

Tuesday, 05 March, 2024

7:30 — 8:30 Registration**8:30 — 8:45 Welcome and Overview**
(Weinlein)**8:45 — 9:30 Fireside Chat**
(Faure, Frohlich, Wu*, Vidal)

In this dynamic interchange, we'll hear from IP Office leaders about the problems confronting intellectual property administrative agencies in their respective countries and how in their leadership roles they are addressing those challenges. These leaders will also identify and consider some of the changes they anticipate will impact their agencies in the nearer term and how they foresee their operations functioning in the longer term in light of novel future change including the proliferation of ubiquitous uses of artificial intelligence.

Panel Materials

1.1 Inventorship Guidance For AI-Assisted Inventions, Vol. 89, No. 30, Fed. Reg. (Feb. 13, 2024).

9:30 — 10:15 The Role of Litigation Funding
(Fetches, Gill, Hadzimehmedovic, Wielinga, Wuttke*)

Litigation funding is a relatively new development in Europe, but already billions of dollars have been raised and patent cases are an obvious choice for third-party funding. But with the U.K. Supreme Court's ruling in *Paccar v. Road Haulage*, and the European Union's announcement that it is investigating whether litigation funding should be regulated, is litigation funding in Europe still viable? Our panel will discuss this and more, with contributions from some of Europe's leading funding organizations.

Panel Materials

- 2.1 *PACCAR Inc. v. Competition Appeal Tribunal*, UK Supreme Court 28 (2023).
- 2.2 European Union, Committee on Legal Affairs, June 17, 2021 Draft Report.
- 2.3 European Parliament Study on Private Funding of Litigation, March 2021.
- 2.4 European Parliament Report with Recommendations, July 17, 2022.
- 2.5 Order Deciding Joint Motion of Sysco and Carina Ventures in *In re Pork Antitrust Litigation* (D. Minn. February 9, 2024).
- 2.6 Litigation Financing Disclosure and Patent Litigation (JRS Working Draft Paper), reprinted with permission, electronic copy available at: <https://ssrn.com/abstract=4527378>.
- 2.7 BMW Motion to Intervene in Delaware District Court, 2-14-24 as Judgment Creditor, Case 1:23-cv-01441-GBW Document 36-1 Filed 02/14/24 Pages 1 - 93, #: 537.
- 2.8 Longford Capital Brief In Support of Arbitration, Case 1:23-cv-01441-GBW Document 20

Filed 01/15/24 Pages 1-31, #: 32.

2.9 Arigna v. Longford Capital Complaint, District of Delaware, Case 1:23-cv-01441-GBW
Document 10 Filed 12/28/23 Pages 1-31 #: 90.

10:15 — 10:30 Morning Break**10:30 — 12:00 The Unified Patent Court - Nearly One Year Later**

(Hon. Blok, Edwards, Hon. Kupecz, Hon. Jacobi, Widera, Wuttke*)

The Unified Patent Court (UPC) went live on June 1, 2023. While it's still early, we now have nearly a year of data on the unitary patent and the UPC to help guide decisions as to whether to request unitary effect for European patents, and whether to bring enforcement actions in the UPC. Our panel will address these topics and more including the latest developments, perspectives from judges and counsel engaged in UPC matters, predicted trends, and considerations for attorneys and clients contemplating the UP/UPC forum.

Panel Material

- 3.1 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the Forthcoming European Unified Patent Court, 24 Sedona Conf. J. 219 (2023)
- 3.2 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the European Unified Patent Court, February 2024 Update

12:00 — 13:30 Lunch**13:30 — 14:30 Global Litigation - Venue Selection & Case Management**

(Hon. Albright, Hon. Cheney, Hon. Kokke, Muller-Stoy*, Rodrigues)

Increasingly, the most significant patent disputes are global in scope, involving multinational corporations and international activities. Because the substantive and procedural laws of relevant countries are often quite different—for example, regarding the availability of rapid injunctive relief or significant damages—parties strategize how to exploit those differences to their advantage. This panel will discuss some of the key procedural, substantive patent law, and economic considerations driving venue selection of the patent holder seeking to enforce its global patent portfolios, as well as patent revocation actions and declaratory proceedings.

Panel Material

- 4.1 TSC, Framework for Analysis of Venue Selection in Global Patent Litigation: Strategic Considerations, March 2024

14:30 — 15:15 Update on China Litigation

(Huang*, Wang, Zhang, Zhu)

This panel will provide a short overview of certain key procedural considerations for patent litigation in China, including (1) jurisdiction; (2) service of process; (3) declaratory judgment; (4) burden of

proof; (5) evidence production; and (6) key events. Additionally, panel members will highlight recent cases and will identify trends as reflected in recent litigation in China.

Panel Material

- 5.1 Annual Report of IPC of the SPC 2022
- 5.2 The Conflict Between US Discovery Rules and the Laws of China.16TSCJ283
- 5.3 Discovery in China and Hong Kong.16TSCJ257

15:15 — 15:30 Afternoon Break**15:30 — 16:30 International Enforcement of Trade Secrets**

(Almeling*, Cooper, Falk, Pade, Hon. Pichlmaier, Rastemborski, Selwyn)

Trade secret misappropriation increasingly crosses national borders. This creates complications for lawyers and their clients, as trade secret law and practice varies widely across the world. This panel addresses these complications and strategies to address them. Specifically, this panel addresses: (1) differences in trade secret laws between countries; (2) extraterritorial application of US law in courts and at the ITC; (3) the role of international ADR to address trade secret misappropriation; and (4) strategies for addressing transnational misappropriation.

Panel Material

- 6.1 TSC, Framework for Analysis of Trade Secret Issues Across International Borders, 23 Sedona Conf. J. 909 (2022).
- 6.2 TSC, Framework for Analysis of Cross Border Discovery Conflicts (Aug. 2008).
- 6.3 TSC, International Principles on Discovery, Disclosure and Data Protection in Civil Litigation (Jan. 2017).
- 6.4 TSC, Commentary on Cross-Border Discovery in US Patent and Trade Secret Cases (Stage 2), 24 Sedona Conf. J. 549 (2023).

16:30 — 18:00 Global SEP/FRAND Update

(Delgado*, Faraji, Geiszler, Meyer, Hon. Pichlmaier, Trenton, Mutimear)

The assertion and valuation of standard-essential patents, and the determination of a fair, reasonable, and non-discriminatory (FRAND) royalty rate, continue to be hot topics worldwide. Whether it's the European Commission's proposed "framework" for SEPs, the continued rise of SEP patent pools, or the question of who determines a global FRAND rate, our panel will address these topics and provide insight from industry insiders.

Panel Material

- 7.1 TSC, Framework for Analysis of Standard-Essential Patent and Fair, Reasonable and Non-Discriminatory Licensing and Royalty Issues ("US Edition") (Jan. 2023).
- 7.2 The Supreme People's Court of the Supreme Court of China, 2022 Zhimin Zong No. 907, 910, 911, 916, 917, 918, Judgment 12-12-2023.

- 7.3 The People's Republic of China, Chongqing First Intermediate Court, *Oppo v. Nokia Royalty Case Decision*, English Translation.
- 7.4 European Commission, Proposal for a Regulation of Standard Essential Patents and Amending Regulation 2017, 1001.
- 7.5 Public, Non-confidential Version of *Optis v. Apple Trial Judgment*, May 10, 2023, EWHC 1095 (Ch).
- 7.6 *G+Comm v. Samsung*, E.D. Tex. Jan. 8, 2024 Memorandum Opinion and Order.
- 7.7 *G+Comm v. Samsung*, E.D. Tex. Jan. 22, 2024 Memorandum Opinion and Order.

18:00— 12:00 **Reception**

Wednesday, 06 March, 2024

8:00 — 9:00 **Registration**

9:00 — 10:00 **Conversation With In-House Counsel**
(Earle, Faraji, Ferguson*, Toliver, Whitaker)

This diverse panel of in-house counsel representing varied industries will assess intellectual property issues from around the world which present opportunities for and threats to their business operations. In-house legal departments are constantly being asked to do more with less, from identifying risks to new product lines to enforcing IP rights against multiple competitors. Our panelists will also highlight ways in which outside counsel can partner with their clients on IP issues and strategy to most effectively generate value for their mutual benefit.

Panel Material

- 8.1 TSC, Commentary on Protecting Trade Secrets Throughout the Employment Life Cycle, 23 Sedona Conf. J. 807 (2022).
- 8.2 TSC, Commentary on the Governance and Management of Trade Secrets, 24 Sedona Conf. J. 429 (2023).
- 8.3 TSC, Commentary on Cross-Border Discovery in US Patent and Trade Secret Cases (Stage 2), 24 Sedona Conf. J. 549 (2023).
- 8.4 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the Forthcoming European Unified Patent Court, 24 Sedona Conf. J. 219 (2023).
- 8.5 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the European Unified Patent Court, February 2024 Update.
- 8.6 TSC, Framework for Analysis of Standard-Essential Patent and Fair, Reasonable and Non-Discriminatory Licensing and Royalty Issues ("US Edition") (Jan. 2023).
- 8.7 TSC, Framework for Analysis of Venue Selection in Global Patent Litigation: Strategic Considerations, March 2024.

10:00 — 11:00 BioPharma Update

(Groombridge*, Hon. Klepsch, Hon. Kokke, Metier, San Martin)

In the wake of the Covid-19 pandemic and vaccines, it is clear that biotechnology generates both innovation and IP litigation. The panel will discuss legal developments in life sciences IP litigation globally, including proposals to override IP rights in order to expand access to healthcare innovations; new decisions on what is and what is not patentable (such as plausibility in case G2/21 in the EBA, and section 112 in antibody cases in the US); and the standards required for courts to grant injunctions on patents protecting life-saving technologies.

Panel Material

9.1 A. Metier, International Biopharma Patent Litigation (2023-24).

9.2 TSC, Commentary on Patent Litigation Best Practices – BioPharma Litigation Chapter (October 2021).

11:00 — 11:15 Morning Break**11:15 — 12:45 Judicial Roundtable**

(Hon. Albright, Hon. Blok, Hon Cheney, Hon Kupecz, Hon. Klepsch, Powers*)

Hear from an experienced panel of European and U.S. judges on issues impacting litigation involving patents and trade secrets, case management insights and recommendations regarding beneficial practices counsel and clients can follow to advance their interests in judicial fora. This panel will also discuss UPC litigation insights from the first year of the court's operation.

Panel Material

10.1 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the Forthcoming European Unified Patent Court, 24 Sedona Conf. J. 219 (2023).

10.2 TSC, Framework for Analysis for the Efficient Resolution of Disputes Before the European Unified Patent Court, February 2024 Update.

10.3 TSC, Framework for Analysis of Venue Selection in Global Patent Litigation: Strategic Considerations , March 2024.

10.4 TSC, Commentary on Cross-Border Discovery in US Patent and Trade Secret Cases (Stage 2), 24 Sedona Conf. J. 549 (2023).

10.5 TSC, Commentary on Equitable Remedies in Trade Secret Litigation, 23 Sedona Conf. J. 591 (2022).

10.6 TSC, Commentary on Protecting Trade Secrets in Litigation About Them, 23 Sedona Conf. J. 741 (2022).

10.7 TSC, Commentary on Patent Litigation Best Practices: Streamlining Lower-Value Patent Cases Chapter, 24 Sedona Conf. J. 727 (2023).



The 2024 Sedona Conference on Global Intellectual
Property Litigation

The Charles Hotel, Munich, Germany
05 - 06 March, 2024

ANNOTATED AGENDA

12:45 — 13:00 Closing Statements
(Weinlein)

13:00 — 14:00 Lunch

Date: Tuesday, March 5, 2024 - 8:45am to Wednesday, March 6, 2024 - 1:00pm