



## **PROGRAM AGENDA**

**ANDAZ SAN DIEGO | SAN DIEGO, CA | MARCH 25-27, 2013**

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### **MONDAY, MARCH 25, 2013**

#### **Registration**

**11:30 am – 3:30 pm**

**Andaz San Diego Hotel – Studio Foyer, Lower Level  
600 F Street  
San Diego, CA 92101**

*Please pick up your conference badge and materials in The Andaz San Diego Hotel's Studio Foyer on the lower level. If you are unable to pick up your materials during this time, registration will reopen on Tuesday, March 26<sup>th</sup> at 7:30 am.*

#### **IP Counsels Committee Business Meeting & Working Luncheon**

**12:00 pm – 3:15 pm**

**Andaz San Diego Hotel – Studio Room, Lower Level  
600 F Street  
San Diego, CA 92101**

*\*Open to IP Counsels Committee company members and their representatives only. Copies of the Committee Business Meeting Agenda will be provided onsite.*

#### **Pre-Conference Workshop:**

**3:30 pm – 4:30 pm**

#### **Effecting and Managing Change**

**Andaz San Diego Hotel – Studio Room, Lower Level  
Sponsored by: Foley & Lardner LLP**

The panel will discuss lobbying and public messaging about IP. This workshop will provide an overview and illustrative anecdotes on how to lobby Congress and the administration on certain issues, and how to craft an effective public communications strategy (e.g. in the patent litigation context).

#### **Workshop Faculty:**

Scott Klug, Public Affairs Director, Foley & Lardner LLP  
Carol Stratford, PhD, Of Counsel, KaloBios Pharmaceuticals, Inc.  
Julie Chase, Chief Executive Officer, Chase Communications

**IP Counsels Committee Business Meeting**  
**Andaz San Diego Hotel – Andaz Wine Bar**

**4:45 pm – 5:45 pm**

*\*Open to IP Counsels Committee company members and their representatives only.*

**Welcome Reception**  
**Andaz Wine Bar**

**5:45 pm – 7:30 pm**

600 F Street

San Diego, CA 92101

*\*Prior RSVP is required.*

Please join us at 5:45 pm in the Andaz San Diego hotel's Wine Bar, for an informal networking reception with industry colleagues.

**Welcome Reception Sponsored by:**



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**TUESDAY, MARCH 26, 2013**

**Chairman's Welcome & Breakfast**  
**Andaz San Diego Hotel – Studio Room, Lower Level**  
**Sponsored by: Fenwick & West LLP**

**7:30 am – 8:30 am**

**Speaker:** Kevin H. Rhodes, President and Chief IP Counsel, 3M Innovative Properties Company

**Session 1:**  
**Seeds of Exhaustion: Analysis of *Bowman v. Monsanto* and the Shifting Doctrine of Patent Exhaustion**  
**Andaz San Diego Hotel – Studio Room, Lower Level**  
**Sponsored by: Fenwick & West LLP**

**8:45 am – 10:00 am**

This panel will discuss *Bowman v. Monsanto* and its impact on the "first sale" or "patent exhaustion" doctrine. The panelists will discuss if an exception to the patent exhaustion doctrine should be created for self-replicating technologies and implications of such an exception. Self-replicating technologies include DNA sequences, virus strains, microorganisms and cell lines, among other technologies.

**Moderator:** Andrew T. Serafini, PhD, Partner, Fenwick & West LLP

**Panelists:**

Kevin Marks, Vice President & General Counsel, Roche Molecular Diagnostics  
Mark P. Walters, Partner, Frommer Lawrence & Haug LLP  
Paul Wolfson, Partner, WilmerHale  
Mark Chapman, Partner, Carpmaels & Ransford

**Session 2:**

**10:15 am – 11:45 am**

***Any Port in a Storm- Section 271(e)(1) and the Continuing Debate  
Over Boundaries of Safe Harbor Exception***

***Andaz San Diego Hotel – Studio Room, Lower Level***

***Sponsored by: Fenwick & West LLP***

The U.S. Supreme Court recently refused to review the Federal Circuit's decision in *Classen v. Biogen IDEC* excluding post-approval regulatory activity from the safe harbor established by 35 U.S.C. § 271(e)(1). This panel will discuss the scope of the § 271(e)(1) safe harbor in light of the Supreme Court's denial of certiorari, as well as the Federal Circuit's subsequent decision in *Momenta v. Amphastar* limiting the reach of *Classen*.

**Moderator:** David Tellekson, Partner, Fenwick & West LLP

**Panelists:**

Mark Sandbaken, PhD, Executive Director of Intellectual Property, Seattle Genetics  
Paul Fehlner, PhD, Global Head of Pharma Intellectual Property, Novartis Pharma AG  
Jeff Rennecker, Senior Corporate Counsel, Pfizer Inc.

***Keynote Luncheon***

**12:00 pm – 1:15 pm**

***Andaz San Diego Hotel – Studio Room, Lower Level***

***Sponsored by: Foley Hoag LLP***

**Guest Speaker:** The Honorable Marilyn L. Huff, District Judge, U.S. District Court for the Southern District of California

**Session 3:**

**1:30 pm – 2:45 pm**

***The Method Patent Rollercoaster***

***Andaz San Diego Hotel – Studio Room, Lower Level***

***Sponsored by: Foley Hoag LLP***

In the *Akamai* and *McKesson* cases, the Federal Circuit addressed divided infringement and found itself closely divided. The law on direct infringement remains up for grabs, and the court's en banc opinion may not be the last word on indirect infringement. Method patents also present unique challenge under sections 101, 112, 271(e)(1), 271(f), and 271 (g). This session will discuss problems and solutions in light of the evolving law on method patents, offering perspectives from a trial lawyer, a patent prosecutor, and in-house patent counsel.

**Moderator:** Don Ware, Partner, Foley Hoag LLP

**Panelists:**

Yuko Soneoka, PhD, Senior Corporate Counsel, IP and Director of IP, Genomic Health  
Bernard Greenspan, Director, Intellectual Property, Prometheus Laboratories

**Session 4:**

**3:00 pm – 4:00 pm**

**Patent Opinions Revisited: New Risks, New Rewards**  
**Andaz San Diego Hotel – Studio Room, Lower Level**  
**Sponsored by: Foley Hoag LLP**

The decisions in *In re Seagate*, *Global Tech*, and *C.R. Bard* have created new standards and procedures -- with inherent risks and potential rewards -- to justify reliance on freedom-to-operate opinions at trial. This panel will address best practices for obtaining and relying upon opinions of counsel from the perspectives of a trial lawyer, in-house patent counsel, and a jury consultant.

**Moderator:** Barbara Fiacco, Partner, Foley Hoag LLP

**Panelists:**

Dan Gallipeau, PhD, President, Dispute Dynamics, Inc.  
William R. Majarian, PhD, Vice President, Global Patents, GlaxoSmithKline

**Dinner Reception**

**Reuben H. Fleet Science Center**  
1875 El Prado  
San Diego, CA 92101  
\*Prior RSVP is required.

**5:00 pm – 8:30 pm**



Join us at the Reuben H. Fleet Science Center for an interactive, one-of-a-kind evening reception. Located just 2 miles from the conference hotel, in Balboa Park, the R.H. Fleet Science Center offers a unique experience to its guests. Visitors can interact with science exhibits from the Great Balls of Fire exhibit to the Gallery of Illusions and Perceptions.

**Dinner Reception Sponsored by:**

**Fitzpatrick**  

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**We are IP**

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**WEDNESDAY, MARCH 27, 2013**

**Keynote Breakfast**

**8:00 am – 9:15 am**

**Andaz San Diego Hotel – Studio Room, Lower Level**  
**Sponsored by: Alston & Bird LLP**

**Speaker:** Jeffrey A. Lefstin, Professor of Law, University of California, San Francisco, Hastings College of the Law

The Supreme Court's upcoming Myriad case will do more than decide whether genes are patent-eligible; it may decide to what extent any patent based on scientific discovery remains patent-eligible. Professor Jeffrey Lefstin provides a historical perspective, suggesting that past practice may inform the Court on which analytical framework suggested by *Mayo v. Prometheus* should govern the patent-eligibility inquiry.

**Session 5:**

**9:30 am – 10:45 am**

***The AIA and APA: Oversight of Patents and the Agency That Grants Them***

***Andaz San Diego Hotel – Studio Room, Lower Level***

***Sponsored by: Alston & Bird LLP***

As the AIA has empowered the PTO with conducting new procedures, so the PTO has itself been subject to increasing scrutiny for acting outside its statutory authority. This panel will discuss real-life experience with the new PTO post grant procedures since their implementation. The panel will also consider the case of *Excela Pharma v. Kappos*, in which the PTO's authority is under attack. This case challenges the PTO's authority to revive unintentionally abandoned applications. The Federal Circuit rejected such a challenge five years ago in patent infringement litigation. But the new challenge is brought via the APA against the PTO Commissioner, and once again places the validity of thousands of patents in question.

***Moderator:*** Romy Celli, Partner, Alston & Bird LLP

***Panelists:***

Joe Liebeschuetz, PhD, Partner, Alston & Bird LLP

Nancy Linck, Of Counsel, Rothwell, Figg, Ernst & Manbeck

**Session 6:**

**11:00 am – 12:15 pm**

***Case Law Updates***

***Andaz San Diego Hotel – Studio Room, Lower Level***

***Sponsored by: Alston & Bird LLP***

This panel will provide an update on recent patent cases including how the lower courts have dealt with guidance from the Supreme Court and Federal Circuit. Particularly, the panel will focus on cases dealing with claim construction, inequitable conduct, obviousness, and patentability, and provide perspectives from in-house and outside counsel.

***Moderator:*** Jitty Malik, PhD, Partner, Alston & Bird LLP

***Panelists:***

Phil Makrogiannis, Division Lead IP Counsel, Life Technologies Inc.

John W. Cox, PhD, Counsel, Alston & Bird LLP

Timothy O'Sullivan, Vice President of Business Development, Novan, Inc.