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*5th Annual Rocky Mountain*

# Intellectual Property & Technology Institute

LIVE ONLY at the Adam's Mark Hotel,  
**May 24-25, 2007**

*Co-sponsored by the Intellectual Property Section of the Colorado Bar Association, Stanford Program in Law, Science and Technology, and the ABA Section on Science and Technology*

## **THIS YEAR'S INSTITUTE WILL FEATURE:**

- Federal judges, senior attorneys from leading technology companies, and national practice leaders from around the nation
- Recent major developments and practice trends
- Over 30 sessions to choose from!
- Outstanding networking opportunities
- A world-class intellectual property and technology program

*Submitted for 13 General CLE Credits,  
Including 2 Ethics Credits*

## **IP NOT YOUR SPECIALTY?**

*In one fast-paced session, you'll get  
up-to-speed on IP fundamentals in time to  
join your colleagues for the Institute!*

**FUNDAMENTALS  
OF IP LAW  
MAY 23, 2007**

In Denver at the CBA-CLE Classroom

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## IP NOT YOUR SPECIALTY?

Get up-to-speed in time for the Institute!

# Fundamentals of IP Law

In Denver, May 23, 2007

Intellectual property law and practice touch many other areas of law practice, particularly business transactions. Transactional counsel routinely come into contact with vitally important issues of technology protection and licensing, and brand protection and exploitation. This year's Institute features a special one-day sequence of presentations and panel discussions specifically designed for in-house counsel and business transactional attorneys who are not IP specialists but whose daily work and practice require an understanding of intellectual property. This is an ideal opportunity to learn more about IP basics, prepare for the Institute, and network with your colleagues.

#### LOCATION:

CBA-CLE Classroom, 1900 Grant Street, Ste 300, Denver, CO

#### CREDITS:

Submitted for 6 General Credits

Please see brochure registration page to register!

### PROGRAM AGENDA

MODERATOR: WAYNE STACY

8:00 - 8:30 am	Registration
8:30 - 10:10 am	<b>Introduction to Patent Law</b> <i>Presented by Kirstin Stoll-DeBell</i> <b>Patent Prosecution Procedure and Management</b> <i>Presented by Dan Cleveland</i> <b>Patent Litigation</b> <i>Presented by James Hartley</i> <b>Panel Discussion</b> <i>Moderated by Craig Neugeboren</i>
10:10 - 10:25 am	Break
10:25 am - 12:00 pm	<b>Software Licenses</b> <i>Presented by Lynn Hendrix</i> <b>Patent Licenses</b> <i>Presented by Joseph Kovarik</i> <b>Trademark Licenses</b> <i>Presented by Steve Horace</i> <b>Panel Discussion</b> <i>Moderated by Katy Reamon</i>
12:00 - 1:15 pm	Lunch - on your own
1:15 - 2:45 pm	<b>Trademark Overview</b> <i>Presented by Jill Chalmers</i> <b>Effective Strategies for Building a Brand</b> <i>Presented by Mark Tratos</i> <b>Policing and Enforcement</b> <i>Presented by Miriam Drickman Trudell</i> <b>Panel Discussion</b> <i>Moderated by Natalie Hanlon-Leh</i>
2:45 pm	Adjourn

5th Annual Rocky Mountain

# Intellectual Property & Technology Institute

LIVE ONLY at the Adam's Mark Hotel!  
May 24-25, 2007

The best intellectual property and technology law  
program in the western United States is back!  
Join us in the spring of 2007 in Denver!

Join us for the 5th Annual Rocky Mountain Intellectual Property & Technology Institute! This year in downtown Denver, the program features our renowned judicial panel, with federal trial and appellate judges joining us from both coasts and Texas. What is the view from the bench on trends in IP litigation nationwide? How do these trends affect your practice?

We are also joined by an All-Star panel on the intellectual property issues in M&A activity. What are the most common pitfalls? What do you look for in diligence? How do you strike the deal and allocate risk? In-house counsel, private practitioners, investment bankers and others will join us to discuss. Also, don't forget our breakout sessions on IP valuation in M&A and financial accounting models for licensing and transactional counsel!

The Rocky Mountain IP & Technology Institute is THE place to be. Network and mingle with IP practice leaders and practitioners from throughout the western United States. Renew professional acquaintances and friendships and join us at our Thursday afternoon wine tasting and during lunch on Thursday and Friday. The IP event is THE event for IP practitioners and transactional counsel whose practices involve tech transactions.

**Do not miss this opportunity to experience a world-class intellectual property and technology program in Colorado!**

#### CREDITS:

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#### LOCATION:

Adam's Mark Hotel  
1550 Court Place • Denver, Colorado 80202

See registration page for additional program and hotel information.

# PROGRAM AGENDA • DAY 1 • MAY 24, 2007 • AT THE ADAM'S MARK HOTEL

8:00 - 8:30 am	<b>Registration</b>		
8:30 - 10:00 am	<b>PLENARY SESSION: A View from the Bench: Trends in Intellectual Property Litigation</b> <ul style="list-style-type: none"> <li>Balancing discovery burdens in patent cases</li> <li>Techniques for streamlining complex cases</li> <li>Technical assistance for the bench and the jury</li> <li>Effective presentation of evidence at trial</li> </ul> <i>Moderated by Judge Roderick McKelvie (Ret.) Presented by Judge Kent Jordan, Judge Ronald Clark, and Judge Edward Infante (Ret.)</i>		
10:00 - 10:15 am	<b>Refreshment Break</b>		
<b>TRACKS BEGIN:</b>	<b>TRACK A</b> <b>Moderator: Katy Reamon</b>	<b>TRACK B</b> <b>Moderator: Natalie Hanlon-Leh</b>	<b>TRACK C</b> <b>Moderator: Wayne Stacy</b>
10:15 - 11:05 am	<b>Licenses in the Courtroom</b> <ul style="list-style-type: none"> <li>Some common drafting problems in scope provisions</li> <li>Provisions concerning allocation of infringement and other risks</li> <li>Uses and perils of "open" phrases (such as "best efforts")</li> </ul> <i>Presented by Holly Towle, Jeff Dodd and Ray Nimmer</i>	<b>2007 Trademark Update</b> <ul style="list-style-type: none"> <li>Case law under Trademark Dilution Revision Act</li> <li>Domain name disputes</li> <li>Keyword buys</li> <li>Fair use</li> <li>Parody</li> </ul> <i>Presented by David Bernstein</i>	<b>Skills Training for IP Litigators - A View from the Bench</b> <ul style="list-style-type: none"> <li>Understanding the decision-making process</li> <li>Persuading the court: written and oral arguments</li> <li>Handling disputes with opposing counsel</li> </ul> <i>Presented by Judge Kent Jordan, Judge Ronald Clark, Judge Roderick McKelvie (Ret.) and Judge Edward Infante (Ret.) Moderated by Caren Stacy</i>
11:10 am - 12:00 pm	<b>Financial Accounting Models for Intellectual Property Transactions</b> <ul style="list-style-type: none"> <li>Understand the key revenue recognition issues affecting software and technology companies</li> <li>Identify contractual terms and conditions impacting the accounting for IP arrangements</li> <li>Review some of the lessons learned from recent restatements and SEC comment letters.</li> </ul> <i>Presented by Brent Peterson</i>	<b>Digital Rights Management: Overview and Emerging Trends</b> <ul style="list-style-type: none"> <li>Technology overview and copy protection schemes</li> <li>Legal framework and recent developments</li> <li>Practical guidance for protecting your company's IP</li> </ul> <i>Presented by Deborah Shinbein</i>	<b>2007 Patent Update</b> <ul style="list-style-type: none"> <li>Renewed US Supreme Court attention to patents</li> <li>USPTO wrestles with what is patentable subject matter</li> <li>Dipping Dots &amp; Frosty Bites &amp; Mini Melts</li> </ul> <i>Presented by William Coats</i>
12:00 - 1:30 pm	<b>Lunch - Sponsored by FAEGRE &amp; BENSON LLP</b> <i>(Please note on the registration form if you plan to attend the luncheon)</i>		
1:30- 2:20 pm	<b>2007 Licensing Update</b> <ul style="list-style-type: none"> <li>Canvass of recent developments in the case law</li> <li>Practice points from the cases that practitioners should be taking into consideration</li> <li>General framework for analyzing licensing issues</li> </ul> <i>Presented by Jeff Dodd</i>	<b>Patent Exhaustion: How it Applies to Licensing and Technology Transactions</b> <ul style="list-style-type: none"> <li>What is patent exhaustion?</li> <li>Trans-national issues</li> <li>Impact on license scope, royalty calculations</li> </ul> <i>Presented by Michael Stern</i>	<b>The Reality of Injunctions and Compulsory Licenses Post eBay</b> <ul style="list-style-type: none"> <li>District Court injunction cases after eBay</li> <li>Injunctions for non-producing entities</li> <li>Compulsory licenses and alternatives when no injunction is entered</li> </ul> <i>Presented by Heidi Keefe</i>
2:25 - 3:15 pm	<b>IP Valuation Metrics in M &amp; A</b> <ul style="list-style-type: none"> <li>Comparing and contrasting alternative IP valuation methods in M&amp;A transactions</li> <li>Tips and techniques for deciphering IP empirical database transactions</li> <li>Emerging Fair Value issues for IP valuation assignments</li> </ul> <i>Presented by Ronald Seigneur</i>	<b>2007 Trade Secret Update</b> <ul style="list-style-type: none"> <li>Preemption of common law claims by the UTSA</li> <li>Non-compete agreements: the race to the courthouse</li> <li>Customer lists: what qualifies</li> <li>Standing to sue for misappropriation</li> <li>Inevitable disclosure update</li> </ul> <i>Presented by James Pooley</i>	<b>Emerging Patent Valuation and Damages Issues</b> <ul style="list-style-type: none"> <li>Using financial information to determine royalty rates</li> <li>Unique patent damages considerations for non-practicing entities</li> <li>The "entire market value rule" and strategies for apportioning value</li> </ul> <i>Presented by John Hansen and David Hall</i>
3:15 - 3:30 pm	<b>Refreshment Break</b>		
3:30 - 4:20 pm	<b>Ethics in Negotiating Licenses</b> <ul style="list-style-type: none"> <li>Limits on puffery and zealous advocacy</li> <li>Duty of honesty in negotiations</li> <li>Duty to correct errors in negotiations</li> </ul> <i>Presented by William Freivogel and Lucian Pera</i> <div style="float: right; border: 1px solid black; border-radius: 50%; padding: 2px; font-size: 8px; font-weight: bold;">1 Ethics Credit</div>	<b>2007 Copyright Update</b> <ul style="list-style-type: none"> <li>Do video networks, blogs and social networks change the DMCA analysis?</li> <li>Inducement case law: how lower courts are construing <i>Grokster</i></li> <li>Investor and parent company liability</li> <li>Latest case law, trends and cases to watch</li> </ul> <i>Presented by Ian Ballon</i>	<b>Drafting and Using Opinions of Counsel after <i>Knorr-Bremse</i> and <i>Echostar</i></b> <ul style="list-style-type: none"> <li>How has the role of opinions of counsel in determining willfulness changed after <i>Knorr-Bremse</i></li> <li>Strategic use of opinions in view of district court waiver interpretations in light of <i>Echostar</i> and <i>In re Seagate</i></li> <li>Considerations for rendering future and redoing past opinions in view of <i>KSR v. Teleflex</i></li> </ul> <i>Presented by Natalie Hanlon-Leh and Scott Alter</i>
4:20 pm	<b>Adjourn</b>		
4:20 - 5:30 pm	<b>Wine Tasting Reception - Sponsored by COOLEY GODWARD KRONISH, LLP</b> <i>(Please note on the registration form if you plan to attend the wine tasting)</i>		

# PROGRAM AGENDA • DAY 2 • MAY 25, 2007 • AT THE ADAM'S MARK HOTEL

8:30 - 9:00 am	<b>Registration</b>		
9:00 - 10:20 am	<b>PLENARY SESSION: Intellectual Property Aspects of Mergers &amp; Acquisitions</b> <ul style="list-style-type: none"> <li>• The NDA – Crafting the proper scope and restrictions for the acquisition process</li> <li>• Striking the Deal – Arriving at the term sheet</li> <li>• The Diligence Phase – What do you need to review, and when</li> <li>• Negotiations/risk allocation in the transaction documents – Properly scoping the IP reps/warranties from the buyer and seller</li> <li>• Integration – How the IP/tech integration team should be working while the lawyer/bankers are negotiating</li> <li>• Closing/post-closing issues</li> </ul> <p><i>Moderated by Ryan Arney</i>  <i>Presented by Carrie Schiff, Gerald Welch, James Linfield and Robert Kaufman</i></p>		
10:20 - 10:35 am	<b>Refreshment Break</b>		
<b>TRACKS BEGIN:</b>	<b>TRACK A</b> <b>Moderator: Katy Reamon</b>	<b>TRACK B</b> <b>Moderator: Natalie Hanlon-Leh</b>	<b>TRACK C</b> <b>Moderator: James Brogan</b>
10:35 - 11:25 am	<b>Royalty and Audit Provisions: Getting Paid for Your Intellectual Property</b> <ul style="list-style-type: none"> <li>• Compensation structures</li> <li>• Allocating market risk to fit commercial objectives</li> <li>• Mechanisms for ensuring receipt of revenues</li> </ul> <p><i>Presented by Peter Kinsella</i></p>	<b>“Pretexting” and Trademark Investigation</b> <ul style="list-style-type: none"> <li>• Pretexting developments generally</li> <li>• Supervising trademark investigations</li> <li>• Contact with represented parties</li> <li>• Other ethics rules and opinions governing investigation</li> </ul> <p><i>Presented by William Freivogel and Lucian Pera</i></p>	<b>Markman Hearings after <i>Phillips</i></b> <ul style="list-style-type: none"> <li>• Application of <i>Phillips</i> at the district court level</li> <li>• Use of expert testimony and tutorials following <i>Phillips</i></li> <li>• The role of technical advisors and Special Masters following <i>Phillips</i></li> </ul> <p><i>Presented by Matt Powers</i></p>
11:25 am - 12:15 pm	<b>IP Issues for Mid-cycle Companies</b> <ul style="list-style-type: none"> <li>• Developing and maintaining an IP portfolio.</li> <li>• Preparing for and possibly avoiding IP litigation</li> <li>• IP ownership and dealing with employee and ex-employee related IP issues</li> </ul> <p><i>Presented by John Posthumus</i></p>	<b>Open Source Developments</b> <ul style="list-style-type: none"> <li>• The drafting and release of GPL v3</li> <li>• Patent infringement suits against open source software</li> <li>• Increases in open source license enforcement actions</li> <li>• New trends in open source license compliance best practices</li> </ul> <p><i>Presented by Jason Haismaier</i></p>	<b>eDiscovery Rules: Managing and Shifting Document Production Costs in IP Litigation</b> <ul style="list-style-type: none"> <li>• New amendments to the Federal Rules of Civil Procedure impacting e-discovery</li> <li>• Identification and excavation of electronically stored information and practical solutions for the effective management of large quantities of information in complex litigation matters</li> <li>• Latest court rulings in this rapidly developing area of the law</li> </ul> <p><i>Presented by Sean Gallagher</i></p>
12:15 - 1:30 pm	<b>Lunch - Sponsored by the CBA INTELLECTUAL PROPERTY SECTION</b> <i>(Please note on the registration form if you plan to attend the luncheon)</i>		
1:30- 2:20 pm	<b>Antitrust Pitfalls in Licensing</b> <ul style="list-style-type: none"> <li>• Spotting licensing provisions that may lead to antitrust liability</li> <li>• What the DOJ/FTC Antitrust Guidelines for Licensing Intellectual Property say - and what they don't</li> <li>• Recent developments from the Supreme Court and the courts of appeal</li> </ul> <p><i>Presented by Jonathan Gleklen</i></p>	<b>Joint Ventures and Strategic Alliances</b> <ul style="list-style-type: none"> <li>• Content owners vs. service companies - how to create and protect incentives on both sides</li> <li>• Intellectual Property – how to divide the spoils</li> <li>• Dissolution of alliances – put/call options, market valuation, and other real-world practicalities when deals come to an end</li> </ul> <p><i>Presented by Rita Rodin and David Anderman</i></p>	<b>Chinese Patent Law: Do You Need It and How Do You Do it?</b> <ul style="list-style-type: none"> <li>• Patent activities in Taiwan and China</li> <li>• Recent patent developments in Taiwan and China</li> <li>• Tips for handling patent prosecution and patent enforcement matters in Taiwan and China</li> </ul> <p><i>Presented by Daisy Wang</i></p>
2:20 - 2:35 pm	<b>Refreshment Break</b>		
2:35 - 3:30 pm	<b>Technology Licensing Indemnification: How it Works in the Real World</b> <ul style="list-style-type: none"> <li>• Handling potential estoppel issues</li> <li>• Timing issues for giving and receiving notice</li> <li>• Interference with existing supply obligations</li> <li>• Impact on future contracts</li> </ul> <p><i>Presented by Thomas Friel Jr. and Carolyn Juarez</i></p>	<b>IP Litigation Strategy: In-House Counsel Speak Out</b> <ul style="list-style-type: none"> <li>• Jurisdictional issues</li> <li>• Strategic thinking in complex cases</li> <li>• Courtroom communication</li> <li>• Negotiating favorable settlements</li> </ul> <p><i>Presented by Clay James, Kyle Kappes, Adam Scoville and David Steinman</i>  <i>Moderated by Jane Michaels</i></p>	<b>Reexamination and Interference Practice: Alternative Means for Testing Validity of Patents</b> <ul style="list-style-type: none"> <li>• Overview of reexam and interference practice</li> <li>• Reexam timing and its impact on resolution</li> <li>• Pitfalls for the accused infringer</li> </ul> <p><i>Presented by Paul Ackerman</i></p>
3:30 - 4:20 pm	<b>Bankruptcy Considerations in Intellectual Property Transactions</b> <ul style="list-style-type: none"> <li>• Enforceability of a license agreement and a related technology escrow agreement following commencement of a bankruptcy case by or against the licensor</li> <li>• Ability of a licensee that becomes a debtor in a case under the Bankruptcy Code to assume and assign a license agreement under Section 365 without the consent of the licensor</li> <li>• Suggested contract clauses and other protective steps that a licensor or licensee may take to mitigate the risks presented by the other party to a license agreement becoming a debtor in a bankruptcy case</li> </ul> <p><i>Presented by David Kennedy</i></p>	<b>Declaratory Judgments: A Field Guide for Navigating Infringement Accusations</b> <ul style="list-style-type: none"> <li>• Framing patent, copyright, and trademark infringement accusations to avoid creating declaratory judgment jurisdiction</li> <li>• Considerations of when to respond to infringement accusations by filing a declaratory judgment action</li> <li>• Practical impact of the <i>Medimmune, Inc. v. Genentech, Inc.</i> decision for infringement disputes in the licensing context</li> </ul> <p><i>Presented by Simon Frankel</i></p>	<b>Drafting Patents to Reach Outside U.S. Borders</b> <ul style="list-style-type: none"> <li>• Geographic reach of US patents - A historical perspective</li> <li>• The use of Section 271(f) to reach beyond US borders</li> <li>• Lessons learned from <i>Microsoft v. AT&amp;T</i></li> <li>• Claim drafting tips</li> </ul> <p><i>Presented by Tim Scull</i></p>
4:20 pm	<b>Adjourn</b>		

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