

FTC HEARING ON THE EVOLVING IP MARKETPLACE
Markets for Intellectual Property
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Panelist Biographies

Keith Bergelt

Keith Bergelt is the Chief Executive Officer of Open Invention Network (OIN), the collaborative enterprise that enables innovation in open source and an increasingly vibrant ecosystem around Linux. In this capacity he is directly responsible for enabling, influencing and defending the integrity of the Linux ecosystem. Central to the achievement of his goals is the acquisition and transfer of patent rights designed to permit members of the Linux ecosystem to operate free of the threat of assertion and litigation from those whose business models are antithetical to innovation and global economic growth in information technology and computing.

Prior to joining the Open Invention Network, Mr. Bergelt served as President and CEO of two Hedge Funds – Paradox Capital and IPI – formed to unlock the considerable asset value of patents, trademarks and copyrights in middle market companies. Paradox and IPI were the first Funds of their kind to offer specialty lending products supported exclusively by intellectual property. Driven by Mr. Bergelt’s creativity and entrepreneurial approach, these funds enabled the emergence of patents, trademarks and copyrights as a viable source of collateral in asset based loans, forever reshaping the emerging IP Finance landscape.

During Mr. Bergelt’s stewardship of these IP-based lending activities, he raised more than \$300 million dollars and financed portfolio companies of private equity firms including Texas Pacific Group, Kelso & Co., JH Whitney, Weston Presidio, Goode Partners, Palladium Capital and Castanea Partners, among others.

Previously, Mr. Bergelt served as a senior advisor to the technology investment division at Texas Pacific Group. He also headed business development, intellectual property and licensing for the Kelso & Company portfolio company Cambridge Display Technology in the United Kingdom. Additionally, he established and served as General Manager of the Strategic Intellectual Asset Management business unit at Motorola Corporation and served as Motorola’s director of Technology Strategy.

Mr. Bergelt was a co-founder of the Intellectual Property Advisory Practice within the Electronics and Telecommunications Industry group at SRI Consulting in Menlo Park, California.

Prior to his extensive private sector experience, Mr. Bergelt served for twelve years as a diplomat with postings at the United Nations in NY and the American Embassy in Tokyo, Japan where he was involved in the negotiation of IP rights protection in Asia.

Mr. Bergelt holds an A.B. from Duke University, a J.D. from Southern Methodist University School of Law and an M.B.A. from Theseus Institute in France. He is a frequent speaker on corporate strategy, finance and intellectual property management.

Iain M. Cockburn

Iain M. Cockburn is Professor of Finance and Economics and Everett W. Lord Distinguished Faculty Scholar in the School of Management at Boston University, where he teaches and performs research in the areas of entrepreneurship, business strategy, intellectual property, economics of innovation, and management of high technology companies.

Professor Cockburn graduated from the University of London in 1984, and completed his Ph.D. in economics at Harvard University in 1990. Prior to joining the faculty of Boston University, he was the Van Dusen Professor of Business Administration in the Faculty of Commerce at the University of British Columbia. He is a Research Associate at the National Bureau of Economic Research in Cambridge, Massachusetts.

Professor Cockburn is published widely in leading journals in economics and management. His recent papers include “Is the Pharmaceutical Industry in a Productivity Crisis” in *Innovation Policy and the Economy*, “The Market for Follow-on Biologics: How Will It Evolve?” in *Health Affairs*, “Faster, Smaller, Cheaper: An Hedonic Price Analysis of PDAs.” in *Applied Economics*, and “Patents, Thickets and the Financing of Early-Stage Firms: Evidence from the Software Industry” and “Patents and the Survival of Internet-related IPOs.” in the NBER Working Paper Series.

Marcus Delgado

Marcus Delgado is the Chief IP Counsel for Cox Communications, Inc. He handles all intellectual property matters for the company, including patent litigation, patent licensing, patent portfolio management, trademark litigation and clearance, trade secret protection, and copyright enforcement. He also negotiates technology transfer agreements, software license agreements, and rights clearances for both Cox and its subsidiary, the Travel Channel. He further advises clients on cable copy protection and digital rights management issues. Prior to joining Cox, Marcus was the Chief Patent Counsel for BellSouth from 1999-2003. Prior to BellSouth, he worked as an IP associate for Kilpatrick Stockton in Atlanta, and Graham & James in Los Angeles. Mr. Delgado received a B.A., in physics from Boston University. He received a J.D. from the UCLA School of Law.

Stuart Graham

Stuart Graham is an Assistant Professor of Strategic Management at the Georgia Institute of Technology and a Kauffman Foundation Fellow, Berkeley Center for Law and Technology, University of California, Berkeley School of Law. Dr. Graham teaches and conducts research on firm intellectual property strategies, intellectual property transactions and markets for technology, technology entrepreneurship, and the legal environment. Dr. Graham received his Ph.D. at the University of California, Berkeley, and holds advanced degrees in Law (J.D.), Business (M.B.A.), and Geographical Information Systems (M.A.). An attorney licensed to practice law in New York State, he has written on the use by technology start-ups of the patent system, litigation strategies in the software and biotechnology industries, and comparative studies of the U.S. and European patent systems. A selection of his recent publications includes: "Pioneers, Submariners, or Thickets: Which Firms Use Continuations in Patenting and Why?" *forthcoming in Management Science*, 2009 (with D. Hegde and D. Mowery); "Why do Start-ups Patent?" *in Berkeley Technology Law Journal*, 2008 (with T. Sichelman); and "Beyond Patents: The Roles of Copyrights, Trademarks, and Trade Secrets in Technology Commercialization" *in Advances in the Study of Entrepreneurship, Innovation, and Economic Growth*, 2008. Professor Graham has conducted his research under grants provided by the Ewing Marion Kauffman Foundation, the National Science Foundation, and the OECD, among others.

Steven Hoffman

As CEO of ThinkFire, Steve has responsibility for the development and execution of the company's strategy, business development and client service delivery as well as all internal functions. Prior to joining the company, he has held a number of leadership positions in the consulting and software industry. Most recently, Steve served as the Chief Operating Officer of Exchange Solutions Incorporated (ESI). ESI is the industry leader in installing and operating a proprietary CRM solution for banks, telephone companies and retailers. As Executive Vice President and Chief Strategy Officer for Sapiient, Steve was responsible for the successful transition of Sapiient from Internet consultants to designers, builders and operators of mission critical transaction and operations management systems for the firm's Fortune 200 clients. Subsequently, as the head of Sapiient's Financial Services practice, he restored the company's largest business unit back to profitability after the technology bust of 2001. In consulting, Steve led the Chicago office and the Global Strategy Practice as a Senior Vice President of CSC Index, the originator and leading practitioner of Business Process Reengineering. Previously, as a Partner at Bain and Company, he ran the firm's Boston office.

Steve holds a B.A. in economics from Wesleyan University and an M.B.A. in finance and business statistics from the University of Chicago.

Mark A. Lemley

Mark Lemley is the William H. Neukom Professor of Law at Stanford Law School, the Director of the Stanford Program in Law, Science and Technology, and the Director of Stanford's L.L.M. Program in Law, Science and Technology. He teaches intellectual property, computer and Internet law, patent law, and antitrust. He is also a founding partner of the law firm of Durie Tangri, where he litigates in the areas of antitrust, intellectual property and computer law. He has litigated more than sixty IP, antitrust, and Internet law cases. He is the author of six books (all but one in multiple editions) and 100 articles on these and related subjects, including the two-volume treatise *IP and Antitrust*. His works have been reprinted throughout the world, and translated into Chinese, Japanese, Spanish, and Italian. He has taught intellectual property law to federal and state judges at numerous Federal Judicial Center and ABA programs, has testified six times before Congress and numerous times before the California legislature, the Federal Trade Commission and the Antitrust Modernization Commission on patent, trade secret, antitrust and constitutional law matters, and has filed numerous amicus briefs before the U.S. Supreme Court, the California Supreme Court, and the federal circuit courts of appeals. He has been named California Lawyer's Attorney of the Year (2005), a Young Global Leader by the Davos World Economic Forum (2007), one of the top 50 litigators in the country under 45 by the American Lawyer (2007), one of the 100 most influential lawyers in the nation by the National Law Journal (2006), one of the top 25 intellectual property lawyers in California (2003) and one of the 100 most influential lawyers in California by the Daily Journal (2004, 2005 and 2006), and one of the 500 leading lawyers in the country by Lawdragon Magazine, among other honors. In 2002 he was chosen Boalt's Young Alumnus of the Year.

Professor Lemley received his J.D. from Boalt Hall School of Law at the University of California at Berkeley, and his A.B. from Stanford University. After graduating from law school, he clerked for Judge Dorothy Nelson on the United States Court of Appeals for the Ninth Circuit, and has practiced law in Silicon Valley with Brown & Bain and with Fish & Richardson and in San Francisco at Kecker & Van Nest. Until January 2000, he was the Marrs McLean Professor of Law at the University of Texas School of Law, and until June 2004 he was the Elizabeth Josslyn Boalt Professor of Law at the Boalt Hall School of Law, University of California at Berkeley.

James E. Malackowski

James E. Malackowski is the President and Chief Executive Officer of Ocean Tomo, LLC, an integrated Intellectual Capital Merchant Banc® firm providing financial products and services related to Intellectual Property (IP) expert testimony, valuation, investments, risk management and transactions. Ocean Tomo assists clients—corporations, law firms, governments and institutional investors – in realizing Intellectual Capital Equity® value broadly defined. Subsidiaries of Ocean Tomo include: Ocean Tomo Auctions, LLC; Ocean Tomo Asset Management, LLC; and Ocean Tomo Capital, LLC -- publisher of the Ocean Tomo 300® Patent Index (NYSE Euronext: OTPAT). Ocean Tomo is the founder and majority owner of the Intellectual Property Exchange International, LLC.

Mr. Malackowski is a member of the IP Hall of Fame Academy and was recognized in 2007 by Managing Intellectual Property magazine as one of the fifty most influential people in intellectual property. In 2008, Mr. Malackowski was again named as one of the Top 50 IP professionals under the age of 45 in IP Law & Business as well as one of the World's 250 Leading IP Strategists' by *IAM Magazine*. Prior to forming Ocean Tomo, he served as a finance and investment advisor working with one of the Nation's oldest investment banks as well as one of Chicago's largest private equity firms. Mr. Malackowski began his career spending fifteen years as a management consultant and forensic accountant focused on intangible assets. In this capacity Mr. Malackowski served numerous roles as a founding principal including President and Chief Executive Officer of his firm, growing the practice to the nation's largest before its sale.

Mr. Malackowski has advised clients and counsel on business valuation issues as well as all phases of the technology transfer process. He has substantial experience as a Board Director for leading technology corporations as well as companies with critical brand management issues. His expertise extends to intangible asset portfolios as well as business segments and complete entities. Apart from his own firm, Mr. Malackowski has served in a leadership role with numerous corporate entities, both public and private. He is a member of the President's Council for the Chicago Museum of Science and Industry and a current Director of Invent Now, Inc., a subsidiary of the National Inventors Hall of Fame where Mr. Malackowski previously served as Trustee. Mr. Malackowski is Secretary for The Licensing Executives Society International, Inc. He is a Past President of The Licensing Executives Society USA and Canada, Inc. and a former Director of the International Intellectual Property Institute as well as a prior Resident Advisor for the U.S. Department of Commerce and U.S. Information Agency on matters relating to intellectual capital.

Mr. Malackowski is a frequent speaker on emerging technology markets and related financial measures. He has addressed mass media audiences including Bloomberg Morning Call, Bloomberg Evening Market Pulse, Bloomberg Final Word, CNBC Closing Bell, CNBC On the Money, CBS News Radio and Fox Business National Television. Mr. Malackowski has also appeared as a judge on PBN's *Everyday Edisons*.

On more than thirty occasions, Mr. Malackowski has served as an expert in Federal Court or the International Trade Commission on questions relating to intellectual property economics, including the subject of business valuation and the impact of advertising programs. As an inventor, Mr. Malackowski has ten issued U.S. patents and an even larger number of pending applications. He is an Adjunct Professor of Law at Chicago-Kent College of Law as well as an Adjunct Instructor at the University of Notre Dame Mendoza College of Business where he was a Summa Cum Laude graduate majoring in accountancy and philosophy. Mr. Malackowski is Certified in Financial Forensics, a Certified Licensing Professional and a Registered Certified Public Accountant in the State of Illinois.

Laura G. Quatela

Laura G. Quatela is the Chief Intellectual Property Officer and Vice President of Eastman Kodak Company. Ms. Quatela was appointed Chief Intellectual Property Officer in January 2008. In this newly-established role, she is responsible for IP strategy and policy, the Senior Management IP Board, and external IP affairs

Previously, Ms. Quatela was Managing Director, Intellectual Property Transactions, and was responsible for directing strategic cross-licensing and royalty-bearing licensing activities for the company, including developing licensing strategy, negotiating and structuring licenses, and managing IP valuations and investments. In August 2006, the Board of Directors elected Ms. Quatela a Vice President of the company.

She joined Kodak in 1999 and held various positions in the Marketing, Antitrust, Trademark & Litigation staff in the company's Legal department. She was promoted to Director of Corporate Commercial Affairs, Vice President Legal and Assistant General Counsel in 2004. From August 2002 to December 2003, Ms. Quatela served as Director, Finance Transformation and Vice President, Finance & Administration. In this position she led a team charged with planning and executing restructuring of Kodak's finance functions.

Prior to joining Kodak, Ms. Quatela worked for Clover Capital Management, Inc., SASIB Railway GRS, and Bausch & Lomb Inc. In private law practice, she was a defense litigator specializing in mass tort cases.

Ms. Quatela is a graduate of Denison University, with a B.A. in international politics and Case Western Reserve University School of Law.

Paul R. Ryan

Paul Ryan is Chairman & CEO of Acacia Research. Mr. Ryan has served as a Director since August 1995, as Chief Executive Officer since January 1997 and as Chairman since April 2000. He also served as President of the Company from January 1997 until July 2000. Prior to being named Chief Executive Officer, he was Executive Vice President and Chief Investment Officer of Acacia Research from 1996 through 1997 and Vice President, Capital Management, of Acacia Research from 1995 through 1996. He was formerly co-founder and general partner of the American Health Care Fund, L.P., held positions with Young & Rubicam, Ogilvy & Mather, and Merrill Lynch and was a private venture capital investor. Mr. Ryan holds a B.S. from Cornell University and attended the New York University Graduate School of Business.

Tracey Thomas

Tracey Thomas is presently Chief IP Strategist and License Negotiator at American Express. In his current role, Mr. Thomas is primarily responsible for leveraging American Express's global intellectual property (IP) portfolio, including the development and implementation of patent, trade secret, copyright and trademark licensing and protection strategies.

Prior to joining American Express, Mr. Thomas practiced in the Chicago offices of McDermott, Will & Emery, Rudnick and Wolfe, and Brinks Hofer Gilson & Lione, where he focused on all aspects of intellectual property law, including IP licensing, litigation and patent preparation and prosecution. While in private practice, he also practiced sports and entertainment law representing professional athletes, artists, record labels, music producers, musicians and singers.

Mr. Thomas is admitted to the New York, Illinois and Wisconsin bars, and is registered to practice before the United States Patent and Trademark Office. Prior to attending law school, Mr. Thomas was an electrical engineer at Wisconsin Electric Power Company in Milwaukee and a software engineer at Bear Automotive in New Berlin, Wisconsin.

Mr. Thomas received his J.D. from the University of Wisconsin-Madison Law School, where he was a Managing Editor of the Law Review, and his B.S. in Electrical Engineering and Computer Science from Marquette University (1986).

Mr. Thomas is a member of the Licensing Executives Society and frequently speaks on issues relating to intellectual property best practices, licensing and litigation-avoidance strategies. He also serves on the boards of the Upper Manhattan Empowerment Zone (UMEZ) and New Concepts (a Chicago-based mentoring organization) and in an advisory capacity to the Consumer and Merchant Awareness Foundation, a foundation established by Mr. Thomas and American Express to educate consumers and merchants about fraud, identity theft and other security-related issues in the payments industry. Mr. Thomas also founded and leads the American Express e-Mentoring program where American Express employees mentor Manhattan-based elementary school students over the Internet.

The American Express IP program and Mr. Thomas have been prominently featured in numerous publications including *IP Law and Business Magazine*, *Corporate Counsel Magazine* and *Counsel to Counsel Magazine*.

Samson Vermont

Samson Vermont is Assistant Professor of Law at George Mason University School of Law, where he teaches patent law and torts. Before transitioning into academics, he practiced patent law in the Washington DC office of Hunton & Williams. He is a registered patent attorney, and the founder of the monthly periodical Patent Strategy & Management. Between practice and starting at George Mason, he earned an L.L.M. from the University of Virginia School of Law and served as the Humphrey Fellow in Law and Economics at the University of Michigan Law School.

Polk Wagner

Polk Wagner is a Professor of Law at the University of Pennsylvania Law School. Professor Wagner focuses his research and teaching in intellectual property law and policy, with a special interest in patent law. He is the author of over fifteen articles on topics ranging from an empirical analysis of judicial decision-making in the patent law to the First Amendment status of software programs. His work has appeared in the Stanford Law Review, the Columbia Law Review, and the University of Pennsylvania Law Review, among several others. He is a frequent lecturer on intellectual property topics, presenting his research at both academic institutions (such as Harvard, Stanford, Columbia, University of Michigan, University of Virginia, University of California at Berkeley) and prominent industry groups (such as the Intellectual Property Owner's Organization, the American Intellectual Property Law Association, and the Association of Corporate Patent Counsel).

In 2002, Wagner founded the FedCir Project (www.fedcir.org), a major ongoing effort to study the performance of the United States Court of Appeals for the Federal Circuit. One of the project's first areas of research, the Claim Construction Project (www.claimconstruction.com) has emerged as an important and influential resource for patent lawyers and judges alike.

Prior to joining the Penn faculty in 2000, Wagner served as a clerk to Judge Raymond C. Clevenger III of the United States Court of Appeals for the Federal Circuit. He holds a law degree from Stanford, an engineering degree from the University of Michigan, and was the 1994-95 Roger M. Jones Fellow at the London School of Economics.