



2024 Stampede – Session Details and Speaker Biographies

May 2, 2024, Pinstripes
(3849 Gallagher Drive, Edina, MN 55435)

CLE Course Code (MN): 505610

Section 337 Investigations before the U.S. International Trade Commission

This session will discuss Section 337 Investigations at the USITC. The presentation will cover the types of unfair methods of competition and unfair acts that can be brought in a Section 337 Investigation. The presentation will also highlight several differences between patent infringement litigation in district court and Section 337 Investigations. Finally, the speaker will address the unique roles of the Office of Unfair Import Investigations (OUII) in Section 337 Investigations.

- **Cortney Hoecherl (Office of Unfair Import Investigations - U.S. International Trade Commission)**

CORTNEY HOECHERL is an Investigative Attorney (IA) in the Office of Unfair Import Investigations (OUII) at the United States International Trade Commission (USITC). Cortney joined OUII in 2016. Prior to this, Cortney was an intellectual property litigator in Silicon Valley where she represented clients in complex patent cases involving wireless telecommunications, semiconductor processing, computing networks and memory devices, cloud infrastructure, and diagnostic tests for viral and bacterial infectious disease. Cortney received her Juris Doctor from the University of Pennsylvania Law School and her Master of Laws in International Law from the University of San Diego School of Law.

Litigating Design Patents: Addressing Unique Issues That Arise in Design Patent Litigation

This session will discuss the unique aspects of design patent litigation, as compared to utility patent litigation. The presentation will touch on strategies surrounding claim construction, expert discovery, and theme-building. The presentation will also touch on the Federal Circuit's recent *en banc* hearing in the *LKQ v. GM* case, and how that could impact design patent litigation going forward.

- **Joseph Herriges & Conrad Gosen (Fish & Richardson P.C.)**

JOE HERRIGES is a trial lawyer with a particular expertise in representing innovators in the design space. He has handled numerous district court design patent cases in a range of industries—from cars to countertops—and has successfully handled dozens of PTAB proceedings in the design space. Joe also has a busy appellate practice where he leads teams in briefing and argument at the Federal Circuit, most recently as lead counsel for General Motors in the *LKQ v. GM en banc* proceeding.

CONRAD GOSEN is a patent litigator with extensive experience in U.S. District Court litigation, IPR proceedings, International Trade Commission investigations, and appeals to the Federal Circuit. With an undergraduate degree in materials science and engineering, Conrad serves clients in the fields of chemical processing, medical devices, automotive engineering, semiconductor processing, computer devices, and telecommunications, including LTE and VoIP. He also has years of experience litigating design patent cases across technology areas, ranging automotive body parts to cell phone cameras.

To Be Continued: Recent Developments in Patent Continuation Practice

Recent political criticism of patent “thickets” has brought renewed focus on continuation applications, coinciding with several legal developments of interest to practitioners. The presenters will review topics including the Federal Circuit’s recent decision concerning prosecution laches in *Personalized Media Communications LLC v. Apple Inc.*, 57 F.4th 1346 (Fed. Cir. 2023), and its decision clarifying the relationship between obviousness-type double patenting and Patent Term Adjustment in *In re Collect, LLC*, 81 F.4th 1216 (Fed. Cir. 2023). They will also address recent regulatory developments at the USPTO, including its proposal to increase fees for serial continuation applications.

- **Jan M. Conlin & Jacob F. Siegel (Ciresi Conlin LLP)**

JAN CONLIN is a founding partner at Ciresi Conlin LLP, a complex trial and litigation boutique. Jan has tried scores of cases in a variety of fields including a number of notable patent infringement trials, with results including a \$520.6 million verdict against Microsoft and a \$400 million settlement for Pitney Bowes. Jan has been listed as a top 100 national trial attorney by Benchmark and a Top 10 Super Lawyer for a number of years.

JAKE SIEGEL is a partner at Ciresi Conlin LLP. He practices commercial litigation, including trade secret and other intellectual property disputes. He also represents plaintiffs and defendants in appeals in state and federal court. Before joining Ciresi Conlin, Jake was a law clerk for the United States Court of Appeals for the Eighth Circuit and an associate at a large New York City firm, where his practice focused in significant part on life-sciences patent litigation.

View from the USPTO: Trademark Pendency, Search System, and Scams

This session will provide an overview of three of the most pressing issues relating to the USPTO. The speaker will discuss the functionality and features of the federal trademark search system and provide tips on how to best utilize available resources to maximize the efficacy of your searches. The speaker will also address application pendency and the ongoing efforts to reduce the time between the filing of an application and its ultimate disposition. Finally, the speaker will discuss the increase in scams and fraudulent activity, and what has been done to combat the efforts of these bad actors.

- **Kyle Ingram (USPTO)**

KYLE INGRAM is an attorney for Trademarks Customer Outreach within the United States Patent and Trademark Office (USPTO). Prior to this, he was as a trademark examining attorney for six years. As an attorney, Kyle has previously worked for the U.S. Department of Agriculture and the U.S. Department of Justice's Federal Bureau of Prisons. Before attending law school, Kyle served in the U.S. Air Force as a contracting officer. When he isn't working, Kyle enjoys fitness, travel, and learning about nature. Kyle obtained his Juris Doctor from the University of Oregon, his Master of Natural Resources in natural resource management from Virginia Tech, and his Bachelor of Arts in economics from the University of Virginia.

Constructing a Claim: Are You Using the Right Tools?

Claim construction is at the core of every patent, from drafting the application to enforcement and post grant challenges. The panel will discuss recent claim construction issues and bedrock claim construction principles and cannons of construction that affect best practices in prosecution and enforcement strategies. With many decades of experience from both prosecuting patents to litigating them, you are sure to come away with tips and strategies to better serve your clients.

We claim:

A panel of experienced patent practitioners comprising (pun intended):

- at least one experienced and expert in-house counsel (Galen Rahmlow of Medtronic) having over a decade of experience in patent prosecution, litigation, and general IP matters;

- a creative and skilled patent attorney (Daniel Bruzzone) configured for patent prosecution and helping clients maximize their portfolio value;

- a seasoned patent litigator and registered patent attorney (Michael Erbele), a special-purpose litigating machine for handling cases from trial to appeal; and

- a veteran trial lawyer and registered patent attorney (Tom Leach) having decades of experience litigating patents and intended for handling post-grant challenges;

- wherein the Tom, the Michael, and the Daniel are all partners with Merchant & Gould PC; and

the panel leader (Christopher M. Turoski), a distinguished University of Minnesota law professor who has taught and written extensively on patents and enforcement, the writings selected from the group consisting of the books “Patent Claims” and “The AIA: A Guide to Patent Litigation and Patent Procedure.”

- **Moderator: Prof. Christopher M. Turoski (University of Minnesota Law School)**
- **Panelists: Tom Leach, Michael A. Erbele, & Daniel Bruzzone (Merchant & Gould P.C.) and Galen Rahmlow (Medtronic PLC)**

TOM LEACH is a partner at Merchant & Gould. He is a trial lawyer and registered patent attorney with over twenty years of experience litigating IP matters. Tom specializes in all aspects of intellectual property litigation, including patent, trademark, trade secret, and copyright litigation. His extensive experience with U.S. Patent & Trademark Office post-grant proceedings, such as IPRs and reexaminations, allows him to take the fight to court or the patent office, whichever is best for his clients. Tom has successfully litigated high-stake patent cases from sophisticated turf-care equipment, software patents, and medical devices to adjustable dumbbells, construction tools, and door and window hardware. He has also successfully litigated trade secret, trademark, and copyright cases for a variety of clients. Tom is also experienced in defending clients sued by patent trolls where he uses his knowledge of the trolls and their pressure points to resolve those matters efficiently.

MICHAEL A. ERBELE serves as partner at Merchant & Gould, where he primarily focuses on intellectual property litigation. Michael boasts a wealth of experience in handling complex patent cases and appeals, including those involving mechanical, electrical, and software technologies. He excels in all stages of litigation, from pre-litigation counseling and negotiations through trial and appeal. Beyond litigation, Michael also assists clients with post-grant proceedings, patent reexaminations, and counseling on patent infringement and validity. In addition, Michael regularly appears before federal courts across the country to address patent infringement matters and other related issues.

DANIEL BRUZZONE is a partner in the electrical and software patent prosecution group at Merchant & Gould. Daniel is a dedicated IP attorney who practices patent prosecution and filing strategy. Daniel’s practice has a significant international component, and his clients develop technology in software, optics, and medical device technologies, resulting in frequent claim construction puzzles for patent drafting as well as opinions.

GALEN RAHMLow is an in-house Principal IP Counsel at Medtronic where he manages a portion of Medtronic’s Cardiac Rhythm Management portfolio. Prior to Medtronic, Galen worked in private practice including four years as a litigator in New York City focusing on Hatch Waxman litigation for brand-name pharmaceuticals and seven years doing preparation and prosecution focusing on chemical and mechanical arts. Galen obtained his Juris Doctor from Franklin Pierce Law Center and a Bachelor of Science in Chemical Engineering, Chemistry, and Physics from the University of Minnesota.

CHRISTOPHER M. TUROSKI is the Director and Assistant Professor of Patent Law Programs at the University of Minnesota Law School. Turoski is the author of the treatises "Patent Claims," "Assets & Finance: Intellectual Property in Mergers and Acquisitions," and "The America Invents Act: A Guide to Patent Litigation and Patent Procedure," each published by Thomson Reuters. Turoski is the immediate past President of the National Association of Patent Practitioners. Previously, Turoski held a series of executive-level positions at Cargill Inc. and practiced at the law firm of Foley & Lardner.

Why Good IP Attorneys and Firms Do Bad Things — *Ethics*

Why do good IP attorneys and firms act unethically? This session will use case studies and discussion to examine the ethical obligations of IP attorneys, including the proposed new ABA Model Rule 1.6 that creates an affirmative obligation to “inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation.” The session will begin with a discussion of the classic Stanley Milgram punishment experiments, seeking to understand how they help explain unethical behavior. The class then uses specific case studies to provide a foundation for an analysis of why and when IP attorneys act unethically and what ethical obligations they do have. The session concludes with a discussion regarding how IP attorneys can develop processes to ensure ethical compliance.

Goals:

- ✓ Discuss the individual, organizational, political, and social forces that lead to unethical behavior
 - ✓ Examine the ethical and legal obligations of IP attorneys
 - ✓ Review proposed changes to ABA Model Rule 1.6
 - ✓ Discuss how the development of specific processes can ensure ethical compliance
- **Prof. David Schultz (Hamline University; University of Minnesota Law School; University of Saint Thomas School of Law)**

DAVID SCHULTZ is a Hamline University Professor of Political Science and a University of Minnesota Professor of Law where since 2005 he has taught Professional Responsibility. He is also a professor of Law at the University of Saint Thomas. Professor Schultz has a Ph.D. in political Science and a JD and an LLM and he is licensed to practice law in Minnesota, Minnesota Federal District Court, and before the US Supreme Court where he has joined in several amicus briefs. Professor Schultz is the author of more than 45 books and 200+ articles on various aspects of law. Over his thirty years of teaching Professor Schultz has taught approximately one-hundred CLEs in Minnesota, including those that examine why good attorneys and firms engage in unethical behavior.

Trademark Searches and Clearance Analyses in a Global and Internet-Intensive Marketplace

This session will provide a primer on trademark clearance strategies, as well as specific considerations for clients with a significant international reach or meaningful commercial presence on the Internet. The presentation will provide practical insights to assist in-house and outside counsel in developing a consistent strategy that fits their clients' needs (and budget). It will also discuss some of the unique considerations and strategies for clearance searches for mobile app products, SaaS solutions, and similar industries that are heavily dependent on the Internet for advertising and sales, as well as the extent to which clearance search strategies should include consideration of trademark rights outside of the United States and the effects of the Supreme Court's recent *Abitron* decision.

- **Timothy Sitzmann & Mary Susan Gerber (Winthrop & Weinstine, P.A.)**

TIMOTHY SITZMANN is an intellectual property shareholder at Winthrop & Weinstine, specializing in trademark and copyright law. He advises clients regarding enforcement strategy, clearance, brand development, brand management, intellectual property acquisitions, and licensing. Tim has extensive expertise with trademark clearance, prosecution, and disputes, including proceedings at the Trademark Trial and Appeal Board and in federal court. Tim received his J.D. with distinction from the University of Iowa College of Law and clerked with the Third Judicial District of Iowa.

MARY SUSAN GERBER is a trademark and brand management attorney at Winthrop & Weinstine. She works in close partnership with brand owners to develop and implement comprehensive trademark prosecution and enforcement strategies tailored to each business' unique interests. Before joining Winthrop & Weinstine, Mary Susan worked as a trademark examining attorney at the US Patent and Trademark Office (USPTO) where she reviewed domestic and international trademark applications. Mary Susan received her J.D. with distinction from the University of St. Thomas School of Law, her Master of Science in food science from Florida State University, and her Bachelor of Science in dietetics from Florida State University.