

SCHEDULE AND SYLLABUS [File01]

CHISUM PATENT ACADEMY[®]

Advanced Patent Law Seminar

March 5-7, 2014

Cincinnati, Ohio

Instructors: Donald S. Chisum and Janice M. Mueller

Session	Topics	Cases and Materials for Discussion	Background Reading in Mueller, <i>Patent Law, Fourth Edition</i> (Aspen 2013)
Day 1 Morning Session 9:00 am – 12:00 pm	<i>Recent Blockbuster Supreme Court and Federal Circuit Cases</i>	File02 , Donald Chisum, <i>Abstracts of 2013-2014 Supreme Court Patent Cases</i> . Abstracted decisions: <ul style="list-style-type: none">● <i>Medtronic, Inc. v. Mirowski Family Ventures, LLC</i>, 12-1128, 2014 WL 223040 (U.S. Jan. 22, 2014) (burden of proof in DJ actions);● <i>AMP v. Myriad Genetics, Inc.</i>, 133 S. Ct. 2107 (2013) (gene-based inventions as patent eligible subject matter);● <i>Gunn v. Minton</i>, 133 S. Ct. 1059 (2013) (subject matter jurisdiction for patent malpractice actions);● <i>Bowman v. Monsanto Co.</i>, 133 S. Ct. 1761 (2013) (doctrine of patent exhaustion prevented farmer from reproducing genetically modified seeds);● <i>F.T.C. v. Actavis, Inc.</i>, 133 S. Ct. 2223 (2013) (reverse settlements in generic drug cases);● <i>Already, LLC v. Nike, Inc.</i>, 133 S. Ct. 721 (2013) (trademark declaratory judgment jurisdiction; covenant not to sue);	Chapter 7 (“Potentially Patentable Subject Matter”).

		<ul style="list-style-type: none"> ● <i>Kirtsaeng v. John Wiley & Sons, Inc.</i>, 132 S. Ct. 1905 (2012) (international exhaustion re copyrighted works). <p>File03, Donald Chisum, <i>Abstracts of Selected Critical 2013-2014 Federal Circuit Cases</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>CLS Bank Int'l v. Alice Corp. Pty. Ltd.</i>, 717 F.3d 1269 (Fed. Cir. 2013) (<i>en banc</i>) (§101 patent eligible subject matter), <i>cert. granted sub nom. Alice Corp. Pty. Ltd. v. CLS Bank Int'l</i>, 134 S. Ct. 734 (Dec. 6, 2013) (Mem.); ● <i>Robert Bosch, LLC v. Pylon Mfg. Corp.</i>, 719 F.3d 1305 (Fed. Cir. June 14, 2013) (<i>en banc</i>) (jurisdiction in appeals from bifurcated trials under 28 U.S.C. § 1292(c)(2)); ● <i>Lighting Ballast Control LLC v. Philips Elecs. N. Am. Corp.</i>, 2014 U.S. App. LEXIS 3176 (Fed. Cir. 2014) (<i>en banc</i>) (claim construction). 	
<p>Day 1</p> <p>Afternoon Session</p> <p>1:00 pm – 4:00 pm</p>	<p><i>Patent Claim Construction, Standard of Review, and Definiteness Requirement</i></p>	<p>File04, Janice Mueller, PowerPoints on “Patents Claims: Definiteness Requirement and Interpretation”;</p> <p>File05, <i>Biosig Instruments, Inc. v. Nautilus, Inc.</i>, 715 F.3d 891 (Fed. Cir. 2013), <i>cert. granted</i>, 134 S. Ct. 896 (Jan. 10, 2014) (Mem.) (§112(b) definiteness requirement);</p> <p>File06, <i>Lighting Ballast Control LLC v. Philips Elecs. N.A. Corp.</i>, 498 Fed. App’x 986 (Fed. Cir. Jan. 2, 2013) (non-precedential (VACATED panel opinion));</p> <p>File07, <i>Lighting Ballast Control LLC v. Philips Elecs. N.A. Corp.</i>, 500 Fed. App’x 951 (Fed. Cir. Mar. 15, 2013) (granting petition for rehearing <i>en banc</i>, and vacating panel decision at 498 Fed. App’x 986);</p> <p>File08, <i>Lighting Ballast Control LLC v. Philips Elecs. N.A. Corp.</i>, No. 2012-1014, 2014 WL 667499 (Fed. Cir. Feb. 21, 2014) (<i>en banc</i>) (standard of review for claim construction).</p>	<p>Chapter 2[B] (“Patent Claims: Claim Definiteness Requirement (35 U.S.C. §112(b))”);</p> <p>Chapter 9[B] (“Patent Infringement: Step One: Patent Claim Interpretation”).</p>

<p>Day 2</p> <p>Morning Session</p> <p>9:00 am – 12:00 pm</p>	<p><i>Drafting and Enforcing Method and System Claims: Active Inducement, Divided Infringement, and Territoriality Issues</i></p>	<p>File09, Donald Chisum, <i>Abstracts of Recent Cases on Method and System Claims: Active Inducement, Joint/Distributed Infringement, Territoriality, Damages, Knowledge and Intent</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>DSU Med. Corp. v. JMS Co., Ltd.</i>, 471 F.3d 1293 (Fed. Cir. 2006) (<i>en banc</i> as to "Section III.B"); ● <i>Global-Tech Appliances, Inc. v. SEB S.A.</i>, 131 S. Ct. 2060 (2011); ● <i>Centillion Data Systems, LLC v. QWest Communications Int’l, Inc.</i>, 631 F.3d 1279 (Fed. Cir. 2011); ● <i>Advanced Software Design Corp. v. Fiserv, Inc.</i>, 641 F.3d 1368 (Fed. Cir. 2011); ● <i>HTC Corp. v. IPCom GmbH & Co., KG</i>, 667 F.3d 1270 (Fed. Cir. 2012); ● <i>Toshiba Corp. v. Imation Corp.</i>, 681 F.3d 1359 (Fed. Cir. 2012); ● <i>Akamai Techs., Inc. v. Limelight Networks, Inc.</i>, 692 F.3d 1301 (Fed. Cir. 2012) (<i>en banc</i>), <i>cert. granted sub nom. Limelight Networks Inc. v. Akamai Techs., Inc.</i>, 134 S. Ct. 895 (Jan. 10, 2014) (Mem.); ● <i>Mirror Worlds, LLC v. Apple Inc.</i>, 692 F.3d 1351 (Fed. Cir. 2012); ● <i>LaserDynamics, Inc. v. Quanta Computer, Inc.</i>, 694 F.3d 51 (Fed. Cir. 2012); ● <i>R&L Carriers, Inc. v. Pitt Ohio Express, Inc. (In re Bill of Lading Transmission & Processing Sys. Patent Litig.)</i>, 681 F.3d 1323 (Fed. Cir. 2012); ● <i>Commil USA, LLC v. Cisco Sys., Inc.</i>, 720 F.3d 1361 (Fed. Cir. June 25, 2013). 	<p>Chapter 9[A][1][b] (“Joint Direct Infringement by Multiple Parties”);</p> <p>Chapter 9[E][1] (“Inducing Infringement Under §271(b)”).</p>
<p>Day 2</p> <p>Afternoon Session</p> <p>1:00 pm – 4:00 pm</p>	<p><i>Computer-Implemented Inventions: Patent-Eligibility and Definiteness</i></p>	<p>File010, Donald Chisum, “<i>Computer-Implemented</i>” <i>Inventions: The Federal Circuit’s En Banc CLS Bank Decision and Pending Supreme Court Review</i>;</p> <p>File011, Donald Chisum, “<i>Computer-Implemented</i>” <i>Inventions: Definiteness of “Means” Clauses</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>DealerTrack, Inc. v. Huber</i>, 674 F.3d 1315 (Fed. Cir. 2012); 	<p>Chapter 7 (“Potentially Patentable Subject Matter (35 U.S.C. §101)”);</p> <p>Chapter 2[E][1] (“Means-Plus-Function Claim</p>

		<ul style="list-style-type: none"> ● <i>Ergo Licensing, LLC v. Carefusion 303, Inc.</i>, 673 F.3d 1361 (Fed. Cir. 2012); ● <i>Noah Sys., Inc. v. Intuit Inc.</i>, 675 F.3d 1302 (Fed. Cir. 2012); ● <i>ePlus, Inc. v. Lawson Software, Inc.</i>, 700 F.3d 509 (Fed. Cir. 2012); ● <i>Function Media, L.L.C. v. Google Inc.</i>, 708 F.3d 1310 (Fed. Cir. 2013); ● <i>Iborneith IP, LLC v. Mercedes-Benz USA, LLC</i>, 732 F.3d 1376 (Fed. Cir. 2013). 	Elements (35 U.S.C. §112(f))”).
<p>Day 3</p> <p>Morning Session</p> <p>9:00 am – 12:00 pm</p>	<p><i>Patent Practice Gone Wrong: Lessons from Recent Cases on Patent Malpractice, Rule 11 and Attorney Fee Sanctions, and Inequitable Conduct</i></p>	<p>File012, Donald Chisum, <i>Abstracts of Recent Cases on Patent Malpractice, Rule 11 and Attorney Fee Sanctions, and Inequitable Conduct</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>Davis v. Brouse McDowell, L.P.A.</i>, 596 F.3d 1355 (Fed. Cir. 2010); ● <i>USPPS, Ltd. v. Avery Dennison Corp.</i>, 676 F.3d 1341 (Fed. Cir. 2012), <i>vacated and remanded</i>, 133 S. Ct. 1794 (2013); ● <i>Landmark Screens, LLC v. Morgan, Lewis, & Bockius, LLP</i>, 676 F.3d 1354 (Fed. Cir. 2012); ● <i>Minkin v. Gibbons P.C.</i>, 680 F.3d 1341 (Fed. Cir. 2012); ● <i>iLOR, LLC v. Google, Inc.</i>, 631 F.3d 1372 (Fed. Cir. 2011); ● <i>Old Reliable Wholesale, Inc. v. Cornell Corp.</i>, 635 F.3d 539 (Fed. Cir. 2011); ● <i>Eon-Net, LP v. Flagstar Bancorp.</i>, 653 F.3d 1314 (Fed. Cir. 2011); ● <i>MarcTec, LLC v. Johnson & Johnson</i>, 664 F.3d 907 (Fed. Cir. 2012); ● <i>Rates Tech., Inc. v. Mediatrix Telecom, Inc.</i>, 688 F.3d 742 (Fed. Cir. 2012); ● <i>Highmark, Inc. v. Allcare Health Management Sys., Inc.</i>, 687 F.3d 1300 (Fed. Cir. 2012), <i>cert. granted</i>, 134 S. Ct. 48 (Oct. 1, 2013) (Mem.); ● <i>Icon Health & Fitness, Inc. v. Octane Fitness</i>, 496 Fed. App'x 57 (Fed. Cir. October 24, 2012), <i>affirming</i>, 2011 U.S. Dist. LEXIS 100113 (D. Minn. 2011), <i>cert. granted sub nom. Octane Fitness, LLC v. Icon Health & Fitness</i>, 134 S. Ct. 49 (Oct. 1, 2013) (Mem.); 	<p>Chapter 10[D][1] (“Inequitable Conduct”);</p> <p>Chapter 11[E] (“Attorney Fees”).</p>

		<ul style="list-style-type: none"> ● <i>Woods v. Deangelo Marine Exhaust, Inc.</i>, 692 F.3d 1272 (Fed. Cir. 2012); ● <i>Raylon, LLC v. Complus Data Innovations, Inc.</i>, 700 F.3d 1361 (Fed. Cir. 2012); ● <i>Taurus IP, LLC v. Daimler Chrysler Corp.</i>, 726 F.3d 1306 (Fed. Cir. 2013); ● <i>Monolithic Power Systems, Inc. v. O2 Micro Int'l Ltd.</i>, 726 F.3d 1359 (Fed. Cir. 2013); ● <i>Kilopass Tech., Inc. v. Sidense Corp.</i>, 738 F.3d 1302 (Fed. Cir. 2013); ● <i>Therasense, Inc. v. Becton, Dickinson & Co.</i>, 649 F.3d 1276 (Fed. Cir. 2011) (<i>en banc</i>); ● <i>Aventis Pharma S.A. v. Hospira, Inc.</i>, 675 F.3d 1324 (Fed. Cir. 2012); ● <i>1st Media, LLC v. Electronic Arts, Inc.</i>, 694 F.3d 1367 (Fed. Cir. 2012); ● <i>Outside the Box Innovations, LLC v. Travel Caddy, Inc.</i>, 695 F.3d 1285 (Fed. Cir. 2012); ● <i>In re Rosuvastatin Calcium Patent Litigation</i>, 703 F.3d 511 (Fed. Cir. 2012); ● <i>Novo Nordisk A/S v. Caraco Pharm. Labs., Ltd.</i>, 719 F.3d 1346 (Fed. Cir. 2013); ● <i>Network Signatures, Inc. v. State Farm Mutual Automobile Insurance Co.</i>, 731 F.3d 1239 (Fed. Cir. 2013). 	
<p>Day 3</p> <p>Afternoon Session</p> <p>1:00 pm – 4:00 pm</p>	<p><i>Injunctions; New “Causal Nexus” Requirement for Irreparable Harm; Design Patents</i></p>	<p>File013, Janice Mueller, PowerPoints on “Injunctive Relief: Developments in the <i>Apple v. Samsung Smartphone Wars</i>”;</p> <p>File014, Donald Chisum, <i>Abstracts of Recent Injunction Cases</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>Apple, Inc. v. Samsung Elecs. Co., Ltd.</i>, 678 F.3d 1314 (Fed. Cir. May 14, 2012) (“<i>Apple I</i>”); ● <i>Apple, Inc. v. Samsung Elecs. Co., Ltd.</i>, 695 F.3d 1370 (Fed. Cir. Oct. 11, 2012) (“<i>Apple II</i>”); 	<p>Chapter 7[H][2] (“Design Patents”);</p> <p>Chapter 11[B] (“Injunctions”);</p> <p>Chapter 11[C] (“Ongoing Royalties for Future Infringements”).</p>

		<ul style="list-style-type: none"> ● <i>Apple, Inc. v. Samsung Elecs. Co., Ltd.</i>, 735 F.3d 1352 (Fed. Cir. Nov. 18, 2013) (“<i>Apple III</i>”); ● <i>Celsis in Vitro, Inc. v. CellzDirect, Inc.</i>, 664 F.3d 922 (Fed. Cir. 2012); ● <i>Aria Diagnostics, Inc. v. Sequenom, Inc.</i>, 726 F.3d at 1296 (Fed. Cir. 2013). 	
Time Permitting	<i>Patent Exhaustion Defense</i>	<p>File015, Donald Chisum, <i>Abstracts of Recent Patent Exhaustion Cases</i>. Abstracted decisions:</p> <ul style="list-style-type: none"> ● <i>Lifescan Scotland, Ltd. v. Shasta Techs., LLC</i>, 734 F.3d 1361 (Fed. Cir. 2013); ● <i>Keurig, Inc. v. Sturm Foods, Inc.</i>, 732 F.3d 1370 (Fed. Cir. 2013). 	Chapter 10[C][8] (“Patent Exhaustion”).