

AGENDA

FEDERAL TRADE COMMISSION BERKELEY CENTER FOR LAW AND TECHNOLOGY BERKELEY COMPETITION POLICY CENTER

HEARING ON THE EVOLVING IP MARKETPLACE

May 4, 2009

Well Fargo Room
Haas School of Business
University of California at Berkeley

Panels 1 and 2 will examine the operation of IP and technology markets in different industries: how and why companies buy, sell and license patents; how patents support innovation and technology transfer; what aspects of the patent system create difficulties when seeking freedom to operate; and how the potential of patent litigation affects the operation of IP markets.

PANEL 1: THE IP MARKETPLACE IN THE LIFE SCIENCES INDUSTRIES

8:30-10:15

Earl (Eb) Bright, General Counsel and VP, Intellectual Property, Exploramed

Dianna L DeVore, Partner, Virtual Law Partners LLP

Rebecca S. Eisenberg, Robert and Barbara Luciano Professor of Law, University of Michigan
Law School

Carol Mimura, Assistant Vice Chancellor for Intellectual Property & Industry Research
Alliances (IPIRA)University of California, Berkeley

Suzanne M. Shema, Senior VP and General Counsel, ZymoGenetics, Inc.

Stuart L. Watt, Associate General Counsel and Chief Patent Counsel, Amgen, Inc.

BREAK

10:15-10:30

PANEL 2: THE IP MARKETPLACE IN THE IT INDUSTRY

10:30-12:30

John A. Amster, Co-CEO, RPX Corp.

Timothy Crean, Chief Intellectual Property Officer, SAP AG

Ron Epstein, CEO, IPotential, LLC

Horacio Gutierrez, Corporate VP & Deputy General Counsel, Intellectual Property & Licensing Group, Microsoft Corp.

Richard J. (“Chip”) Lutton Jr., Chief Patent Counsel, Apple Computer, Inc.

Alex Sousa, Counsel, Innovalight, Inc.

E. Earle Thompson, Chief Intellectual Property Counsel, SanDisk Corp.

Lee VanPelt, VanPelt, Yi & James, LLP

LUNCH BREAK

12:30-2:00

PANEL 3: MARKETS FOR IP AND TECHNOLOGY: ACADEMIC PERSPECTIVES

2:00-4:30, break 3:15-3:30

Panelists will examine how patents facilitate technology transfer, whether markets for technology and IP operate efficiently and transparently, and what could be done to improve their operation.

Henry Chesbrough, Adjunct Professor, Haas School of Business, U.C. Berkeley; Executive Director, Center for Open Innovation

Bronwyn Hall, Professor of Economics, U.C. Berkeley; Professor of Technology and the Economy, University of Maastricht

Robert P. Merges, Wilson Sonsini Goodrich & Rosati Professor of Law and Technology, U.C. Berkeley Boalt Hall School of Law; Director, Berkeley Center for Law & Technology

Marshall Phelps, Corporate Vice President for IP Policy and Strategy, Microsoft Corporation

Rosemarie Ziedonis, Assistant Professor of Strategy, Stephen M. Ross School of Business, University of Michigan

AGENDA

**FEDERAL TRADE COMMISSION
BERKELEY CENTER FOR LAW AND TECHNOLOGY
BERKELEY COMPETITION POLICY CENTER**

**HEARING ON
THE EVOLVING IP MARKETPLACE**

May 5, 2009

Well Fargo Room
Haas School of Business
University of California at Berkeley

PANEL 1: THE NOTICE FUNCTION OF PATENTS

9:00-12:00, break 10:30-10:45

Experts from academia and the bar will address the extent to which the patent system adequately fulfills its notice function – for example, ensuring that firms seeking to develop or license innovative technologies can obtain clear and timely information regarding the existence and scope of relevant patents and patent applications. Specifically, panelists will consider how various patent law doctrines and patent examination procedures affect notice, including (1) legal standards such as rules of claim construction and standards governing indefiniteness, written description, and enablement, and (2) examination practices and procedures, including notice available from information supplied by applicants and examiners, the use of continuing applications, and the publication of applications. Panelists will also discuss the extent to which the sheer number of potentially relevant patents and patent applications hinders effective notice and will consider whether any adjustments to the patent system are warranted.

Dan L. Burk, Chancellor's Professor of Law, University of California Irvine School of Law

Daralyn J. Durie, Partner, Durie Tangri Page Lemley Roberts & Kent LLP

Michelle Lee, Head of Patents and Patent Strategy, Google, Inc.

John T. McNelis, Partner, Fenwick and West

Peter S. Menell, Professor of Law, Boalt Hall and Director, Berkeley Center for Law and Technology

Vern Norviel, Partner, Wilson Sonsini Goodrich & Rosati

Lee Petherbridge, Associate Professor of Law, Loyola Law School, Los Angeles

Kevin G. Rivette, Chair, PTO Patent Public Advisory Committee

Jason Schultz, Acting Director, Samuelson Law, Technology & Public Policy Clinic

LUNCH BREAK

12:00-1:30

PANEL 2: PATENT REMEDIES

1:30-4:30, break 3:00-3:15

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. This panel will also explore permanent injunctions in patent cases in the wake of the Supreme Court's *eBay* decision and the impact of recent changes to the doctrine of willful infringement.

Yar R. Chaikovsky, Partner, Sonnenschein Nath & Rosenthal LLP

Mary E. Doyle, Senior Vice President and General Counsel, Palm, Inc.

Richard J. Gilbert, Professor of Economics, University of California, Berkeley

Mark A. Lemley, William H. Neukom Professor of Law, Stanford Law School

Vince O'Brien, Managing Partner, OSKR, LLC

William C. Rooklidge, Partner, Howrey LLP

John W. Schlicher, Attorney, Lafayette, California

P. Martin Simpson, Jr., Managing Counsel - Business and Land Use, Office of General Counsel,
University of California