

**A SPRING BRIEFING**  
**INNOVATIONS**  
in  
**IP LITIGATION**

GAUGING THE IMPACT OF RECENT FEDERAL DECISIONS  
—WHAT IT MEANS FOR YOU AND YOUR CLIENT—

May 16, 2007 ■ The Hilton – San Jose, California

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Principal  
Fish & Richardson P.C.



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**WELCOME AND  
OPENING REMARKS**

**PAMELA SHERRID**  
Editor  
IP Law & Business

**WHY YOU SHOULD ATTEND:**

- Surprises from the Federal Circuit: Understand the Trends and Be Prepared For What's Next
  - Tackling Recent Federal Decisions
    - *MedImmune*: Does It Change the Standard to Bring Suit?
    - *KSR*: Obviousness and Strategies For Protecting Your Patent
    - *eBay*: Has the Injunction Landscape Changed?
    - *AT&T v. Microsoft*: Tips on Litigating International Infringement in U.S. Courts
    - *EchoStar, Seagate*: Willfulness and the Status of Attorney-Client Privilege
  - Making Strategic Venue Decisions – What are the Pros and Cons?
  - Winning Techniques For Trying Your Technologically Intensive Case
  - Learn Effective New Licensing Strategies for Today's Changing Industry
  - Tips on Protecting Against Trademark Dilution
- And much more...

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## WELCOME AND OPENING REMARKS

### PAMELA SHERRID

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Gauging the Impact of Recent Federal Decisions  
—what it means for you and your client—

May 16, 2007

The Hilton - San Jose, California

Whether you are in-house counsel or a law firm attorney, you will benefit by attending this cutting-edge program. Join our expert faculty, led by Co-Chairs Michelle K. Lee at Google and David J. Miclean at Fish & Richardson P.C., for interactive discussions on today's most pressing topics, including:

- What are the pros and cons of litigating in the top venues?
- Does *MedImmune* lower the standard for bringing suit?
- What are some alternative licensing strategies?
- Has KSR changed the obviousness standard? Is your patent too obvious to be protected?
- How has *eBay* changed the injunction landscape?
- Are courts "forcing" licenses?
- Willfulness: does Attorney-Client Privilege still exist?
- What are the implications and consequences of recent federal decisions?
- Technologically intensive cases – what are best practices for trying and winning?
- Where have we been and where are we going?

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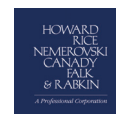
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8:30- 9:00

## Registration and Continental Breakfast

11:15-12:00

## KSR International vs. Teleflex – Understanding Obviousness and ProActive Strategies for Protecting Your Patents

9:00- 9:15

## Welcome and Introduction

**Pamela Sherrid**  
Editor  
IP Law & Business  
New York, New York

In the much anticipated *KSR International v. Teleflex Inc.*, the Supreme Court addressed the Federal Circuit's "teaching-suggestion-motivation" requirement for demonstrating that a patent is obvious. A panel of experts will discuss:

9:15-10:15

## Strategic Venue Decisions – Tips on Choosing the Right Venue in Today's Ever-Changing Legal Landscape

In 2006, the Central District of California, Eastern District of Texas and Northern District of California received the most patent filings. The Southern District of California, District of Delaware and U.S. International Trade Commission also remain top choices for patent suits. In today's ever-changing legal landscape, join a panel of experts from these top venues to discuss:

- The pros and cons of litigating in the top venues as a plaintiff and defendant
- What you should consider in choosing the right venue
- Recent trends and what to expect in the upcoming months
- How top venues will be affected by Rep. Darrell Issa's bill on specialty patent courts

Join a panel of Fish & Richardson experts, moderated by **John M. Farrell** (Principal, Silicon Valley, California) and comprised of litigators from the top venues: **David M. Barkan** (Principal, Silicon Valley, California) will address the Northern District of California; **Thomas M. Melsheimer** (Managing Principal, Dallas, Texas) will address the Eastern District of Texas; **Juanita Brooks** (Principal, San Diego, California) will address the Central and Southern Districts of California; **William Marsden** (Principal, Wilmington, Delaware) will address the District of Delaware; and **Jeffrey Whieldon** (Of Counsel, Washington, DC) will address the International Trade Commission.

10:15-11:00

## MedImmune vs. Genentech – Does it Lower the Standard for Bringing Suit?

The Supreme Court's recent decision constitutes a significant change from established law and has important implications for both patent owners and licensees. Our panel of experts will explore:

- Standing of patent licensees to bring declaratory relief actions and the implications for patent owners and patent licensees
- The Federal Circuit's test for standing in light of the *MedImmune* decision
- Some practical alternative licensing strategies in light of the uncertainty caused by the *MedImmune* decision

**Jim Etheridge**  
General Counsel and Vice President of Strategic Relations  
Electronics For Imaging, Inc.  
Foster City, California

**Dana Hayter**  
Director of Licensing  
Intel Corporation  
Santa Clara, California

**Duane Valz**  
Vice President and Associate General Counsel, Patents  
Yahoo!, Inc.  
Sunnyvale, California

**Bobbie J. Wilson**  
Director  
Howard Rice Nemerovski Canady Falk & Rabkin  
San Francisco, California

12:00-12:45

## eBay One Year Later – Its Effect on the Issuance of Injunctions

On the first anniversary of the Supreme Court's landmark decision in *eBay v. MercExchange*, join an expert panel in reviewing the past year to identify trends and impacts on:

- Most important factors for issuance and denials of injunctions
- Whether courts are "forcing" licenses as predicted
- Whether the Court's opinion has impacted patent troll activity

**Grant E. Kinsel**  
Senior Counsel  
Foley & Lardner LLP  
Los Angeles, California

**Matthew R. Lynde**  
Vice President  
Cornerstone Research  
San Francisco, CA

**Taraneh Maghame**  
Vice President, Emerging Technologies, Counsel  
Tessera  
San Jose, California

12:45-2:00

## Luncheon

2:00-3:00

## Willful Infringement and Use of Opinions of Counsel: Does Attorney-Client Privilege Still Exist?

The Federal Circuit's recent panel decision in *DSU Medical Corporation v. JMS Co., Ltd.* suggests that an opinion of counsel may be a defense, perhaps even a complete defense, to inducement. *EchoStar* and *Seagate* highlight the issues with relying on opinions of counsel, and the *EchoStar* progeny contain some pretty shocking waiver language. Join us for a panel discussion on:

- The current state of the law and expected evolution
- Practical tips for moving forward

**Moderator:**  
**Katherine Kelly Lutton**  
Principal and National Head of Litigation  
Fish & Richardson P.C.  
Redwood City, California

**Panel:**  
**Joseph FitzGerald**  
Vice President, Intellectual Property and Deputy General Counsel  
Symantec Corporation  
Cupertino, California

**Douglas B. Luftman**  
Associate General Counsel, Intellectual Property  
Palm, Inc.  
Sunnyvale, California

11:00-11:15

## Mid Morning Break



**Derek Minihane**  
Vice President, Intellectual Property  
Intermolecular, Inc.  
San Jose, California

**Alison Tucher**  
Partner and Author of the *EchoStar* briefs  
Morrison & Foerster LLP  
San Francisco, California

3:00-3:45

### Trying Technologically Intensive Cases – Winning Strategies and Cost Saving Tips

Leading outside and inside counsel will address modern challenges of trying technologically intensive cases.

They will discuss best practices for:

- Managing your client's expectations regarding costs and results
- Researching and knowing your audience – the client, judge and jury
- Mastering the technology and developing your trial themes and strategy
- Selecting and using experts
- Using animation, charts and other demonstratives
- Using technology in the courtroom to simplify the facts and legal issues

**James DiGiorgio**  
General Counsel - Licensing & Trading  
General Electric Company  
Princeton, New Jersey

**Jeanine L. Hayes**  
Vice President and Associate General Counsel  
Yahoo!, Inc.  
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**Jeff Risher**  
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Cupertino, California

**Perry J. Viscounty**  
Partner and Co-Chair of Global IP and  
Technology Group  
Latham & Watkins  
Costa Mesa, California

3:45-4:00

### Afternoon Break

4:00-4:45

### AT&T v. Microsoft – Successfully Litigating International Infringement in U.S. Courts

This presentation will discuss the Supreme Court's reaction in *AT&T v. Microsoft* and expansion of the U.S. Court's jurisdiction over activities occurring outside of the United States.

- How 35 U.S.C. §271(f) (dealing with exportation from the U.S.) has been interpreted
- Are you protected against non-U.S. activities?
- Implications of the Supreme Court's decision in *AT&T v. Microsoft*

**Douglas M. Kubehl**  
Partner  
Baker Botts LLP  
Dallas, Texas

**Joseph R. Re**  
Partner  
Knobbe Martens Olson & Bear L.L.P.  
Irvine, California

4:45-5:30

### Navigating Unpredictable Federal Circuit and Supreme Court Decisions

The last few years have seen a marked increase in the attention paid to our patent laws and their effect on business and innovation. From *Knorr Bremse* (willfulness) to *Phillips* (claim construction) to *eBay* (injunctions) to *KSR* (obviousness) to *MedImmune* (patent licenses) to *AT&T v. Microsoft* (extraterritorial infringement), the Federal Circuit and Supreme Court have taken an active and noticeable role in defining and shaping patent law, arguably more so now than at any time in our country's history. Congress is now getting into the act with a con-

certed patent reform movement which is likely to result in legislation this year. This session will address these potentially far-reaching changes in our patent laws and will offer thoughts and strategies from both in-house and outside counsel regarding how to deal with this ever-changing legal landscape.:

**Jeremiah Chan**  
Corporate Counsel Intellectual Property  
JDSU  
Milpitas, California

**William N. Gerson**  
Of Counsel  
Townsend and Townsend and Crew L.L.P.  
Palo Alto, California

**Theodore T. Herhold**  
Partner and Chair of Litigation Group  
Townsend and Townsend and Crew L.L.P.  
Palo Alto, California

5:30

### Cocktail Reception

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**Presented by:**  
**David J. Miclean**  
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