

Program Agenda



Advanced Issues in Tech and Patent ADR: Mediating and Arbitrating Disputes

November 7, 2018
12:00 pm – 5:00 pm

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| 12:00 pm – 12:30 pm | Networking Lunch |
| 12:30 pm – 12:40 pm | Welcome and introductions

<i>Matthew Reed, Wilson Sonsini; Rod Thompson and David Allgeyer, SVAMC Tech List Members and Program Chairs</i> |
| 12:40 pm – 1:00 pm | USPTO Initiatives and Programs, and the Role of ADR. <ul style="list-style-type: none">• How the USPTO's initiatives and programs are tailored to the region's unique ecosystem of industries and stakeholders <i>John Cabeca, Director of the Silicon Valley United States Patent and Trademark Office (USPTO)</i> |
| 1:00 pm – 1:15 pm | Overview of the WIPO Arbitration and Mediation Center <ul style="list-style-type: none">• Tech and IP business disputes are increasingly international. How WIPO helps resolve those disputes and gets companies back to business. <i>Adam Rattray, WIPO Arbitration and Mediation Center; formerly with White & Case (Geneva office)</i> |

1:15 pm – 2:15 pm

Making mediation work in the tech/patent case

- How to take control to decide the best time to mediate
- Who should mediate? Picking the mediator
- Planning your approach to mediation: planning is the key
- Planning the mediation session itself
- At the session
- The effective mediation advocate
- What to never do at the mediation
- Getting beyond impasse
- Documenting the settlement: Why you must plan ahead and how to do that
- Enforcing the mediated settlement
- International mediation basics

Brad Waugh, associate general counsel, Intel. Mr. Waugh manages litigation for Intel; formerly practiced patent litigation with Cooley and Day Casebeer Madrid & Batchelder

Cathleen Anderson, Vice President Legal, CrowdStrike. CrowdStrike is the leader in cloud-delivered next-generation endpoint protection.

Les Weinstein, arbitrator and mediator in patent and tech disputes, mediator for Federal Circuit Appellate Program and Central District of California

Moderator: **Rod Thompson**, litigator and on mediation panels of United States District Court in San Francisco and WIPO, among others

2:15 pm – 3:15 pm

Arbitrating the domestic or international tech or patent case – pre-hearing phase

- What disputes can be arbitrated - which *should* be arbitrated?
- Statutory bases for arbitration and interplay with the PTO in patent matters
- Advantages of resolving international disputes in arbitration
- Dealing with one forum and one decision-maker
- Enforceability of awards in foreign courts
- Effectively providing for arbitration - drafting the right clause
- Specialized rules and procedures for tech and patent cases
- How to pick your own “judge” or panel



- When is “group think” (i.e. a panel) worth it
- Setting the stage - the prehearing conference
- Special considerations for experts
- Disclosures and special procedures for tech and patent cases
- Discovery/disclosures - how arbitration differs from litigation and how to make it work in your case
- ESI in arbitration
- Differences between domestic and international arbitration

Bryan Sinclair, Senior Director, IP Litigation, Cisco. Along with the broader IP Litigation team at Cisco, Mr. Sinclair oversees the company's intellectual property litigation.

Peter Vogel, arbitrator since 1986 and court ordered mediator since 1990 for IT, eCommerce, and IP disputes. Trial partner at Gardere Wynne Sewell LLP; background in programming and Masters in Computer Science

Adam Rattray, WIPO Arbitration and Mediation Center; formerly with White & Case (Geneva office)

Moderator: **David Allgeyer**, arbitrator and mediator in patent and tech cases for over 15 years; author, *Arbitrating Patent Cases, A Practical Guide* (ABA Publications 2017).

3:15 pm – 3:30 pm

Break

3:30 pm – 4:20 pm

Advocacy at the arbitration hearing

- How arbitrators use your prehearing submissions - make them count
- Openings in arbitration - when and how
- Why arbitrators are and are not like juries and judges
- The nuts and bolts: transcripts, witnesses, and the difference between domestic and international arbitration
- Effective use of experts
- The rules of evidence in arbitration - make them work for you
- Costs and attorneys' fees in arbitration
- Closing and briefing: using the flexibility provided by arbitration



Neil Smith, arbitrator, mediator, former Administrative Patent Law Judge on the Patent Trial and Appeal Board for the USPTO's Silicon Valley office

Grant Kim, counsel to clients in international arbitrations based in Asia, the U.S. and Europe, member of the Panel of Arbitrators for leading national and international providers

Rod Thompson, litigator and on mediation panels of United States District Court in San Francisco and WIPO, among others

Moderator: **Ambassador (r.) David Huebner**, arbitrator with more than 25 years' experience in intellectual property, complex commercial, and international disputes on the panels of leading international and regional institutions

4:20 pm – 5:00 pm

Enforcing and attacking awards in tech and patent cases

- Where and how to confirm/enforce arbitration awards
- How and when to challenge an award and defend against a challenge, including under the FAA
- Providing for arbitration appeal
- International considerations
- Using the New York Convention
- Understanding the law in the enforcing country

Matthew Reed and **David Steuer**, Partners in the Palo Alto office of Wilson Sonsini Goodrich & Rosati, practicing in the areas of technology focused international and domestic arbitration and intellectual property litigation

Moderator: **David Allgeyer**, arbitrator and mediator in patent and tech cases for over 15 years; author, *Arbitrating Patent Cases, A Practical Guide* (ABA Publications 2017).