$645
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Materials Only - <i>Cannot attend</i>	<input type="checkbox"/> \$150	<input type="checkbox"/> \$150

Addition Option:

☐ I will attend the complimentary breakfast session on Nov. 14. A sign-up sheet for Texas CLE credit only (1 hour Ethics) will be available for this session.

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CANCELLATION POLICY: Tuition, less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by October 30, 2016. E-mail cancellation notice to lgaspar@cailaw.org. After this date, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course materials.

HOUSING: The cost of housing is not included in tuition. However, rooms (in limited number) have been reserved at Dallas/Plano Marriott at Legacy Town Center, 7121 Bishop Road, Plano, Texas 75024. Registrants should mention "The Center for American & International Law" to receive the reduced room rate of \$195 + tax. The last day to obtain this special rate is October 29, 2016.

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For this conference, ILT will directly apply (if requested) for course accreditation in the following states: California, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas and Virginia. Some of these states may not approve a program for credit hours before the program occurs. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. ILT conferences are typically accredited by all mandatory CLE states.



54TH ANNUAL CONFERENCE ON INTELLECTUAL PROPERTY LAW

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