



THE STATE BAR OF CALIFORNIA  
INTELLECTUAL PROPERTY LAW SECTION



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1.00 Hour Substance Abuse



# 37<sup>th</sup> Annual Intellectual Property Institute

**NOVEMBER 8-10, 2012**

Omni Hotel San Diego  
San Diego, CA

Hotel Deadline: October 19, 2012

Registration Deadline: November 2, 2012

Register Online by visiting: <http://ipsection.calbar.ca.gov>

## Silver Level Sponsors



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## Vanguard Award Luncheon Sponsor

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## Letter from the Chair

**I**ntellectual property law is a diverse, constantly changing field and the 37th Annual IP Institute will celebrate the many facets of IP by presenting cutting edge topics from speakers at the forefront of IP law. This year's Institute will be held in San Diego at the beautiful Omni Hotel. Thursday kicks off with "Nuts and Bolts" sessions on patent, copyright, trademark, licensing, entertainment, and trade secret law featuring both fundamental information for new attorneys in these areas as well as tips and best practices that more experienced practitioners will find valuable. Join your fellow attendees that evening at the poolside patio for a networking reception featuring tequila and local microbrew tastings paired with delicious Mexican appetizers. Friday's programming spans the IP spectrum and features an opening panel with former Vanguard Award winners Ian Ballon and Professor Mark Lemley. The 4th Annual Vanguard Awards, honoring leaders from the frontier of the IP community, will be held during Friday's lunch. Be sure not to miss a unique dining experience Friday night at our "Interactive Farmers Market Dinner" and cap off the evening by testing your luck at Casino Night. Saturday will feature more excellent programs and a keynote luncheon with Steve Tapia of DirecTV. Please join us for a three day celebration of this unique area of law. Viva IP!



Letter from the Chair,  
2012 IP Institute  
Mark Leonard



# Programs at a Glance

## Thursday, November 8, 2012

1:00 p.m. – 2:30 p.m.

### Nuts & Bolts Concurrent Sessions

Designed for both new and experienced practitioners, the speakers will address fundamentals of their topics as well as tips and best practices. These will be lively interactive sessions and very practical.

Track A – Copyright	Track B – Trademark 2:30 p.m. – 4:00 p.m.	Track C – Patent
Track A – Licensing	Track B – Trade Secret	Track C – Entertainment & Sports

### Interest Group Meetings

4:15 p.m. – 5:00 p.m. Copyright International Licensing Trade Secret Entertainment & Sports	5:00 p.m. – 5:45 p.m. Computer Law In-House Counsel Litigation Trademark Patent
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6:00 p.m. – 7:30 p.m.

### Welcome Reception

## Friday, November 9, 2012

8:00 a.m. – 8:15 a.m.

### Opening Remarks

8:15 a.m. – 9:30 a.m.

### General Session

Internet, Cloud, and Mobile Law and Liability - Year in Review

9:45 a.m. – 10:45 a.m.

Track I  
Patent

Track II  
Trade Secret

10:45 a.m. – 11:00 a.m.

### Break

11:00 a.m. – 12:00 p.m.

Track I  
Entertainment & Sports

Track II  
Patent II

12:15 p.m. – 2:00 p.m.

### Vanguard Awards Luncheon

2:15 p.m. – 3:30 p.m.

General Session - Appropriation Art – When Does ‘Borrowing’ for ‘Recontextualization’ Become ‘Copyright Infringement’?

3:30 p.m. – 3:45 p.m.

### Break

3:45 p.m. – 4:45 p.m.

Track I  
Patent

Track II  
Trademark

7:00 p.m. – 9:00 p.m.

### Dinner

9:00 p.m. – Midnight

### Casino Night

## Saturday, November 10, 2012

8:30 a.m. – 9:30 a.m.

Track I  
Patent

Track II  
Trademark

9:30 a.m. – 10:45 a.m.

General Session – Get Someone Else To Pay! Accessing and Using Insurance Coverage In The Context Of Intellectual Property Litigation

10:45 a.m. – 11:00 a.m.

### Break

11:00 a.m. – 12:15 p.m.

General Session – Not so Simple: Transformative (Mis) use in Copyright

12:30 p.m. – 2:00 p.m.

Luncheon Featuring Steven Tapia, DirectTV

“THIS AIN’T NO PARTY: OBSERVATIONS ABOUT IP IN THE REAL WORLD”



# 2012 IP INSTITUTE IP VANGUARD AWARDS



**In-House Counsel**  
**Alexander Macgillivray,**  
General Counsel,  
Twitter



**Private Practice**  
**Kate H. Murashige**  
Morrison Foerster



**Judiciary**  
**Honorable William Alsup**  
United States  
District Court,  
Northern District of  
California



**Academic or Public Policy**  
**Pamela Samuelson,**  
Faculty Director,  
Berkeley Center for Law  
& Technology

## Friday, November 9, 2012

The Executive Committee of the IP Section is pleased to honor outstanding legal professionals who are spearheading new developments in the world of intellectual property. The 4th Annual IP Vanguard Awards will be presented during a special awards luncheon on Friday, November 9, 2012.

# Program Schedule

*(Topics, Speakers, and schedules are subject to change)*

## Thursday, November 8, 2012

**10:00 a.m. – 12:00 p.m.**

**Executive Committee Meeting  
(open to the public)**

**11:00 a.m. – 5:00 p.m.**

**Registration and Exhibits**

**1:00 p.m. – 2:30 p.m.**

**Nuts & Bolts Concurrent Sessions**

Designed for both new and experienced practitioners, the speakers will address fundamentals of their topics as well as tips and best practices. These will be lively interactive sessions and very practical.

**Track A – Copyright**  
*(1.50 Hours of CLE Credit)*

**[1] Copyright in the Digital World**

Copyright law is now being adapted to technological uses we never imagined. This panel will give you an overview of the latest cases involving the application of the copyright law to different mediums and identify the trends to keep you in the know.

Panelists: Sophie Cohen, Cobalt LLP and Andy Stroud, Mennemeier, Glassman & Stroud LLP

**Track B – Trademark**  
*(1.50 Hours of CLE Credit)*

**[2] Best Practices in Trademark Prosecution -  
What Works in Real Life**

Through a lively, interactive program the speakers will cover the basics of filing for trademark registration protection, along with reality-based and cost-conscious best practices for obtaining information from the client, strategies for filings, prosecution of applications, and post-registration responsibilities, with demonstrations of screening techniques for particular industries such as alcoholic beverages, and real-life practical hypotheticals.

Panelists: Pete Bromaghim, Blakely, Sokoloff, Taylor & Zafman LLP and Mary Harris, Attorney at Law

**Track C – Patent**  
*(1.50 Hours of CLE Credit)*

**[3] Little and Not So Little Things That May  
Trip Up Advanced, Intermediate and  
Beginning Practitioners**

Review of recent legislation and rules packages along with some recent cases, focusing on the practical effects of the changing patent landscape. This discussion aims to inform practitioners with a wide variety of experience levels, and will include both presentation by speakers of materials that may have been missed and will include interactive discussions about where patent law and practice is going.

Panelists: Jason Far-hadian, Century IP Group, Inc., Glenn Von Tersch, SVPC





2:30 p.m. – 4:00 p.m.

**Nuts & Bolts Concurrent Sessions**

*(1.50 Hours of CLE Credit)*

**Track A – Licensing**

**[4] Advanced Technology Licenses: The Good, the Bad & the Ugly**

This panel will analyze an advanced technology license agreement, discussing licensing fundamentals, the latest “bleeding edge” developments, and how to avoid critical drafting errors. The speakers will compare the core licensing provisions for digital, medtech/biotech and software licenses.

Panelists: Kevin Debre, Stubbs Alderton & Markilies, LLP and James Roberts, Global Capital Law Group

**Track B – Trade Secret**

*(1.50 Hours of CLE Credit)*

**[5] Obtaining Injunctive Relief in Trade Secret Cases**

Trade secret cases often are won or lost based upon the court’s ruling on plaintiff’s initial request for injunctive relief. This panel will discuss how best to position your motion for injunctive relief and give tips for preparing for the injunction hearing.

Panelists: Randy Kay, Jones Day; Bec Edelson, Steptoe & Johnson LLP; and Jim McNairy, Seyfarth Shaw LLP

**Track C – Entertainment & Sports**

*(1.50 Hours of CLE Credit)*

**[6] The A to Z of Independent Film**

This panel will take apart the process of taking an independent film from inception to screen by addressing issues relating to, among others: entity formation; unions (e.g., SAG, AFTRA, AFM, DGA, WGA, etc.); rights of publicity; above- and below-the-line contracts (e.g., writer, actors, director, producers, crew, musicians, composer, etc.); nudity clauses; location releases; music licenses; fair use clearance; distribution and acquisition agreements; and dispute resolution procedures (e.g., IFTA arbitration).

Panelists: Joanna Mendoza, Law Office of Joanna Mendoza and Elizabeth Rest, Hiaring & Smith

**Interest Group Meetings**

4:15 p.m. – 5:00 p.m.

- [7] Copyright
- [8] International
- [9] Licensing
- [10] Trade Secret
- [11] Entertainment & Sports

5:00 p.m. – 5:45 p.m.

- [12] Computer Law
- [13] In-House Counsel
- [14] Litigation
- [15] Trademark
- [16] Patent

6:00 p.m. – 7:30 p.m.

**Welcome Reception (Open to all Attendees)**

Join your fellow attendees at the poolside patio for tequila and local microbrew tastings paired with delicious Mexican appetizers and a gorgeous view of the San Diego harbor.





# Program Schedule

**Friday, November 9, 2012**

**7:00 a.m. – 4:00 p.m.**

**Registration and Exhibits**

**7:30 a.m. – 9:00 a.m.**

**Breakfast**

**8:00 a.m. – 8:15 a.m.**

**Opening Remarks**

**8:15 a.m. – 9:30 a.m.**

**General Session**

*(1.25 Hours of CLE Credit)*

**Internet, Cloud and Mobile Law and Liability -  
Year in Review**

Prior Vanguard Award winners Ian Ballon and Mark Lemley will analyze major legal developments in the past year in the areas of internet, cloud computing and mobile law and liability, including DMCA safe harbors, the CDA, privacy class action suits and sponsored links.

Panelists: Ian Ballon, Greenberg Traurig and  
Professor Mark Lemley, Stanford Law School

**9:45 a.m. – 10:45 a.m.**

**Track I -Patent**

**[17] The Art of Persuasion in Patent Litigation**

The panelists will describe applying a variety of tools, including humor, storytelling and personalizing the witness, from the advocacy toolbox in an IP case.

Panelists: Joe Re, Knobbe Martens and  
Bill Rooklidge, Jones Day

**Track II –Trade Secret**

**[18] Protecting and Maintaining Trade Secrets  
and Confidential Information In The Age of  
Social Media and Cloud Computing**

This panel will discuss a wide range of issues regarding trade secrets in the online world including cyber threats posed by explosion of cloud computing and social media, effective vendor, employment agreements and policies to protect trade secrets in the cloud, and key considerations in selecting a cloud provider from a security and trade secrets perspective, and the effective use of social media in non-compete and trade secret litigation.

Panelists: Janet Craycroft, Director of Legal Counsel, Intel;  
John Marsh, Hahn Loeser & Parks LLP; and  
Robert Milligan, Seyfarth Shaw LLP

**10:45 a.m. – 11:00 a.m.**

**Break**

**11:00 a.m. – 12:00 p.m.**

*(1.00 Hour CLE Credit)*

**Track I—Entertainment & Sports**

**[19] The Name (and Likeness) Game: Current  
issues in sponsorships, endorsements, and  
naming rights**

This panel will analyze and review the terms of sponsorship, endorsement, and naming rights agreements with a focus on venue naming rights and endorsement agreements, primarily in the sports realm, emphasizing heavily-negotiated deal points of concern to both product/service companies and the athletes/celebrities providing their endorsement. The speakers will provide a historical perspective as well as a look at cutting-edge issues, such as the impact of social media in the endorsement game.

Panelists: Adam Brezine, Bryan Cave LLP and  
Owen Seitel, Idell & Seitel LLP

**Track - Patent II**

*(1.00 Hour CLE Credit)*

**[20] *Prometheus, Myriad*, and the Evolving  
Question of Patentable Subject Matter**

Between *Prometheus and Myriad*, the Supreme Court and the Federal Circuit provide an ongoing dialog about what can be patented. We will look at these specific decisions, direct results from these decisions, and potential wider ramifications for patentable subject matter across patent law generally.

Panelists: Professor Jeffrey A. Lefstin, Hastings College of Law

**12:15 p.m. – 2:00 p.m.**

**Vanguard Awards Luncheon**



2:15 p.m. – 3:30 p.m.

**General Session**

*(1.25 Hours of CLE Credit)*

**Appropriation Art – When Does ‘Borrowing’ for ‘Recontextualization’ Become ‘Copyright Infringement’?**

The practice of incorporating other people’s work into new artworks is well established in the art world; this panel will consider whether it is artistically and legally appropriate, and whether galleries and museums should be permitted to show it without fear of liability.

Panelists: Anthony Falzone, Deputy General Council, Pinterest; Rudolf Frieling, Curator of Media Arts, SFMOMA; Fred Goldstein, LACMA; Professor Robert Lind, Southwestern School of Law; and Jonathan Pink, Bryan Cave LLP

3:30 p.m. – 3:45 p.m.

**Break**

3:45 p.m. – 4:45 p.m.

*(1.00 Hour of CLE Credit)*

**Track I—Patent**

**[21] Federal Circuit Update**

Prof. Lemley will address recent developments at the U.S. Court of Appeals for the Federal Circuit, providing both a description of what happened and potential directions for the trajectory of the Court.

Speaker: Professor Mark Lemley, Stanford Law School

**Track II – Trademark**

*(1.00 Hour of CLE Credit)*

**[22] The TTAB in 2012: What’s Hot and What’s Not?**

A review of the current state of Board procedure and jurisprudence, including updates on dilution, fraud, and lack-of-bona fide intent, and a discussion of recent rulings of particular interest.

Speaker: John Welch, Counsel, Lando & Anastasi LLP

7:00 p.m. – 9:00 p.m.

**Interactive Farmers Market Dinner**

Join us for an exciting interactive dining experience designed exclusively for the IP Institute by Executive Chef Mauricio Enriquez. Chef Enriquez’s “Interactive Farmers Market Dinner” will feature ingredients from some of the top farms and ranches in California. Create your own salad with Sun Grown organic produce and have it tossed fresh with a dressing designed by you. Enjoy a custom ceviche made to order with fresh local seafood and a variety of delicious sauce options. Sample Niman Ranch’s sustainably raised lamb and chicken from the Evo grill and explore the flavors of Mexico at a custom taqueria featuring Paso Prime’s artisanal prime rib. Don’t miss this unique culinary experience!



9:00 p.m. – Midnight

**Casino Night**

After dinner the *tables* will turn as we let the games begin. Join us for an evening of fun and chance. Roll the dice or show your best hand at this year’s post-dinner party. Door prizes and more!



# Program Schedule

## Saturday, November 10, 2012

7:00 a.m. – 12:30 p.m.

### Registration and Exhibits

7:30 a.m. – 9:00 a.m.

### Breakfast

8:30 a.m. – 9:30 a.m.

### Track I – Patent

(1.00 Hour of CLE Credit)

#### [23] In-House Perspectives on The AIA (America Invents Act)

This panel will engage in a discussion of some of the more interesting aspects of the AIA, addressing some of the approaches corporate America is taking to these changes, and some of the opportunities for corporations and private practitioners to act going forward.

Panelists: John King, Knobbe Martens; Thomas Hassing, Director of IP Strategy and Licensing, Immersion Corporation; and Brian Way, Altera Corporation

### Track II – Trademark

(1.00 Hour of CLE Credit)

#### [24] Shake Hands with Naming

A good naming firm will make your job easier, not harder: Laurel Sutton, a 15-year veteran in the naming industry, explains how expert namers create, distill, and vet the potential trademarks that end up on your desk.

Speaker: Laurel Sutton, Principal, Catchword Brand Name Development

9:30 a.m. – 10:45 a.m.

### General Session

(1.25 Hours of CLE Credit)

#### Get Someone Else To Pay! Accessing and Using Insurance Coverage In The Context Of Intellectual Property Litigation

In this rapidly evolving area of the law, clients faced with trademark, copyright, or patent infringement claims may have the opportunity to involve their liability insurance carriers in providing both defense and indemnity for claims which will benefit litigators, transactional attorneys, and in house counsel as well as their clients and companies.

Speaker: David A. Gauntlett, Gauntlett & Associates

10:45 a.m. – 11:00 a.m.

### Break

11:00 a.m. – 12:15 p.m.

### General Session

(1.25 Hours of CLE Credit)

#### [25] Not so Simple: Transformative (Mis) use in Copyright

We all know what is meant by the term “transformative use” don’t we? Or do we? Does the term even appear in the Copyright Act? If so, then where? If not, then how did we get here? This panel will take an in depth look at one of the most fundamental issues in copyright law, which is not as simple as it seems.

Speaker: Andy Stroud, Mennemeier, Glassman & Stroud LLP

12:30 p.m. – 2:00 p.m.

### Luncheon Featuring Steven Tapia, DIRECTV

“*THIS AIN’T NO PARTY: OBSERVATIONS ABOUT IP IN THE REAL WORLD*” Observations from the business side about how IP law plays out in the marketplace.



Steve Tapia is Senior Corporate Counsel at DIRECTV Sports Networks, a DIRECTV-owned network of three regional sports channels, and runs its Legal Group. In that role, he handles the Company’s sports rights agreements, television operations and cable distribution contracts and a variety of media law issues. Previously, he held legal and business positions at Microsoft Corporation (including leading Microsoft’s Copyright

And Trade Secret Practice Group), and served as in-house counsel for HBO and KCET-TV (Los Angeles). Steve started his career as a litigation attorney for Loeb & Loeb in Los Angeles. He speaks frequently on the technology, entertainment and sports industries, copyright and trade secret law, open source software, online advertising issues, media law and first amendment issues. He previously has been the keynote speaker for conferences conducted by the American Bar Association, as well as conferences put on by the Minnesota and Washington State Bar Associations.

# Hotel & Registration Information



## Hotel Reservations at Omni Hotel San Diego

We have reserved a limited block of sleeping rooms at Omni Hotel San Diego, 675 L Street, San Diego, CA, 92101.

Please contact the hotel directly at 800-843-6664 to make your reservation and identify yourself as part of the State Bar of California Intellectual Property Institute to obtain the special rate of \$199 single/double plus occupancy tax per night.

Please make your reservation by **October 19, 2012**. Reservations made after the **October 19, 2012** deadline will be made on a space available basis at the confirmed group rate.

## How To Register

### 3 Ways to Register!

*(Please keep a copy of your forms)*

- 1. Online:** Register online at <http://ipsection.calbar.ca.gov>
- 2. Fax:** Complete the registration and course selector forms and fax to: Program Registrations at (415) 538-2368. Credit card payments only. Do not mail original form if faxing.
- 3. Mail:** Complete the registration and course selector forms and mail to Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105.

### Registration Information:

The Intellectual Property Law Section welcomes all who are interested in Intellectual Property. You need not be a lawyer to attend, enjoy, and benefit from this program.

*1.00 Hour of Substance Abuse Prevention CD will be offered for each registrant through self-study (CD will be included in your Registration Materials on-site).*

### **Registration Fees:**

Registration fees include admission, up to 13.00 hours of CLE instruction, course materials, continental breakfasts, the Thursday evening reception, and Casino Night.

***\*\*Lunch tickets and Friday night's "Interactive Farmers Market Dinner" must be purchased separately. See registration form.***

### **Cancellations:**

All requests for refunds must be received in writing no later than November 2, 2012. Refunds will be issued less a \$50 non-refundable administrative cost. Refunds will not be available after November 2, 2012; however, registration substitutions are welcome.

### **Special Assistance:**

Please call (415) 538-2393 for special assistance.

### **Information:**

For more information, please call the Intellectual Property Law Section at (415) 538-2393. For registration information, please call program registrations at (415) 538-2508.



# Registration Form

## Registration Deadline: November 2, 2012

Note: One registrant per form. Photocopies may be used.

Bar Number: \_\_\_\_\_

First/Last Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Firm Address: \_\_\_\_\_

City, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address\*: \_\_\_\_\_

*(Required for email confirmation)*

Check here if you do not want your information released.

Non-Attorney Spouse/Guest(s) Name: \_\_\_\_\_

Name: \_\_\_\_\_

## Registration Fees:

IP Section Members \$545

Non-Members of the Intellectual Law Property Section \$620

*(includes enrollment in the Intellectual Property Law Section for 2012)*

California Young Lawyers Association Members \$440

Law School Faculty/Paralegal/

Government/Non-Profit \$225

Law Student \$150

**Subtotal of Registration Fee** = \_\_\_\_\_

## Special Events:

Friday Vanguard Luncheon \_\_\_\_\_ @ \$75 = \$ \_\_\_\_\_

Friday Dinner \_\_\_\_\_ @ \$75 = \$ \_\_\_\_\_

Saturday Luncheon \_\_\_\_\_ @ \$35 = \$ \_\_\_\_\_

**Subtotal of Special Event Fee** = \$ \_\_\_\_\_

**Total Amount Enclosed OR to Be Charged** \$ \_\_\_\_\_

## Payment Method:

Registration fees may be paid by check, VISA or MasterCard.

No other credit cards will be accepted.

Make checks payable to The State Bar of California.

VISA  MasterCard

Account Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Cardholder's Name: \_\_\_\_\_

Cardholder's Signature: \_\_\_\_\_

## Course Selector:

*Please check the following programs you will attend.*

### Thursday, November 8, 2012

**1:00 p.m. – 2:30 p.m.**

[1] Copyright in the Digital World

[2] Best Practices in Trademark Prosecution-What Works In Real Life

[3] Little and Not So Little Things That May Trip Up  
Advanced, Intermediate and Beginning Practitioners

**2:30 p.m. – 4:00 p.m.**

[4] Advanced Technology Licenses: The Good, the Bad & the Ugly

[5] Obtaining Injunctive Relief in Trade Secret Cases

[6] "The A to Z of Independent Film"

**4:15 p.m. – 5:45 p.m.**

[7] Copyright Interest Group

[8] International Interest Group

[9] Licensing Interest Group

[10] Trade Secret Interest Group

[11] Entertainment & Sports Interest Group

**5:00 p.m. – 5:45 p.m.**

[12] Computer Law Interest Group

[13] In-House Counsel Interest Group

[14] Litigation Interest Group

[15] Trademark Interest Group

[16] Patent Interest Group

### Friday, November 9, 2012

**9:45 a.m. – 10:45 a.m.**

[17] The Art of Persuasion in Patent Litigation

[18] Protecting and Maintaining Trade Secrets and confidential  
Information In t he Age of Social Media and Cloud Computing

**11:00 a.m. – 12:00 p.m.**

[19] The Name (and Likeness) Game: Current Issues in  
Sponsorships, Endorsements and Naming Rights

[20] *Prometheus, Myriad*, and the Evolving Question of Patentable Subject  
Matter

**3:45 p.m. – 4:45 p.m.**

[21] In-House Perspectives on the AIA

[22] The TTAB in 2012: What's Hot and What's Not?

### Saturday, November 10, 2012

**8:30 a.m. – 9:30 a.m.**

[23] Federal Circuit Update

[24] Shake Hands with Naming

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Intellectual Property Law Section Institute  
180 Howard Street  
San Francisco, CA 94105

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13.00 Hours of CLE including 1.00 of Substance Abuse

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### Vanguard Award Luncheon Sponsor



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