



Conference **October 27, 2006**

Patent Policy in the Supreme Court and Congress

**Wiegand Room
Arts & Sciences Building
Santa Clara University**



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October 27

Conference on Patent Policy in

The past term was an important one for patent law in the United States, with the U.S. Supreme Court hearing a number of cases involving patent law and proposals for patent law reform being seriously debated in Congress. The upcoming term promises to be even more eventful, with several more patent cases on the Supreme Court's docket, and continued debate on patent reform in the Congress that will be elected in November. This conference will bring together academic scholars from across the nation to discuss the reaction to this term's Supreme Court decisions, the cases to be heard in the upcoming term, recent decisions in the Federal Circuit, the impact of patent law on innovation, and potential future directions for patent reform legislation in Congress.

7:30 am–8:15 am

Registration and Continental Breakfast

8:15 am–8:30 am

Welcome and Introduction

Donald Polden, Dean, Santa Clara University School of Law

Robert Barr, Executive Director, BCLT, Boalt Hall School of Law, UC Berkeley

Jenny Lynn Cox, Assistant Dean for Law & Technology and Executive Director, HTLI, Santa Clara University School of Law

8:30 am–10:00 am

Panel 1 • The Supreme Court Year in Review

The U.S. Supreme Court decided a number of cases involving patent law in the October 2005 term, including *Illinois Tool Works v. Independent Ink*, on the intersection of patent law with antitrust law; and *eBay v. MercExchange*, on the standard for granting permanent injunctions in patent cases. It also denied certiorari in *FTC v. Schering-Plough*, involving reverse payments to competitors to keep them from introducing generic drugs into the marketplace; and dismissed certiorari as improvidently granted in *LabCorp. v. Metabolite*, a case involving the validity of a patent for diagnosing a vitamin deficiency. This panel will discuss the repercussions of those decisions.

Tyler Ochoa, Santa Clara University School of Law

Christopher Cotropia, University of Richmond School of Law

Richard Gruner, Whittier Law School

Ted Hagelin, Syracuse University College of Law

Cynthia Ho, Loyola University of Chicago School of Law

Chris Holman, University of Missouri at Kansas City School of Law

Adam Mossoff, Michigan State University School of Law



Polden



Ochoa

Moderator

10:00 am–10:30 am

Break

the Supreme Court and Congress

10:30 am–12:00 pm **Panel 2 • The Supreme Court Year in Preview**

The Supreme Court has already granted certiorari to hear two patent law cases in the October 2006 term: *KSR International v. Teleflex*, on the teaching-suggestion-motivation test for obviousness; and *Medimmune v. Genentech*, asking whether a licensee can sue for a declaratory judgment of non-infringement without having first breached the license. The Supreme Court also has asked the Solicitor General to express its views on whether it should grant certiorari in *Microsoft v. AT&T*, a case involving §271(f) and the extraterritorial reach of U.S. patent law. This panel will discuss these pending cases.



Merges

Moderator

Robert Merges, BCLT, Boalt Hall School of Law, UC Berkeley

Dan Burk, University of Minnesota Law School

Lisa Dolak, Syracuse University College of Law

Gregory Mandel, Albany Law School

Joseph Scott Miller, Lewis & Clark Law School

Joshua Sarnoff, American University, Washington College of Law

Toshiko Takenaka, University of Washington School of Law

12:00 pm–1:00 pm **Lunch**

Lunch Speaker

John Terry, Griffith Hack, Sydney, Australia

1:00 pm–2:30 pm **Panel 3 • Incentives and Invention**

This panel will discuss a number of topics concerning the incentive that the patent law system gives to invention and innovation, including how well patent law deals with highly collaborative inventions, the problem of the “anticommons” (multiple patents covering a single product), and the impact of the Bayh-Dole Act on university research.



Van Houweling

Moderator

Molly Van Houweling, BCLT, Boalt Hall School of Law, UC Berkeley

Paul Heald, University of Georgia School of Law

F. Scott Kieff and **Troy Paredes**, Washington University of St. Louis

Charles McManis, Washington University of St. Louis

Michael Mireles, University of Denver College of Law

Katherine Strandburg, DePaul University College of Law



2:30 pm–2:45 pm

Break

2:45 pm–4:00 pm

Panel 4 • Claim Construction and Infringement

This panel will discuss two papers presenting empirical evidence on the operation of patent law, one on the impact of the *Phillips* case on claim construction, and the other on the number of patent disputes triggered by innocent infringement.



Goldman

Moderator

Eric Goldman, HTLI, Santa Clara University School of Law

Margo Bagley, University of Virginia School of Law

Michael Meurer, Boston University School of Law

Craig Allen Nard, Case Western Reserve University School of Law

R. Polk Wagner, University of Pennsylvania Law School

4:00 pm–4:15 pm

Break

4:15 pm–5:30 pm

Panel 5 • Prospects for Patent Legislation in Congress

Last year was an active year in Congress, as bills were introduced and hearings were held on various aspects of the patent law system. Among the issues being debated are proposals whether the U.S. should change to a first-to-file system, provide an opportunity for post-grant oppositions, change the standards for willfulness and apportionment of damages, limit continuations, and repeal §271(f). This panel will discuss proposals for patent term extension in the pharmaceutical industry, and the prospects for patent law reform more generally.



Barr

Moderator

Robert Barr, BLCT, Boalt Hall School of Law, UC Berkeley

Robin Cooper Feldman, University of California, Hastings College of Law

Rebecca Eisenberg, University of Michigan School of Law

Mark Janis, University of Iowa College of Law

Kevin Outterson, West Virginia University College of Law

Register Online

<http://www.scu.edu/patentconference.html>

For more information, contact Jasmine Pilgeram at **408-551-1868** or email: hightechlaw@scu.edu

MCLE

Santa Clara University certifies that this activity has been approved for MCLE credit by the State Bar of California in amounts of one hour of MCLE credit for each hour of substantive presentation. As the provider, Santa Clara University will retain the required MCLE records for this program.

Special Needs

If you have a disability or require reasonable accommodation, please call Jasmine Pilgeram at 408-551-1868 or California Relay at 800-735-2929 (TTY) at least 72 hours prior to the event.

Substitutions

Occasionally a featured speaker may be unable to meet his or her commitment due to illness or emergency. We will make every attempt to substitute an equally qualified presenter for the event, but cannot guarantee advance notice of substitution.

Conference

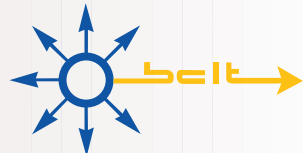
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