

Wednesday October 25, 2023
What is Up Yonder: Future Trends in Patent Law

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Session Chairs and Introductions: Shaun Hassett, Potter Minton

Emily Chen, Litigation, Google, Inc.

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Eric Findlay, Findlay Craft PC

Greg Lanie, Jones Day

Bryan Sinclair, Senior Director of Litigation, Cisco Systems, Inc.

Brad Waugh, Associate General Counsel, Intel Corporation

OUTLINE

Topic 1: Litigation Funding

Q1: Litigation funding is an often-discussed topic; have you seen any new or recent trends affecting the transparency of litigation funding?

Q2: Have you had any experiences where funded entities have become more comfortable revealing their existence and structure while also attempting to shield themselves from discovery? If so, what are your opinions on that?

Q3: Recently there was a Bill introduced by representative Mike Johnson aimed at stopping foreign entities and governments from funding U.S. litigation. Do you have views on that legislation and ether it could be more broadly and logically extended to litigation funding in general?

Topic 2: Damages

Q1: It seems that not too long ago it was rare for cases to include damages requests in the nine figures, but now that seems commonplace in nearly every case. Do you see a trend in damages models that are disconnected from the actual value of the patented technology?

Q2: What consequences do you see from this trend including, for instance, whether this plays into the statistics of cases that go to trial?

Q3: Where do you see this trend going in the next 1-5 years?

Q4: Some may argue that higher damages requests in recent cases are simply the result of companies' increasing profits and success, and that any additional gatekeeping efforts would only serve to stifle the jury system. What do you think about that viewpoint?

Topic 3: Multi-jurisdictional Litigation Trends

Q1: Patent portfolios often contain both U.S. and international applications, and in our interconnected world technologies are often provided across national borders. Do you see these considerations impact your organization's global IP strategy?

Q2: How do you see plaintiffs leveraging international IP rights when it comes to execution of domestic litigation strategies?

Topic 4: Continuation Practice During Litigation

Q1: It has historically been a patent prosecution strategy to keep continuation applications pending for years in order to obtain new claims that cover marketplace developments while simultaneously litigating or defendant against litigation of other patents in the same family. How do you see this strategy and issues of claim fluidity changing in view of the recent decision in *Sonos Inc. v Google* authored by Judge Alsup in California?