



Hot Topics in Intellectual Property Litigation

First Annual Intellectual Property Litigation Regional CLE Workshop

Friday, June 10, 2011
Hosted by Pepper Hamilton LLP
Hamilton Square
600 Fourteenth Street, N.W.
Washington, District Of Columbia 20005-2004

Sponsored by the Intellectual Property Litigation Committee
of the ABA Section of Litigation

HOT TOPICS IN INTELLECTUAL PROPERTY LITIGATION

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Program Agenda

8:00 – 9:00 a.m. Registration/Continental Breakfast

9:00 – 9:15 a.m. Welcome & Opening Remarks

- Intellectual Property Litigation Committee Co-Chairs:
- Joseph M. Drayton, Kaye Scholer, New York, NY
- Erick C. Howard, Shartsis Friese LLP, San Francisco, CA
- John P. Hutchins, Troutman Sanders LLP, Atlanta, GA

9:15 – 9:30 a.m. Introduction of Program:

- Program Co-Chairs:
- Charles S. Marion, Pepper Hamilton LLP, Philadelphia, PA
- Martin O'Donnell, Cesari and McKenna, Boston, MA
- Michael D. Steger, Law Offices of Michael D. Steger, New York, NY

9:30 – 10:45 a.m. Buy, Buy, License? The First Sale Doctrine and What Happens When You Thought You Bought But Didn't (presented by the Copyright Subcommittee)

Moderator:

- Michael D. Steger
Law Offices of Michael D. Steger
New York, NY

Panel:

- Naomi Jane Gray, Harvey Siskind, LLP, San Francisco, CA
- Cecil Key, Dickinson Wright, Washington, DC

The Supreme Court and Ninth Circuit have recently issued decisions expanding upon the distinction between a sale and license of copyrighted works and the related applicability of the first sale doctrine. This panel will discuss the opinions in Costco v. Omega, Vernor v. Autodesk and UMG v. Augusto and their impact on the first sale doctrine, as well as implications for the future of global and digital distribution of copyrighted works."

10:45 – 11:00 a.m. Break

11:00 – 12:15 p.m. Beyond Injunctions: Exploring Damages and Other Options for Relief in Trademark Litigation (presented by the Trademark Subcommittee)

Moderator:

- Mary Margaret O'Donnell
Rader, Fishman & Grauer
Bloomfield Hills, MI

Panel:

- Janine A. Carlan, Arent Fox, Washington, DC
- Krista F. Holt, The Kenrich Group LLC, Washington, DC

Typically, trademark litigation focuses on equitable remedies. Monetary damages often get lost in the mix. Securing a preliminary or permanent injunction may put a stop to infringement today, but is enjoining bad behavior lesson enough for an infringer, or sufficient to make a plaintiff whole? The panel will discuss the types of monetary relief available, recent statutory damage awards for counterfeiting and cybersquatting, and proper damage calculation methods. We'll also review when actual confusion may be required, what it means to treble damages and when attorney fees may be awarded. Finally, our panel will discuss the law concerning recovery of lost profits, defendant's profits, actual business losses, and punitive damages.

12:30 – 1:45 p.m. Lunch

Special Lunchtime Speaker: Honorable Randall R. Rader, Chief Judge, United States Court of Appeals for the Federal Circuit
(Please note that CLE is not be offered for this session)

1:45 – 3:00 p.m. New Developments in Patent Litigation from the Supreme Court, the Federal Circuit, and Congress (presented by the Patent Subcommittee)

Moderator:

- Michael P. Padden
Levenfeld Pearlstein, LLC
Boston, MA

Panel:

- Aaron Cooper, Senior Counsel for Intellectual Property and Antitrust, Senate Judiciary Committee, Washington, DC
- Professor Megan M. La Belle, Columbus School of Law, The Catholic University of America, Washington, DC
- Charles E. Miller, Dickstein Shapiro LLP, New York, NY
- Mark L. Whitaker, Baker Botts, LLP, Washington, DC

There have been a number of significant developments in the area of patent law within the past year. This panel will discuss developments at the Supreme Court, such as recently-argued cases dealing with the burden of proof for invalidating a patent, the standard for induced infringement and the assignment of inventions involving federal funding; new patent reform legislation being considered by Congress; and recent decisions by the U.S. Court of Appeals for the Federal Circuit.

3:00 – 3:15 p.m. Break

3:15 – 4:30 p.m. You Can't Take It With You: What's New in the Law Regarding Trade Secrets and Non-Competes (presented by the Trade Secrets Subcommittee)

Panel:

- Ronald T. Coleman, Jr., Parker Hudson Rainer & Dobbs, Atlanta, GA
- Robert S. Gerber, Sheppard Mullin, San Diego, CA
- Linda K. Stevens, Schiff Hardin LLP, Chicago, IL

This panel will discuss recent developments in the area of trade secrets and non-competes, including recent changes in Georgia's approach to restrictive covenants, which are often used to protect trade secrets, the use of the Computer Fraud and Abuse Act to remedy the theft of information, and the Trade Secrets Subcommittee's "TRO Procedure Project," which is gathering information regarding the specific practices and procedures followed in various jurisdictions with regard to TROs or preliminary injunctions in trade secrets and other cases.

4:30 – 4:45 p.m. Closing Remarks

5:00 – 6:30 p.m. Cocktail and Networking Reception

Sponsored by

**The Intellectual Property Litigation Committee
of the ABA Section of Litigation**

Program Co-Chairs:

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New York, NY

Erick C. Howard
Shartsis Friese LLP
San Francisco, CA

John P. Hutchins
Troutman Sanders LLP
Atlanta, GA

GENERAL INFORMATION

Accommodations:

Attendees are responsible for making their own travel arrangements and hotel reservations. The following hotel is in close proximity to the location of the workshop and is offering rooms at a preferred rate (subject to availability – we recommend you make your reservations as soon as possible) of \$329.00 per night. In order to reserve a room at the preferred rate, please contact the hotel directly and identify yourself as being affiliated with Pepper Hamilton LLP.

Willard Intercontinental
1401 Pennsylvania Ave., NW
Washington, DC 20004-1010
Reservations: (800) 827-1747 or (202) 628-9100

Registration:

Visit http://www.americanbar.org/groups/litigation/events_cle.html to register online or return the Registration Form on the following page with your payment (checks only) to Charles S. Marion at Pepper Hamilton LLP, 3000 Two Logan Square, Philadelphia, PA 19103. You may also email Matthew Thurman (of the ABA) to register or if you have any questions at matthew.thurman@americanbar.org.

Please register by June 3, 2011 to reserve your spot.

Requests for refunds must be made in writing and received no later than June 3rd, in the ABA Section of Litigation office. Please email your request to Matthew Thurman, at matthew.thurman@americanbar.org. There will be a \$10 administrative fee deducted from the refund. Cancellations received after June 3rd will not be refunded; however, the Section will gladly accept substitutions for those unable to attend.

MCLE Credit:

Accreditation has been requested for this program from every state with mandatory continuing legal education requirements for attorneys. Please be aware that each state has its own rules and regulations, including its definition of CLE as well as 'Ethics'. Therefore, certain programs may not receive credit in some states. Please check with your state agency for confirmation of general as well as ethics approval for any program. You may contact Matthew Thurman at the ABA at matthew.thurman@americanbar.org for confirmation of the number of credits approved by any particular state.

Attire:

Business casual dress is encouraged for all participants.

Attendance List:

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REGISTRATION FORM

LTIP11

Hot Topics in Intellectual Property Litigation First Annual Intellectual Property Litigation Regional CLE Workshop

Friday, June 10, 2011
Hosted by Pepper Hamilton LLP
Washington, DC

Name _____
Affiliation _____
Address _____
City _____ State _____ Zip Code _____
Telephone _____ Fax _____
E-mail _____
ABA Member No. _____

The information submitted on this registration form will be used only to create an attendance list for the Hot Topics In Intellectual Property Litigation Regional CLE Workshop.

Registration Information

\$125.00 (Section of Litigation members and Government attorneys)
\$180.00 (Non-Section members)

Pre-registration deadline is June 3, 2011. Checks for attendance and course materials should be made payable to the **AMERICAN BAR ASSOCIATION** (no credit cards).

I will attend the meeting and my check for \$_____.00 is enclosed.

* To pay by credit card, please visit: http://www.americanbar.org/groups/litigation/events_cle.html

Please send your Registration Form and payment to: Charles S. Marion, Pepper Hamilton LLP, 3000 Two Logan Square, Eighteenth and Arch Streets, Philadelphia, PA 19103-2799.

For additional information about the program, please contact:
Charles S. Marion 215-981-4119 / marionc@pepperlaw.com