

Seattle IP Inn of Court Programming Guidelines

Summary & Timing

Preparing and presenting CLE programs to fellow Seattle IP Inn of Court (SIPIC) members is a core part of the Inn's mission and a responsibility of every member. Each Group will be responsible for presenting one CLE presentation to fellow members at an Inn meeting.

Because the Inn seeks CLE credit for our programs, **timing is critical**. If materials for a Group's program are submitted too late, we will incur late charges and may, in certain instances, be unable obtain CLE credit for presenters or attendees.

Accordingly, the following is expected:

1. Groups are to choose and report their topic and roles no later than four weeks after the Inn's first meeting, except that Group 1 must choose and report their topic within a week of the Inn's first meeting (unless Group 1's meeting already has a pre-planned topic and format).
 - Please note that, unless a pre-planned topic and format has been chosen by the Executive Committee for Group 1's meeting, Group 1 will have priority in choosing a topic, including by selecting IP Jeopardy.
2. Preferably four weeks, but no later than two weeks, before your Group's assigned presentation date, submit your Group's program description, agenda, and speaker biographies to the Programming Chair and the Achieving Excellence Chair.
 - An example is attached as Exhibit A.
 - Please note that at least one licensed attorney must be a speaker for the Inn to receive CLE credit.
3. Preferably one week before your Group's assigned presentation date, but no later than one week after the presentation, submit your Group's written materials to the Programming Chair and the Achieving Excellence Chair.
 - Please note written materials must include at least one citation to law (statutory, regulatory, or case law) for the Inn to receive CLE credit.

Picking CLE Topics

As noted above, Groups must report their chosen topic and roles no later than four weeks after the Inn's first meeting. Group 1, however, must report within a week after the first meeting, unless the Group 1's meeting already has a pre-planned topic and format.

Selection of topics are to be discussed at the first Inn meeting of the year, which is usually a networking and team building meeting.

Subject matter and format

- Group 1, which has the least time to prepare, has the option of presenting "IP Jeopardy" as its CLE presentation. If Group 1 so chooses, it must submit its list of Jeopardy categories in lieu of a topic.
- The Programming Chair will distribute the list of each Group's proposed topics.
- To the extent there is substantial duplication between topics proposed by multiple Groups, the Programming Chair will work with those Groups to adjust their topics.
- Groups may modify their topics, with approval from the Programming Chair and ample notice.
- The Executive Committee encourages that at least one Groups selects a topic that will qualify for Ethics credit each year, and the Programming Chair may approach a specific Group or Groups to modify their topics, if no Group has selected an Ethics related topic.

Roles

- At a minimum, each Group must select one or more Program Coordinators responsible for communicating with the Programming Chair and submitting materials.
 - Program Coordinators are responsible for communicating the chosen topic and format to the Programming Chair.
 - Program Coordinators also are responsible
- Groups also must select Presenters for the CLE Presentation. At least one presenter must be a licensed attorney in Washington State and one presenter must be a student or associate member.
- Other roles to consider: CLE Coordinator, Researcher, Outliner, Technologist

Deadlines

- **Topic and Format:** Four weeks after the first Inn meeting.
- **CLE Materials (Agenda or outline of presentation, and bios of presenters):** Preferably thirty days or four weeks before the scheduled presentation.
- **Final Presentation Materials:** Seven days before the scheduled presentation.

- CLE materials for submission must include at least one citation to law (statutory or case law) and one presenter must be a licensed practicing attorney in Washington.
- Note that the final presentation is also used to satisfy requirements for the Achieving Excellence Program and will be archived on the Inn's website.

We highly recommend Groups establish an internal schedule in order to meet these deadlines and prepare a high-quality presentation.

Please reach out to the Programming Chair with any questions or concerns.

CLE Topic Ideas

CLE presentations can be on any topic related to or bearing on intellectual property law. We particularly encourage topics eligible for ethics credit and non-patent-litigation topics (which tend to dominate). Topics also can include international IP law or non-IP areas of law that intersect with IP issues.

Below are examples from past presentations.

United States v. Arthrex: Supreme Court Holds That the Buck Must Stop with the Director of the Patent and Trademark Office

- The Supreme Court's ruling, which was the latest in a string of decisions scrutinizing the power and procedures of the PTAB, hands a good deal of authority over the decisions of the PTAB to the Director of the Patent and Trademark Office. However, the decision does not appear likely to radically alter, much less to do away with, the inter partes review process. Specific topics will include:
 - A review of the statutory history, relevant prior decisions, and legal proceedings leading up to the decision
 - A discussion of the arguments made by the parties and a summary of the opinions of the Justices, including:
 - the reasoning behind the Chief Justice's opinion holding that the APJs had been operating in an unconstitutional manner and that the Director must have authority to unilaterally review APJ decisions
 - Justice Gorsuch's fifth vote for the Chief Justice's ruling on the status of the APJs, and his objections to the remedy crafted by the Chief Justice
 - Justice Breyer's opinion rejecting the Chief Justice's framework for determining status as a principal or inferior officer Justice Thomas's opinion arguing that APJs could not be other than inferior officers and suggesting that Appointments Clause jurisprudence may need to be re-examined

- The potential impact of the case on future PTAB proceedings and future challenges to those proceedings

Developments in Patent Venue

This session will focus on recently answered and still unsettled questions since *TC Heartland* reinstated Section 1400(b) as the sole and exclusive basis for patent venue. The talk will address the latest Federal Circuit decisions on what constitutes a "regular and established place of business" and explore unsettled issues regarding what constitute "acts of infringement" by a defendant, where those acts are deemed to occur, and whether any connection is required between acts of infringement and a defendant's place of business in a district. In connection with this discussion, we will also address procedural aspects of challenging venue under Section 1400(b), including the Federal Circuit's recent determination in *ZTE* that the plaintiff bears the burden of establishing venue as a matter of Federal Circuit law, the role of evidence in controverting venue allegations, whether pendent venue may be exercised over joined patent claims for which an independent basis for venue is lacking, and the willingness of the Federal Circuit to take up unsettled venue issues on mandamus. In all of this, the session will focus particularly on the application of these issues to online businesses.

Artificial Intelligence and Copyright

- Understanding the role of artificial intelligence in copyright
- Current legal status of copyright and AI-produced works
- Copyright ownership of AI works
- Commerciality of AI works

Fundamentals of Trademark Law in the Global Marketplace 2021

- Practice tips relating to opposition and cancellation proceedings
- Social networking and implications for trademark law
- Recent case law
- Anti-piracy efforts and strategies for combating sales of counterfeit goods

Google v. Oracle: What's Next for Copyright?

It was billed the "copyright case of the century" - a clash between two software titans about the software code used in every Android phone. Now that the Supreme Court has weighed in, what is next? How broad - or narrow - is this ruling? Does it "make copyrights in software unenforceable" like some commentators argued, or does it simply enable competition amongst different software providers? And what does the court's discussion of fair use mean for copyrighted works outside of software? In this Briefing, experts from three different amici in the case will deconstruct the Supreme Court's opinion to identify exactly what the Supreme Court said - and where the next battle lines are likely to be drawn. Topics to be addressed include:

- Background of the case: How did we get here? What were all the rulings leading up to the Supreme Court's decision?
- Breaking down the decision: What exactly did the Supreme Court decide? What is the holding, what is dicta, and what is in-between?
- Immediate effects: What does this mean for Oracle, for Google, and for Java? What is the effect on software? What about other APIs? What about open source?
- Effect on copyright: How might the Google v. Oracle decision apply more generally? Is it "good for declaring code only," or is it more broadly applicable? What are the next court cases going to be about?

Current Legal Problems at the Interface of IP Law and Competition Law

- Historical tensions and overview
- Increasing governmental interest in private patent enforcement
- DOJ initiatives to address Big Tech practices
- Are Standard Essential Patents (SEPs) somehow "different"?
- FTC's unsuccessful challenge to Qualcomm's licensing program
- State challenges to patent enforcement and collusive settlements
- When should patent enforcement activities raise antitrust concerns?
- Antitrust attacks by Big Tech on patent procurement and acquisition
- Judicial hostility to patent enforcement and its long-term economic impact
- Collaborative negotiations for patent licenses, licensee collusion and coordinated attacks on patent validity
- *Actavis* lives on: patent litigation settlements in its aftermath
- Fraudulent procurement and bad faith enforcement of patents

Cloud Computing in the Courts: A Consideration of Common Cloud Litigation Issues

- Part A: Legal Considerations when Building and Launching Cloud Products
 - Engaging with cross functional stakeholders, including engineers
 - Intellectual property and open source issues
 - Terms of service and other external agreements
 - Export compliance, competition, accessibility, privacy
 - Provider liability and user content moderation
- Part B: Litigation
 - CLOUD Act
 - Data Ownership and other IP Issues
 - Limitations of Liability
 - Damages and Theories of Recovery
 - Strategy Consideration

Technology and Licensing Law: Legal Challenges with Evolving Technologies

Intellectual property law and technology combine to create a fascinating convergence, whether it be in the areas of data privacy and cybersecurity, artificial intelligence, cloud computing, or open source licensing. Understanding the ever-changing legal landscape is essential with fast-moving areas of technology. This seminar will cover issues in intellectual property licensing affected by these changes. Topics include:

- Cybersecurity And Data Privacy
- Software Licensing Issues – Open Source Licensing
- Legal Issues Arising From Artificial Intelligence And Cloud Computing
- Recent Updates In IP Licensing Law
- Ethics Rules In The Use Of Social Media

Music Licensing – An Introduction and Recent Developments

- This presentation will provide an overview of the fundamentals of copyright law as it applies to music licensing, recent developments in case law involving music licensing, and general contractual issues arising from music licensing.

Practical and Ethical Considerations for Social Media Discovery

- Social media presents dynamic and complex challenges for even seasoned eDiscovery practitioners. Preservation and production difficulties abound, particularly with the proliferation of messaging applications among consumers and businesses over the past few years. Fold in ethical issues and it becomes readily apparent why social media presents unique discovery challenges to counsel and clients. This program will analyze these issues and provide both practical and ethical insights on a particularly compelling discovery practice area.

EXHIBIT A



Seattle Intellectual Property Inn of Court

F/RANDomness:

The Current State of SEP Valuation and Licensing Practices

Via Zoom, January 20, 2022

1.0 CLE Credit

Program Description:

Group 2 will present on recent developments in FRAND/RAND litigation and the role of antitrust law in SEP licensing, concluding with a panel discussion about the future of FRAND/RAND and SEP licensing disputes. The panel includes the Honorable James Robart of the United States District Court for the Western District of Washington (presiding judge in *Microsoft Corp. v. Motorola, Inc.*); Prof. Jorge Contrares, notable legal scholar on FRAND/RAND and standardization issues; Andy Culbert, Partner at Perkins Coie LLP; Bill Harmon, Head of IP at Uber; Sven Raz, Of Counsel with Feinberg Day (and formerly Director of Litigation at Intellectual Ventures); and Theo Angelis, Partner at K&L Gates.

Timed Agenda:

- 5:00** **Welcome, Announcements**
- 5:05** Meet in pupillage group break-out sessions
- 5:17** Meet in randomized break-out groups

Program:

- 5:30** **Welcome:**
- Kevin Zeck, Counsel, Perkins Coie LLP
- 5:35** **Recent Developments in FRAND Litigation:**
- Grace Cowan, J.D. Candidate, Seattle University School of Law
 - Samantha Hunt, Associate, Perkins Coie LLP
- 5:45** **The Role of Antitrust in FRAND:**
- Kevin Zeck, Counsel, Perkins Coie LLP
- 5:55** **Panel Discussion: Where do we go from here?**
- Hon. James Robert, United States District Court for the Western District of Washington
 - Prof. Jorge Contrares, University of Utah, S.J. Quinney School of Law
 - Andrew Culbert, Partner, Perkins Coie LLP
 - Bill Harmon, Head of IP, Uber Technologies, Inc.
 - Sven Raz, Of Counsel, Feinberg Day
 - Theo Angelis, Partner, K&L Gates
- 6:30** **Closing Comments**

Group 2 Speaker Bios:

Grace Cowan. Grace Cowan is currently in her second year at Seattle University School of Law after previous careers in education and healthcare IT. She currently serves as the event coordinator of the A.I. Law Society and the secretary of the Entertainment and Sports Law Association. She plans to pursue a legal career based on the intersection of business, technology, and law.

Samantha Hunt. Samantha Hunt is an Associate with Perkins Coie in the patent litigation group. She has significant experience as a mechanical and instrumentation design engineer in the aviation industry, and a keen interest in all things FRAND.

Kevin Zeck. Kevin Zeck is a Counsel with Perkins Coie LLP. He assists clients vindicate their rights and achieve their litigation objectives, both at trial and on appeal. He has significant experience in both patent and trade secret litigation, including with respect to FRAND issues. He has represented clients in intellectual property lawsuits involving an array of technologies, including computer software, semiconductor devices, video game systems and pharmaceuticals.

Hon. James Robart. Judge Robart became a United States District Judge for the Western District of Washington in June 2004. Prior to his appointment, he was with Lane Powell in Seattle for 32 years where he served as Chair of the Litigation Department and Managing Partner. He graduated from Whitman College (B.A. 1969) and Georgetown University Law Center (J.D. 1973).

Judge Robart has presided over several notable civil and criminal cases, including *Microsoft Corp. v. Motorola, Inc.*, which is the first court opinion setting reasonable and nondiscriminatory (“RAND”) rates for standard essential patents.

Prof. Jorge Contreras. Jorge L. Contreras teaches in the areas of intellectual property law, property law and genetics and the law. He has recently been named one of the University of Utah's Presidential Scholars, he won the 2018-19 Faculty Scholarship Award from the S.J. Quinney College of Law and the University's Distinguished Research Award in 2020.

Professor Contreras has previously served on the law faculties of American University Washington College of Law and Washington University in St. Louis, and was a partner at the international law firm Wilmer Cutler Pickering Hale and Dorr LLP, where he practiced transactional and intellectual property law in Boston, London and Washington DC.

Professor Contreras's current research focuses, among other things, on the development of technical standards and the use and dissemination of data generated by large-scale scientific research projects. He has edited six books and published more than 100 scholarly articles and book chapters. His published work has appeared in scientific, legal and policy journals including *Science*, *Nature*, *NYU Law Review*, *Georgetown Law Journal*, *North Carolina Law Review*, *Florida State Law Review*, *American University Law Review*, *Harvard Journal of Law and Technology*, *Berkeley Technology Law Journal*, *Antitrust Law Journal*, and *Utah Law Review*. He has been quoted by numerous media outlets including the *New York Times*, *Wall Street Journal*, *Economist*, *Bloomberg*, *Washington Post*, *Korea Times* and has been featured on NPR, PRI and BBC radio shows and a range of podcasts and online news programs.

Andy Culbert. Renowned intellectual property attorney Andy Culbert has over 30 years of experience strategically guiding technology companies through complex intellectual property matters. A former Associate General Counsel in Microsoft Corporation's Litigation Department, Andy served as the head of

Microsoft's worldwide intellectual property litigation docket. His notable achievements include successful representation before the U.S. Supreme Court on a matter that established the framework for seeking worldwide damages for infringement of U.S. patents. His legacy also includes litigating cases before the Federal Circuit that redefined the law of patent damages as well as a case before the Ninth Circuit that formulated the basic methodology for valuation of standard-essential patents.

Bill Harmon. Bill Harmon is the Head of IP at Uber. He joined the company in 2017 as the Director of IP and Trademarks, and was promoted to his current position in January 2020. Prior to joining Uber, Bill was a partner at Shook, Hardy & Bacon representing clients on matters related to intellectual property and cyber security. Bill also worked at Microsoft for over a decade where he served as Assistant General Counsel in Microsoft's Patent Litigation Group, Assistant General Counsel for Microsoft's Digital Crimes Unit, and General Manager for Microsoft's Global Standards Team. Bill graduated from Santa Clara University School of Law in 1995 and holds a Bachelor of Science degree in Electrical Engineering and a Master's degree in Business Administration from Santa Clara University. Bill spent 4 years as an adjunct law professor at Seattle University teaching IP Licensing.

Sven Raz. Sven's practice focuses on high-stakes intellectual property litigation, licensing and strategic counseling. Sven represents clients in patent and trade secrets litigation, as well as related antitrust cases and commercial licensing disputes. Sven has nearly twenty years of experience litigating and licensing IP. Prior to joining Feinberg Day, Sven worked for two prominent international law firms focusing on intellectual property litigation. Sven also managed global patent monetization, licensing and litigation as Director for a technology company with more than 30,000 patents.

Theo Angelis. Theo Angelis is a first-chair International Trade Commission and District Court litigator, and he also serves as one of the leaders of the IP Litigation Group at K&L Gates.

Theo has extensive experience representing clients in Greater China, throughout Asia, and in the United States. Theo served as lead ITC counsel for Sharp Corporation in the 1201 Investigation and serves as lead ITC counsel for Realtek Semiconductor Corp. in the 1222 Investigation. He also was lead invalidity counsel at trial for Amperex Technology Ltd. in the 1087 Investigation, and he has held other leading roles in numerous ITC investigations throughout his career.

In addition, Theo litigates in District Courts throughout the United States, for both Asian and U.S. companies. He is lead counsel for ZTE, and recently served as lead counsel for Quanta, Advantech, and ADLINK Technology, in multiple cases for each. Theo also has served as lead counsel, in several matters each, for innovative U.S. technology companies, including Square, Amazon, and Expedia.