



Guarding the Treasure: IP Valuation & Remedies
Monday, October 29, 2007
Westin Times Square, New York, NY

7:30 a.m. Registration and Continental Breakfast

8:45 a.m. – 9:00 a.m. Welcome/Opening Remarks
Sharon R. Barner, Chair of IP Department, Foley

9:00 a.m. – 10:00 a.m. Licensing to Maximize IP Value and Assets
(from Licensee's Perspective)

Licensing IP can be both defensive and proactive. Uncertainty in patent quality and in the outcome of litigation suggests that usually it is better to be a licensee than an alleged infringer. But there are other reasons for licensing in the current fast-paced business environment, such as leveraging assets to achieve freedom to operate or to gain access to the developments of others in creating new products or services. The panel will explore these issues as well as the following:

- Implementing and institutionalizing a licensing strategy that anticipates future competitors and fills technology gaps to compete effectively, all in a way that will serve your organization for years to come
- Selling management on a sustainable risk/reward approach to preemptive licensing
- Using pin-point licensing and cross-licensing as enablers in the marketplace, particularly when no one company has the resources to do it all
- Assessing patent quality in light of changes in USPTO patent examination, judicial interpretations by the courts, legislative proposals, and patent owner behavior, including leveraging from Supreme Court decisions in the Medimmune and KSR cases
- Using a variety of patent valuation techniques to negotiate and establish license payments

Panelists: **Charlotte Copperthite**, Senior Counsel Licensing and Litigation, Schlumberger Limited
Steve Fox, Of Counsel, Foley
Georgann Grunebach, Vice President, Intellectual Property, Fox Group Legal
Todd Harrington, General Counsel, DTS Digital Cinema, Inc.

10:00 a.m. – 11:00 a.m. Licensing to Maximize IP Value and Assets
(from Licensor's Perspective)

Billions of dollars have been generated by global licensing transactions in recent years with much of it coming from trademark and copyright transactions. A well conceived and managed licensing program can enable an IP owner to obtain significant additional income from its assets, as well as increase the owner's scope of rights in them and, consequently, their value. However, there are a number of potential licensing pitfalls that can have an adverse affect on not only a companies assets, but the overall business which must be considered.



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This panel will explore:

- The potential legal and business value of a successful trademark and copyright licensing program
- Finding and evaluating licensing opportunities, and determining their potential worth
- Steps companies can take to obtain and protect their intellectual property rights overseas
- Recognizing the downside legal and business risks of licensing
- Distinguishing between necessary and desirable license terms
- The work required after the license is granted

Panelists: **Craig Fochler**, Partner, Foley
Kamau King, Trademark Counsel, The Coca-Cola Company
Tanya Moore, Senior Director IP Licensing, Microsoft Corporation
Stanley Pierre-Louis, Vice President and Associate General Counsel Intellectual Property & Content Protection, Viacom Inc.
Catherine Sun, Partner, Foley

11:00 a.m. – 11:15 a.m. Break

11:15 a.m. – 12:15 p.m. IP Holding Companies: Benefits Worth the Risk?

The States have launched a full scale attack against intellectual property holding companies. Dozens of cases are in litigation across the country, and widely varying results have been reported from State to State. While the States challenge the tax benefits, the courts have challenged the ability of an IP holding company to recover "lost profit" damages. This panel will explore using a Holding Company to preserve its tax status as well as operating one to retain the ability to recover "lost profit" damages for infringement including:

- How should an IP holding company be structured to be in the best position to retain its tax and other business advantages?
- How can you preserve deductions for royalties paid to an IP holding company by its affiliated group of operating companies?
- Should you change the way your IP holding company operates in light of the Poly-America decision?
- Are the benefits of an intellectual property holding corporation outweighed by the limitations placed on a holding company in seeking a damage award in a patent litigation?



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Panelists: **Alexander Arato**, Vice President, Associate General Counsel, CA, Inc.
Barry Grossman, Partner, Foley
Jamshed Patel, Partner, Foley
Bloor Redding, Former Vice President and Assistant General Counsel, Hewlett-Packard Company
J. Bruce Schelkopf, Chief Counsel, Global Intellectual Property, Cummins Inc.

12:15 p.m. – 1:45 p.m. Lunch Presentation: Views From the Bench: Remedies in IP Litigation Cases

Panelists: **The Honorable Barbara S. Jones**, United States District Court, Southern District of New York
The Honorable Loretta A. Preska, United States District Court, Southern District of New York
Jeanne Gills, Partner, Foley & Lardner LLP
Peter Wang, Partner, Foley & Lardner LLP

1:45 p.m. – 2:00 p.m. Break

2:00 p.m. – 3:00 p.m. Join or Be Enjoined: Injunctive Relief Strategies in IP Cases

Injunctive relief is a powerful remedy for IP owners. It allows them to quickly halt infringement with effective TRO and preliminary injunction tactics and obtain powerful final relief via permanent injunctions. However, it's a hotly-contested remedy as companies must fight to defend against injunctive relief that may hamper their IP assets and business operations. In this session, practical tips for helping companies obtain and defend against injunctions will be provided in addition to:

- Patent injunctions after the Supreme Court's decision in eBay v. MercExchange
- Legal issues for injunctive relief in copyright and trademark cases
- Impact of holding companies on ability to get injunctions
- MGM v. Grokster: a case study for defending against and complying with injunctions

Panelists: **Mark Edwards**, Corporate Counsel, IP Litigation Department, E. I. du Pont de Nemours and Company
Grant Kinsel, Senior Counsel, Foley
Matthew Neco, Vice President & General Counsel Stirling Bridge, Inc., & General Counsel to StreamCast Networks, Inc.
James Nguyen, Partner, Foley

3:00 p.m. – 3:15 p.m. Break



3:15 p.m. – 4:30 p.m. Monetary Damages: Maximizing Your Claim or Limiting Your Exposure
Several landmark court cases and the issuance of an important study of patent damages have put the issue of patent damages in the spotlight. This panel of experienced practitioners will examine those recent cases and findings, their effect on patent damage strategies and awards, and provide an overview of:

- What constitutes reasonable royalty
- Proving actual damages
- Statutory and Enhanced Damage Claims
- Opinions post Knorr-Bremse and impact on enhanced damages awards/attorneys fees

Panelists: **Richard Bero**, Managing Director, Litigation Services, Corporate Financial Advisors, LLC
Bryan Butler, Tucson Site Counsel, IP Law Storage Products, IBM Systems Group
Joan Eads, Director, Corporate Financial Advisors, LLC
Anat Hakim, Partner, Foley
Michael Li, Associate General Counsel, Wal-Mart Stores, Inc.
David Melton, Of Counsel, Foley

4:30 p.m. – 5:30 p.m. Patent Nation: Strategies For Limiting Payouts and Damage Awards to Patent Trolls

Focusing on strategies for dealing with patent "trolls" from a corporate perspective, this panel will include a discussion of real world strategies that have been successfully employed. Topics to be explored include:

- How do you distinguish a "patent troll" from other types of patent infringement plaintiffs, including the differences in motivation that may affect how a patent troll litigates a patent lawsuit?
- How have companies successfully dealt with patent trolls in the past to limit payouts and damage awards?
- Is there a legislative, judicial or administrative remedy needed to address patent trolls?

Panelists: **Meir Blonder**, Chief Intellectual Property Counsel, Leviton Manufacturing Co.
Bethew Jennings, III, IP Counsel, Halliburton Company
Megan O'Neill, Corporate Counsel, LEGO Systems, Inc.
Ed Polk, Senior Counsel, Foley

5:30 p.m. – 5:45 p.m. Closing Remarks

5:45 – 7:00 p.m. Cocktail Reception