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A Comprehensive Two-Day Conference on

Calculating & Proving Patent Damages

Beyond the usual courses of action for pursuit and defense

October 30 & 31, 2006

Philadelphia, Pennsylvania

Club Quarters Hotel

Credits: PA CLE 12 (call about others)

Quick when/where: 8:30 a.m., 1628 Chestnut Street

Calculating & Proving Patent Damages Conference

**October 30 & 31, 2006 | Philadelphia, Pennsylvania
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Monday, October 30, 2006

Calculating & Proving Patent Damages Conference

8:00 Registration & Continental Breakfast

8:30 Introduction & Overview

Lynn A. Malinoski, Esq., *Program Co-Chair*
Woodcock Washburn, LLP ~ Philadelphia, PA

John H. Johnson, IV, Ph.D., *Program Co-Chair*
Vice President
NERA Economic Consulting ~ Washington, DC

Rodger D. Smith, Esq., *Program Co-Chair*
Morris, Nichols, Arsht & Tunnell LLP ~ Wilmington, DE

9:15 Opening Moves: Plaintiff and Defendant Perspectives on Getting the Information You Need to Intelligently Decide On What to Sue or to Defend

Plaintiff's perspective on the early business decisions to be made

Thomas J. Scott, Jr., Esq.
Hunton & Williams LLP ~ Washington, DC

Defendant's perspective

Lynn E. Rzonca, Esq.
Ballard Spahr Andrews & Ingersoll LLP
Philadelphia, PA

10:30 Break

10:45 Selecting the Best Type of Expert and Tips for Effective Working Relationships

Criteria for determining the best type of expert for the case; privilege waivers, monitoring drafts

Jesse David, Ph.D.
NERA Economic Consulting ~ New York, NY

Gregory J. Lavorgna, Esq.
Drinker Biddle & Reath LLP ~ Philadelphia, PA

12:00 Lunch (on your own)

1:15 Getting the Data You Want From the Other Side Through Discovery and 30(b)(6) Depositions

Determining what to ask for and when to make interrogatory requests; avoiding distracting information irrelevant to preparing supportable IP damages calculations; planning and conducting effective depositions of opposing financial and marketing personnel

Roberta Jacobs-Meadway, Esq.
Ballard Spahr Ingersoll & Andrews ~ Philadelphia, PA

2:00 Lost Profit Damages: The Effects of Non-Infringing Alternatives (Substitutes and Complements), Price Erosion and Convoys Sales Analysis

Legal and economic perspectives on price erosion and lost convoys sales; meeting the standards; lost profits when the patent is only part of the whole; new technologies in calculating lost profits

Richard J. Gering, Ph.D.
Parente Randolph LLC ~ Philadelphia, PA

Thomas C. Grimm, Esq.
Morris, Nichols, Arsht & Tunnell LLP ~ Wilmington, DE

3:15 Break

3:30 Reasonable Royalties: New Issues from Legal and Economic Perspectives

Litigated royalty for a patent incorporated into a standard vs. the royalty for current licensees; arguments for market-based rates in university licensing; and the relevance of use of public money in development

Brian L. Ferrall, Esq.
Keker & Van Nest LLP ~ San Francisco, CA

Carla S. Mulhern, M.Sc., *Managing Principal*
Analysis Group, Inc. ~ Washington, DC

5:00 Reception for Faculty and Attendees Hosted by Woodcock Washburn, LLP, NERA Economic Consulting and Morris, Nichols, Arsht & Tunnell LLP



About the Conference

LAW SEMINARS INTERNATIONAL

We dedicate all of our efforts to producing high-quality professional education programs.

Our seminars provide an opportunity for lawyers to learn about their clients' businesses and for the clients to learn about the legal issues impacting their business.

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Real world economic analysis is critically important to the development of defensible damages for patent infringement. Cases have turned on the economic impact of the availability of alternatives and the timing of a reasonable royalty negotiation, and the definition of the markets in which a technology competes.

This practical conference provides an in-depth look at the techniques used by successful trial lawyers and damages experts to obtain relevant information and determine whether damages include lost profits. Factors to be discussed include the size of the market in which the infringer competes, the number of competitors in that market, sales lost by the patent holder to the infringer, and the amount of price erosion as a result of the infringer's activities.

Recent successful practices in calculation of a reasonable royalty will also be described. The conference features special panels on industry perspectives on patent damages and on creative damage theories. This comprehensive conference will explore the data that is useful in undertaking a damages analysis; where to look for it, and how to use it successfully.

~ Program Co-Chairs: Lynn A. Malinoski, Esq., John H. Johnson, Ph.D., and Rodger D. Smith, Esq.

**8:00 Registration & Continental Breakfast****8:30 Creative Damage Theories**

Courts' perspectives on successful and unsuccessful creative damage theories

David Haas, M.S., M.B.A.
CRA International ~ Chicago, IL

Effective uses of survey methods to determine damages

Christine Meyer, Ph.D., Vice President
NERA Economic Consulting ~ White Plains, NY

More creative damage theories; different methods; how to use them, what are the pitfalls?

Daniel J. Slottje, Ph.D.
FTI ~ Dallas, TX

10:15 Break**10:30 Industry Perspectives on Patent Damages Including the Damages Component of Settlement Negotiations**

General similarities and differences; spotting antitrust issues; strategies for parties manufacturing products vs. parties that merely hold patents

Alexander I. Poltorak, Ph.D., Moderator
Founder & CEO
General Patent Corporation International ~ Suffern, NY

Charles W. Shifley, Esq.
Banner & Witcoff, Ltd. ~ Chicago, IL

David P. Ruschke, Esq., Senior Patent Counsel
Medtronic, Inc. ~ Minneapolis, MA

12:00 Lunch (on your own)**1:15 Trial Graphics: Effective Demonstrations for Patent Damages**

G. Christopher Ritter, Esq.
The Focal Point LLC ~ Oakland, CA

2:15 Break**2:30 Putting It All Together: Mock Closing Arguments in a Hypothetical Case Involving the Issues Discussed Earlier in the Program**

Presiding neutral

The Hon. Diane Welsh (ret.), Esq.
JAMS ~ Philadelphia, PA

Plaintiff's counsel

Martin G. Belisario, Esq.
and

Jason A. Snyderman, Esq.
Akin Gump Strauss Hauer & Feld LLP ~ Philadelphia, PA

Defendant's counsel

Dianne B. Elderkin, Esq.
Woodcock Washburn, LLP ~ Philadelphia, PA

4:00 Adjourn and Evaluations**Upcoming Related Seminars:**

Standards Bodies & Patent Pools	Washington, DC	Oct. 12-13
Complex IP Transactions	Vienna, VA	Oct. 16-17
Corporate Law for Intellectual Property Lawyers	Arlington, VA	Dec. 6
Managing Patent Prosecution & Litigation	Atlanta, GA	Dec. 13

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Registration is complete when we receive payment or agree to later payment.

Tuition: Regular tuition for this program is \$995 with a group rate of \$895 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$795. For students and people in their job for less than a year, our rate is \$497.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on

Tuesday, October 24, 2006. After that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

Seminar Location: The conference will be held at the Club Quarters Hotel at 1628 Chestnut Street in Philadelphia, PA 19103. Call the hotel directly at (215) 282-5010 for reservations at the special negotiated rate of \$126.00 per night and mention that you are attending a Law Seminars International conference and the Event Code DAV102. Rooms are on a first come, first served basis.

Continuing Education Credits:

This program qualifies for 12 PA CLE credits. Upon request, we will apply for CLE credits in other states and other types of credits.

If You Cannot Attend: Our complete Homestudy Course, consisting of a VHS or DVD recording and the written course materials, is available for \$1005. The written course materials alone are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or the date we receive payment (whichever is later).

Faculty: Calculating & Proving Patent Damages Conference

Lynn A. Malinoski, *Program Co-Chair*, partner at Woodcock Washburn, LLP, is vice-chair of the Litigation Practice Group and has worked in a broad range of technological fields. In addition, she was the 2004-2005 President of the Philadelphia Intellectual Property Law Association. She is also a board member for the Historical Society for the Eastern District of Pennsylvania.

John H. Johnson, IV, Ph.D., *Program Co-Chair*, Vice President at NERA Economic Consulting, specializes in the economics of antitrust, intellectual property, and labor. His specific expertise is in damages estimation and the use of econometric methods in commercial litigation. He has extensive experience with Section I Sherman Act matters, including criminal and civil cartel and price fixing cases.

Rodger D. Smith, *Program Co-Chair*, partner at Morris, Nichols, Arsht & Tunnell LLP, is a member of the firm's Intellectual Property Litigation Group. He has litigated patent infringement cases involving a wide range of technologies, as well as other complex commercial issues.

Alexander I. Poltorak, Ph.D., *Moderator*, is the Founder, Chairman and CEO of General Patent Corporation, an IP management company focusing on IP strategy and valuation, patent licensing and assertion. He is also a managing director of IP Holdings LLC, an IP-centric merchant banking organization. He has co-written two books and numerous articles on topics in IP, patent law, licensing and economics.

Martin G. Belisario, partner at Akin Gump Strauss Hauer & Feld LLP, is head of their patent prosecution group. He practices intellectual property and technology law, including representation before the U.S. Patent and Trademark Office and foreign patent offices, technology licensing, counseling and litigation. He focuses primarily on the mechanical arts, including transmissions, HVAC systems, small appliances and medical devices.

Jesse David, Ph.D., Vice President at NERA Economic Consulting, specializes in competition analysis and business/asset valuation. Dr. David has provided expert testimony in a variety of types of litigation, including patent infringement cases, claims for false advertising, and regulatory disputes.

Dianne B. Elderkin, partner in Woodcock Washburn, LLP's Litigation Practice Group, focuses on trying patent infringement cases and counseling clients on patentability and freedom to operate issues. Her practice involves a wide range of technologies

in the medical and commercial fields. She has argued appeals to the Federal Circuit Court of Appeals.

Brian L. Ferrall, partner at Kecker & Van Nest LLP, focuses on intellectual property and complex business litigation including unfair business practices and consumer class actions.

Richard J. Gering, Ph.D., Principal at Parente Randolph LLC, provides economic, statistical and financial consulting services to attorneys, insurance companies and corporate clients. He specializes in providing expert witness assistance in the calculation of damages, econometric model building, forecasting, market studies, profitability analysis, and product pricing studies.

Thomas C. Grimm, member of Morris, Nichols, Arsht & Tunnell LLP, practices with the Corporate Business and Intellectual Property Litigation Group. He concentrates on intellectual property and general business litigation.

David Haas, Vice President of CRA International, manages commercial litigation and valuation assignments involving intellectual property rights and other business issues. He has testified in federal courts on lost profits, reasonable royalties, unjust enrichment, company value, data compensation and pricing harm.

Roberta Jacobs-Meadway, partner at Ballard Spahr Ingersoll & Andrews, LLP, practices with the Intellectual Property, Franchise and Distribution, Biotechnology/Life Sciences, Technology and Emerging Companies, and International Groups. She focuses on trademarks, trade dress and unfair competition issues and includes litigation in federal courts and before the Trademark Trial and Appeal Board.

Gregory J. Lavorgna is a partner and Head of the Intellectual Property Practice Group at Drinker Biddle & Reath LLP, and assists clients in protecting, enforcing and capitalizing on intellectual property assets. He advises clients on the array of patent, trademark, copyright, trade secrets and licensing issues.

Christine Meyer, Ph.D., Vice President at NERA Economic Consulting, conducts economic research and analysis, and has served as an expert witness, related to damages stemming from patent infringement, theft of trade secrets, breaches of contract and antitrust violations.

Carla S. Mulhern, M.Sc., Managing Principal of Analysis Group, Inc., specializes in the application of economic principles to issues arising in complex business litigation. She is an expert witness in commercial litigation

matters, including intellectual property and breach of contract cases.

G. Christopher Ritter, partner at The Focal Point LLC, specializes in helping clients develop persuasive case theories toward the creation of graphics and other tools that impact and influence decision makers. He wrote *Creating Winning Trial Strategies and Graphics* and is co-author of *Packaging and Presenting Your Case to Win*.

Lynn E. Rzonca, partner at Ballard Spahr Andrews & Ingersoll LLP, practices in the Litigation Department and is a member of the Intellectual Property Group. She specializes in intellectual property counseling and litigation on a wide range of issues including Internet issues.

David P. Ruschke supports Medtronic, Inc.'s Corporate Science and Technology division by providing services and counseling on all matters related to intellectual property, including patent prosecution and enforcement, due diligence, mergers and acquisitions, licensing, third-party agreements, opinions, copyrights, and trademarks.

Thomas J. Scott, Jr., partner at Hunton & Williams LLP, focuses on intellectual property including patent prosecution, litigation and licensing, appellate practice (especially before the federal circuit), information technologies and antitrust. He is Co-Head of Hunton & Williams' Intellectual Property Practice Group.

Charles W. Shifley, partner at Banner & Witcoff, Ltd., concentrates on IP transactions and trials. He brought the defense of a major instant message provider against a \$160M claim to a successful summary judgment; accomplished the same result for a major tier-one automotive supplier, and enforced a patent for a start up company against a multimillion-dollar defense effort. In 2005, he was named an *Illinois Super Lawyer* and he is among the *Top 100 Super Lawyers in Illinois*.

Daniel J. Slottje, Ph.D., Senior Managing Director in FTI's Forensic and Litigation Consulting Practice, is experienced with litigation consulting in intellectual property matters, including patent infringement, copyrights, trademarks and trade secrets. Dr. Slottje is a professor of economics at Southern Methodist University.

The Hon. Diane M. Welsh (ret.) joined JAMS following 12 years as a U.S. Magistrate Judge during which time she conducted nearly 1800 settlement conferences in virtually every area of civil litigation.

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Philadelphia, Pennsylvania

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Who Should Attend:

Attorneys, economic experts, and business executives involved with patent transactions and patent litigation

This Seminar Addresses:

- Opening moves for successful litigation or settlement
- What to ask for through discovery and 30(b)(6) depositions
- The effects of non-infringing alternatives, price erosion and convoyed sales
- Creative damage theories
- How to spot antitrust issues
- Successful practices in calculating reasonable royalty
- Effective trial graphics
- Best closing arguments

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800 Fifth Ave., Suite 101
Seattle, WA 98104

Phone
(206) 567-4490
or (800) 854-8009

Fax
(206) 567-5058

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