

IPO ITC Committee Program Advanced ITC Litigation Class

Friday, 29 June 2018

Venable LLP

101 California Street, Suite 3800, San Francisco, CA 94111

<u>TIME</u>	<u>FUNCTION</u>
8:30	REGISTRATION & COFFEE
9:00	WELCOME REMARKS & INTRODUCTIONS <u>Welcome Remarks & IPO's International Trade Commission Committee Introduction</u> Brett Bachtell , <i>Qualcomm Inc., San Diego, CA</i>
9:15	PRIMER <u>Speaker:</u> Andrew F. Pratt , <i>Venable LLP, Washington, DC</i>
10:00	WHY THE ITC SHOULD BE YOUR FORUM CHOICE: EXPLORING THE BOUNDARIES OF THE ITC'S JURISDICTION Although Section 337 is used mostly in cases involving "articles that infringe" U.S. Patents, the ITC's jurisdiction also extends to "[u]nfair methods of competition and unfair acts in the importation of articles." The ITC's jurisdiction has been interpreted to include, among other things, common law trademarks, counterfeiting, antitrust violations, false advertising, trade dress, trade secrets, tortious interference with contract relations, and patent infringement by an imported article. Given how many countries touch any given article of commerce, Section 337 is a useful tool for addressing unfair competition. This panel will be focused on issues involving ITC jurisdiction including: <ul style="list-style-type: none">• Use of the ITC for various types of claims over time and recent trends• Remedial implications for various types of claims• Instances where the ITC declines to institute an investigation• Instances where the ITC has stayed its investigations or remedies• Recent cases involving non-statutory IP claims Moderator: Blaney Harper , <i>Jones Day, Cleveland, OH</i> <u>Speakers:</u> David M. Maiorana , <i>Jones Day, Cleveland, OH</i> John A. Scott , <i>Qualcomm Inc., San Diego, CA</i> Daniel Valencia , <i>Covington, Washington, DC</i>
11:00	COFFEE BREAK
11:15	DEVELOPMENTS IN DOMESTIC INDUSTRY The ITC's domestic industry requirement has been the subject of a renewed focus by the Commission in recent years. The panel will discuss the practical impact of recent Commission decisions, and what those developments might reveal about the ITC's approach to domestic industry. The panel will cover: <ul style="list-style-type: none">• Early determinations on domestic industry• Use of research and development and engineering expenses to satisfy domestic industry "economic prong"• Satisfying "technical prong" when relying on research and development and engineering• Recent ALJ and Commission Decisions <u>Speakers:</u> Michael D. Esch , <i>WilmerHale, Washington, DC</i> Evan Langdon , <i>Adduci, Mastriani & Schaumberg, LLP, Washington, DC</i> John Sganga , <i>Knobbe Martens, Irvine, CA</i>

<u>TIME</u>	<u>FUNCTION</u>
12:15	BUFFET LUNCH
1:00	KEYNOTE ADDRESS <u>Speaker:</u> Christopher A. Bullard , <i>Attorney Advisor, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, Washington, DC</i>
1:45	NAVIGATING ENFORCEMENT OF ITC REMEDIES <p>Exclusion Orders can be powerful remedies, but navigating enforcement can be overwhelming to companies unfamiliar with the process. The panel will review the remedies available in a Section 337 investigation and provide insight into the options available to both patent owners and respondents. The panel will discuss enforcement processes at the ITC and at Customs & Border Protection. The panel will cover:</p> <ul style="list-style-type: none"> • Exclusion orders, cease and desist orders, and other resolutions of ITC Investigations • Considerations related to the interrelationship between ITC remedies and new products • Options for seeking enforcement of or relief from ITC exclusion orders, including recent developments in <i>inter partes</i> resolution of disputes <p><u>Speakers:</u> Adam R. Hess, <i>Venable LLP, Washington, DC</i> Elizabeth A. Niemeyer, <i>Finnegan, Henderson, Farabow, Garrett & Dunner LLP, Washington, DC</i> Adam Swain, <i>Alston Bird, Washington, DC</i></p>
2:45	COFFEE BREAK
3:00	FORMER COMMISSIONER'S PERSPECTIVE <p>Former Commissioner's panel – featuring former ITC Vice Chairman Dean Pinkert – will address the role of Commissioners in the Section 337 process as well as the roles of OUII attorneys and GC attorneys. In addition, former Commissioner Pinkert will address hot topics at the ITC, including the 100-day pilot program, the actionability of trade secrets and antitrust under Section 337, and the definition of “article” for purposes of Section 337, with a focus on how he thought about such issues as a Commissioner.</p> <p>Introduction of Speaker: Sarah E. Hamblin</p> <p><u>Speaker(s):</u> Dean Pinkert, <i>Hughes Hubbard, Washington, DC</i></p>
4:00	CLOSING REMARKS & ADJOURNMENT Brett Bachtell , <i>Qualcomm Inc., San Diego, CA</i>
4:30	NETWORKING RECEPTION