

**FTC HEARING ON
THE EVOLVING IP MARKETPLACE**

**REMEDIES
FEBRUARY 11 & 12, 2009**

601 New Jersey Avenue, NW
Washington, DC

**PATENT DAMAGES
FEBRUARY 11, 2009**

**PANEL 1: STANDARDS FOR ASSESSING PATENT DAMAGES AND THEIR
IMPLEMENTATION BY COURTS**

9:00-12:30 (break from 11:00-11:15)

This panel will discuss trends in damage awards, the current standards governing patent damages, and their impact on patent value and innovation. It will examine various approaches to damages calculation and the evidence used in assessing damages, particularly in the context of reasonable royalty determinations. Policy concerns relating to the calculation of reasonable royalties and potential reforms will also be addressed.

Presenters

Paul M. Janicke, HIPLA Professor of Law, University of Houston Law Center
Aron Levko, Principal, PricewaterhouseCoopers

Panelists:

Tom Cotter, Briggs and Morgan Professor of Law, University of Minnesota Law School
Bruce Burton, Senior Managing Director, FTI
Anne Layne-Farrar, Director, LECG, LLP
Dr. Gregory K. Leonard, Senior Vice President, NERA.
Edward R. Reines, Partner, Weil, Gotshal & Manges LLP
John Skenyon, Principal, Fish & Richardson P.C.
Gail Levine, Assistant General Counsel, Verizon Communications Inc.

LUNCH BREAK :

12:30-1:45

KEYNOTE ADDRESS

1:45-2:15

The Honorable Sue L. Robinson, United States District Court for the District of Delaware

PANEL 2: INDUSTRY ROUNDTABLE DISCUSSION

2:15-5:00, (break 3:30-3:45)

This panel, structured as an industry roundtable, will explore how patent damages affect licensing, business strategies, and innovation in various sectors of the economy. In particular, it will consider whether damage awards in patent cases result in awards that promote innovation. Panelists will examine various proposals to revise the standards for damage determinations and discuss how such changes would impact their industries.

Panelists:

Philip S. Johnson, Chief Patent Counsel, Johnson & Johnson

David Simon, Chief Patent Counsel, Intel Corporation

Bryan Lord, Vice President, Finance and Licensing and General Counsel, Amberwave

Taraneh Maghamé, Vice President, M&A and Government Relations, Tessera, Inc.

Kevin H. Rhodes, Chief Intellectual Property Counsel, 3M Innovative Properties Co.

Gary H. Loeb, Vice President for Intellectual Property, Genentech

Marian Underweiser, Intellectual Property Law Counsel, IBM

Keith Agisim, Associate General Counsel for Global Intellectual Property, Bank of America

Jack Lasersohn, Partner, The Vertical Group

PERMANENT INJUNCTIONS & WILLFULNESS
FEBRUARY 12, 2009

PANEL 1: CHANGES IN INJUNCTION LAW

9:30-12:30 (break from 11:00-11:15)

This panel will explore permanent injunctions in patent cases in the wake of the Supreme Court's *eBay* decision. It will examine the ways the courts have analyzed whether to grant or deny injunctions, including the role of economic evidence in that analysis, and any trends that have developed. Panelists will consider the implications of these developments for innovation, competition, and consumer welfare.

Presenters

Christopher J. Sprigman, Associate Professor, University of Virginia School of Law
Overview of the post *eBay* cases and how courts are analyzing the four equitable factors

Steven C. Malin, Counsel, Sidley & Austin, LLP
Empirical analysis of permanent injunction decisions following *eBay*

Panelists:

George E. Badenoch, Partner, Kenyon & Kenyon, LLP
John M. Golden, Assistant Professor, University of Texas School of Law
Anne Layne-Farrar, Director, LECG, LLP
Christine Meyer, Vice President, NERA Economic Consulting
Henry Smith, Professor, Harvard Law School
Henry Su, Partner, Howrey LLP

LUNCH BREAK:

12:30-1:45

PANEL 2: INDUSTRY ROUNDTABLE DISCUSSION

1:45-4:30 (break from 3:00-3:15)

This panel will explore recent changes in injunction law and willfulness standards, and their impact on innovation, licensing and business strategies. Among other topics, the panel will consider the impact of the *eBay* decision on patent valuation and licensing; whether the changes in the willfulness doctrine have altered the behavior of patentees and potential infringers; how these court decisions have changed investment in R&D; and how changes in remedies law have implicated incentives to bring, defend or settle patent suits.

Panelists:

Robert A. Armitage, Senior Vice President and General Counsel, Eli Lilly & Co.
Kenneth M. Massaroni, Senior Vice President and General Counsel, Seagate Technology
Kevin H. Rhodes, Chief Intellectual Property Counsel, 3M Innovative Properties Co.
Gary H. Loeb, Vice President for Intellectual Property, Genentech
Donald R. Ware, Partner, Foley Hoag LLP
Jack W. Lasersohn, General Partner, The Vertical Group