



THE STATE BAR OF CALIFORNIA
INTELLECTUAL PROPERTY LAW SECTION

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Intellectual Property Protection and Social Media Issues in the Workplace

JANUARY 19, 2016
The State Bar of California
San Francisco
180 Howard Street
San Francisco, CA 94105

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PROGRAM

In California especially, the workplace is often the laboratory where creative ideas are hatched and innovative products are launched. While striving to create environments where innovation and creativity thrive, successful companies must also ensure that appropriate safeguards and agreements are in place to protect intellectual property. Employers also face challenges in navigating fair trade practices and employee privacy rights while capitalizing on the explosion of social media. Complicating the entire picture are the increasingly fluid borders of where, when, and how work is accomplished in this dynamic economy.

Leading intellectual property and employment attorneys from private industry, public agencies, private law firms, and distinguished law schools will identify and discuss the important intellectual property and social media issues that arise in today's workplace and suggest practical strategies for addressing them.

8:00 a.m.–8:30 a.m.

Registration and Coffee

8:30 a.m.–8:45 a.m.

Welcome and Opening Remarks

Robert B. Milligan, Conference Chair
Partner, Seyfarth Shaw, Century City

8:45 a.m.–9:45 a.m.

Ownership of I.P. in the Workplace

What I.P. agreements should you be asking your employees to sign? What are the limits on employer rights for inventions made off the clock and out of the workplace? How can trade secrets be protected in the workplace with non-disclosure agreements and policies concerning the treatment of sensitive information? What are "feedback licenses" and why are they a terrible idea? What are the latest developments on restrictive covenants in California?

James Pooley, Principal, James Pooley, a Professional Law Corporation, Menlo Park
David Tollen, Attorney, Sycamore Legal, P.C., San Francisco
Kenneth Baren, Corporate Counsel, US Foods, Inc., Rosemont, Illinois

9:45 a.m.–10:45 a.m.

I.P. Issues You Didn't Know You Had

You protect your company's I.P. with solid business practices and agreements. You're fanatical about filing timely patent applications, registering your trademarks, and controlling confidential information on a need-to-know basis. You're off to a great start, but don't get too comfortable. Just when you thought you had everything covered, a host of new I.P. issues has emerged! Hackers, third-party hosted sites, open source software, unscrupulous partners who claim your I.P. as their own, and users of torrents and the Darknet all create new challenges with respect to the protection of I.P. in today's workplace, in addition to the evolving standards governing the enforcement of patents and trade secrets. We will address these challenges along with strategies and solutions for minimizing exposure in the hyper-connected global economy.

Mary Fuller, Managing Director and Associate Legal Counsel, IP, Maxim Integrated Products, San Jose
Michael Headley, Principal, Fish & Richardson, Redwood City
David J. Miclean, Principal, Miclean Gleason LLP, San Mateo

10:45 a.m.–11:00 a.m.

Networking Break

11:00 a.m.–Noon

Keynote Address: Rethinking Assignor Estoppel

Professor, practicing attorney, and startup founder Mark Lemley issues a challenge: "Patent law currently puts employee-inventors at a disadvantage no other inventor faces. The doctrine of assignor estoppel, which prevents a departing employee from challenging patents issued in her name, restricts employee mobility and lets bad patents survive. In its current form it is inconsistent with the modern innovative workplace."

Mark A. Lemley, William H. Neukom Professor of Law, Stanford Law School; Director, Stanford Program in Law, Science and Technology; Partner, Durie Tangri LLP, San Francisco; Founder, Lex Machina, Inc., Menlo Park

SCHEDULE

Noon–1:30 p.m.

**Luncheon Program: Testimonials and Endorsements: How to Properly Involve Employees
Sponsored by Seyfarth Shaw**

Snapchat has over 200 million monthly active users; Twitter has 232 million monthly active users; WhatsApp has more than 900 million. With such large audiences and no barriers to entry, what better way to advertise than to encourage employees to tap into social media to create excitement and awareness about new products? Alas, pitfalls abound, from enforcement actions by the FTC to lawsuits by disgruntled competitors or customers. Our panel—including a representative from the FTC, in-house counsel, and an outside practitioner—will provide an overview of the restrictions on the use of testimonials and endorsements and, using real hypotheticals, will offer general and specific approaches to staying out of trouble when navigating new advertising media.

Sophia Desai, Senior Corporate Attorney, Panda Restaurant Group, Rosemead
Jacob A. Snow, Staff Attorney, Federal Trade Commission, San Francisco
Kenneth L. Wilton, Partner, Seyfarth Shaw, Century City

1:30 p.m.–2:30 p.m.

“Work Made for Hire” Clauses and Classification of Employees: Independent Contractor or Statutory Employee Under California Law?

“Work made for hire” clauses are often included in independent contractor agreements to ensure that copyright-protected materials belong to the contracting party. Under California law, however, these clauses can turn an independent contractor into a “Statutory Employee” for workers’ compensation and unemployment insurance purposes. How can this unintended employee relationship be avoided? What should you consider before including the clause or removing it altogether?

Erica Bristol, Principal, EB Resource Group, Encino
Angela J. Reddock, Principal, The Reddock Law Group, Los Angeles

2:30 p.m.–3:30 p.m.

Privacy Issues in the Workplace: Recent Developments

We will focus on the employer’s right to monitor vs. the employee’s right to privacy. What monitoring tools can employers lawfully use in the workplace? How can employers effectively use such tools to conduct ethical workplace investigations? How does the “Internet of Things” impact privacy in the workplace? What interest can employers claim in social media accounts used by employees?

Koray J. Bulut, Shareholder, Greenberg Traurig, LLP, San Francisco
Eric Goldman, Professor, Santa Clara University School of Law; Co-Director, High Tech Law Institute
Alexandra Ross, Senior Global Privacy and Data Security Counsel, Autodesk, Inc., Mill Valley

3:30 p.m.–3:45 p.m.

Networking Break

3:45 p.m.–4:45 p.m.

Addressing I.P. Theft in the Workplace

How do you create an effective I.P. protection program? Our experienced panel will offer practical tips for managing I.P. and data in a dynamic, digital, and mobile workplace.

- Unintentional vs. malicious I.P. theft: understanding how good people can be reckless with I.P.; when and how malicious insiders are likely to strike
- Managing the ‘other insiders’ in your workplace: contractors, vendors, satellite offices, third parties
- Turning policies into practices: embedding I.P. protection among employees, contractors, and other insiders
- Partnering with HR and IT to ensure a cross-functional approach to appropriately manage people, process, and technology

Pamela Passman, President and CEO, Center for Responsible Enterprise and Trade (CREATe.org), Washington, D.C.
Christian Scali, Principal, The Scali Law Firm, Los Angeles & San Diego
James D. Vaughn, Managing Director, Silicon Forensics, Pomona

4:45 p.m. - 5:45 p.m.

Networking Reception

Sponsored by Practical Law

REGISTRATION INFORMATION

Deadline for Pre-Registration:

Registration form and payment received by January 12, 2016.

Online Registration:

<http://ipsection.calbar.ca.gov>

Registration by Mail:

Send registration form and check to:
Program Registrations, The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Registration by Fax:

Fax to Program Registrations at (415) 538-2368. Credit card information is MANDATORY (VISA/Mastercard only).

On-Site Registration:

On-site registration opens at 8:00 a.m. and is subject to availability. Call (415) 538-2508 to confirm space availability. Please register in advance.

Cancellation Refunds/Substitute Registrants:

Cancellations and requests for refunds must be received in writing by Tuesday, January 12, 2016 and are subject to a \$50 service charge. Substitute registrants are allowed but must register in their own names at the meeting to receive MCLE credit.

Special Assistance:

For special assistance, please call (415) 538-2375.

Questions:

For registration questions, please call (415) 538-2508. Telephone registrations will not be accepted. For program content, press inquiries, Section information, please call (415) 538-2375.

CYLA MEMBERS: (All CA members that have been in practice 5 years or less OR are 36 years old or younger) Now offering 25% off registration. Call (415) 538-2375 for more information.

PROGRAM PLANNING COMMITTEE:

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Intellectual Property Protection and Social Media Issues in the Workplace

January 19, 2016 • San Francisco, CA

REGISTRATION FORM

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

Bar Number: _____

Name: _____

Firm: _____

Firm Address: _____

City, State: _____ Zip Code: _____

Phone Number: _____

Email Address: _____

(Required for email confirmation)

Check here if you do not want your information released.

Program package includes 7 hours of MCLE credit, program materials, and lunch.

REGISTRATION FEES (CHECK THE APPROPRIATE BOX):

- \$395 Members of The State Bar of California Intellectual Property Law Section
- \$490 Non-Member of The State Bar of California Intellectual Property Law Section (2016 Section Membership included)
- \$270 Law School Faculty/Paralegals/ Government or Non-Profits
- \$100 Non-Attorney Law Students

AMOUNT ENCLOSED OR TO BE CHARGED \$ _____

REGISTRATION INFORMATION

Deadline: In order to pre-register, your form and check, payable to The State Bar of California, or credit card information, must be received no later than January 12, 2016.

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

Mail To: Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639.

Fax To: Program Registration at 415-538-2368. Credit card information is MANDATORY for fax registration.
(Photocopies of checks will NOT be accepted.)

CREDIT CARD INFORMATION (VISA/MasterCard Only)

I authorize The State Bar of California to charge my program registration to my VISA/MasterCard account. (No other credit card will be accepted.)

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The State Bar of California and the Intellectual Property Law Section are approved State Bar of California MCLE providers.

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



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