

18<sup>TH</sup> ANNUAL

# Rocky Mountain Intellectual Property & Technology Law Institute

August 20-21, 2020

Westin Westminster Hotel, Westminster, CO



**ARRIVE EARLY** and attend  
IP Institute Fundamentals and USPTO Day  
on August 19, 2020

Co-sponsored by the Intellectual Property Law Section of the Colorado Bar Association, Stanford Law School, Stanford Program in Law, Science and Technology, the Copyright Society of the USA, and the ABA Section of Intellectual Property Law, and in cooperation with the Rocky Mountain Regional Office of the U.S. Patent and Trademark Office

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**OPTIONAL  
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Patent, trademark/copyright,  
and licensing basics taught  
by best-in-class  
instructors

18<sup>TH</sup> ANNUAL

# Rocky Mountain Intellectual Property & Technology Law Institute

## Here's What Past Institute Attendees Like You Have Said

"IP Rocks the World. CBA-CLE, Thank You!"

"Great speakers with relevant programming for many different aspects of my in-house practice."

"It was so great – I can't think of any ways to improve the program! Kudos to the committee."

"Great conference as always!"

"Great entertaining speakers."

"Strong and diverse content at a reasonable price."

"Hotel is amazing. Love the location – as an out-of-towner."

"Very well run and organized/great topics."

## CLE Credits

**Institute** - Submitted for 15 General CLE Credits, Including 2.25 Ethics Credits

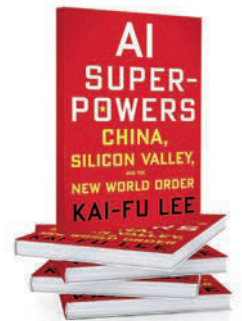
(You Must Attend the Ethics Sessions to Claim Ethics Credit)

**Fundamentals** – Submitted for 6 General CLE Credits

**BONUS!** Throughout the Institute, copies of **AI Superpowers: China, Silicon Valley and the New World Order** authored by Kai-Fu Fee will be offered as prizes.

Special Thanks to **HOGAN LOVELLS**, IP Book Club Sponsor

Video Wall Sponsored by **ARNOLD & PORTER** and **GOODWIN**



START



**620+**  
National and international participants



**ATTENDEES**  
from 28 states outside  
of Colorado



**5 TRACKS**  
Pick and choose  
the sessions you  
wish to attend

**UPDATES**  
A wide range of  
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updates



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## PRESENTING SPONSORS

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IP After-Hours

KING & SPALDING

Friday Beer Tasting:

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Conference Wi-Fi Sponsored by **PERKINS COIE LLP** • IP Book Club Sponsored by **HOGAN LOVELLS**

	7:45 AM	<b>Registration</b>
	7:45 AM	<b>Continental Breakfast</b> – Sponsored by <b>SHERIDAN ROSS P.C.</b>
	8:45 AM	<b>Welcoming Remarks</b> <i>Nathaniel T. Trelease, Program Chair, WebCredenza, Inc., Denver, CO</i>
	8:50 AM	<b>A Conversation with Federal Circuit Judge O'Malley and USPTO Director Iancu</b> <i>Honorable Kathleen M. O'Malley, Circuit Judge, Court of Appeals for the Federal Circuit, Washington, D.C.</i> <i>Andrei Iancu, Director, United States Patent and Trademark Office, Washington, DC</i> With Host <b>Mark Lemley, Stanford University Law School, Durie Tangri, LLP, San Francisco, CA</b>
	9:50 - 10:05 AM	<b>Networking Break</b> – Sponsored by <b>DENNEMEYER</b>

**TRACK A**  
PATENTS/PATENT LITIGATION  
Game Show Host: **Orion Armon**

10:05 - 10:55 AM  
**2020 Patent Law Update**  
• Everything you need to know about the last year  
  
*Mark Lemley, Stanford University Law School, Durie Tangri, LLP, San Francisco, CA*

**TRACK B**  
TRADEMARKS/COPYRIGHTS  
Game Show Hosts: **Hope Hamilton & Mike Drumm**

10:05 - 10:55 AM  
**International Potpourri**  
• Brexit: Did it really happen? And what now?  
• One year later in Canada: How the June 2019 law changes have unfolded  
• China: Pro-brand owner law changes versus the trade war  
  
*Nick Aries, Bird & Bird, San Francisco, CA*  
*Ai-Leen Lim, CEO and Principal Counsel, AWA Asia, Beijing and Hong Kong, China*  
*Marks & Clerk Law, LLP, Ottawa, CA*

**TRACK C**  
LICENSING  
Game Show Host: **Ryan Arney**

10:05 - 10:55 AM  
**Audits and Tenders for Indemnity: Software, Misappropriation, Best Practices**  
• Why this is a hot area  
• Evaluation of risk – across an enterprise from employment to marketing  
• Responding to demand letters  
• Legal defenses  
  
*Chad T. Nitta and Heather McKee, Kutak Rock LLP, Denver, CO*  
*Lauren Romer, Chief Legal Officer, Ping Identity Corp, Denver, CO*

**TRACK D-1**  
TRANSACTIONAL/E-COMMERCE  
Game Show Host: **John Ritsick**

10:05 - 10:55 AM  
**The Rise of Influencers and What They Mean for Marketing (and Law)**  
• How influencers are changing traditional marketing campaigns  
• Impact of influencers on consumer behavior  
• Key issues in contracts or arrangements with influencers  
• Red flags, including disclosure and potential conflicts  
  
*Rayna S. Lopyan, Frankfurt Kurnit Klein & Selz PC, New York, NY*

**TRACK E**

TRACK E is an immersive day-long experience with the rare opportunity to sit down with highly experienced practitioners and learn in a practical, skills-based format. Participants are encouraged to stay throughout the day for this deeply interactive session

**REGISTRATION IS LIMITED. REGISTER EARLY TO RESERVE YOUR SPOT.**

**TRACK E-1**  
EXPERIENTIAL TRAINING: TRANSACTIONAL  
Game Show Host: **Victoria L. Donovan**

10:05 - 10:55 AM  
**Topic 1: Master Service Agreements: Are Your Terms Working for Your Organization?**  
• Making sure the MSA/PSA works in conjunction with the Statements of Work  
• Understanding limitations on liability in the new world of confidentiality and privacy laws  
• Making sure the agreement clearly addresses delivery and acceptance process so that you get paid  
• Disputes – creative options to handle them  
• Putting together your playbook to expedite time to revenue

this track continues at 11:00 AM >

<b>TRACK A</b> <b>PATENTS/PATENT LITIGATION</b> Game Show Host: <b>Orion Armon</b>	<b>TRACK B</b> <b>TRADEMARKS/COPYRIGHTS</b> Game Show Hosts: <b>Hope Hamilton &amp; Mike Drumm</b>	<b>TRACK C</b> <b>LICENSING</b> Game Show Host: <b>Ryan Arney</b>	<b>TRACK D-1</b> <b>TRANSACTIONAL/E-COMMERCE</b> Game Show Host: <b>John Ritsick</b>	<b>TRACK E-1</b> <b>EXPERIENTIAL TRAINING: TRANSACTIONAL</b> Game Show Host: <b>Victoria L. Donovan</b>
<p>11:00 - 11:50 AM  <b>2020 PTAB Update</b>                      Everything you need to know about the last year</p> <p><b>Benjamin S. Fernandez</b>, <i>WilmerHale, Denver, CO</i>  <b>Lori A. Gordon</b>, <i>King &amp; Spalding LLP, Washington, DC</i></p>	<p>11:00 - 11:50 AM  <b>Anti-Counterfeiting and Online IP Infringement Strategies</b></p> <ul style="list-style-type: none"> <li>• The toolbox: Building an IP portfolio and the components of an effective enforcement</li> <li>• The game: Navigating the online counterfeit jungle and winning</li> <li>• The fans: Building consumer education programs to help tackle the beast</li> </ul> <p><b>Amy Kramer</b>, <i>Greenberg Traurig, Denver, CO</i>  <b>Lee Johnston</b>, <i>Haynes &amp; Boone, LLP, Denver, CO</i>  <b>Emily J. Cooper</b>, <i>IP Counsel and Global Brand Protection Director, PopSockets, Boulder, CO</i></p>	<p>11:00 - 11:50 AM  <b>Emerging Issues in Artificial Intelligence (AI) and Machine Learning: Things You Need to Think About</b></p> <ul style="list-style-type: none"> <li>• Development risks</li> <li>• Transparency, ownership, and data use</li> <li>• Maintenance for machine learning</li> </ul> <p><b>Elizabeth Harding</b>, <i>Polsinelli, Denver, CO</i></p>	<p>11:00 - 11:50 AM  <b>My Client Wants to Use Music in Advertising, As Part of Its Business or At an Event: What Do I Need to Do?</b></p> <ul style="list-style-type: none"> <li>• Obtaining rights to use media in marketing, commerce and events</li> <li>• Third party organizations for obtaining rights</li> <li>• Process, royalties, and red flags</li> <li>• Fair use issues</li> </ul> <p><b>Kenneth L. Steinthal</b>, <i>King &amp; Spalding, LLP, Los Angeles and San Francisco, CA</i></p>	<p>11:00 - 11:50 AM  <b>Topic 1 (continued)</b>  <b>Master Service Agreements: Are Your Terms Working for Your Organization?</b></p> <p><b>Victoria L. Donovan</b>, <i>Kutak Rock LLP, Denver, CO</i>  <b>Chuck Schwab</b> <i>Catalyst Law Group LLP, Boulder, CO</i>  <b>Kelsey Velemirovich</b>, <i>Catalyst Law Group LLP, Boulder, CO</i></p>

11:50 AM - 12:15 PM **Networking Luncheon – Sponsored by KILPATRICK TOWNSEND & STOCKTON LLP**  
 (Lunch is included in your registration. Please indicate if you plan to attend.)

12:15 - 12:25 PM **Last Year Today – Update from the USPTO Rocky Mountain Regional Office**  
**Mollybeth (Molly) R. Kocialski**, *Director, Rocky Mountain Regional Office, USPTO, Denver, CO*

12:25 - 1:25 PM **The Rise of Big Data and What It Means for Everyone and Everything**

- Strategic commercial and regulatory considerations of Big Data
- How it is collected (including IoT) and practically used to predict behavior
- How Big Data is used to enhance consumer experience and increase efficiency
- Privacy considerations, including disclosures and public law restrictions

**David W. Tollen**, *Sycamore Legal, San Francisco, CA*  
**Lucky Vidmar**, *Vice President and Senior Counsel, Technology, IP, Procurement and Real Estate, Western Union, Denver, CO*



## DID YOU KNOW?

The most expensive **MONOPOLY** set in the world is worth \$2 million and is crafted with 23-karat gold, rubies, sapphires, and diamonds.



<b>TRACK A</b> <b>PATENTS/PATENT LITIGATION</b> Game Show Host: <b>Orion Armon</b>	<b>TRACK B</b> <b>TRADEMARKS/COPYRIGHTS</b> Game Show Hosts: <b>Hope Hamilton &amp; Mike Drumm</b>	<b>TRACK C</b> <b>LICENSING</b> Game Show Host: <b>Ryan Arney</b>	<b>TRACK D-1</b> <b>TRANSACTIONAL/E-COMMERCE</b> Game Show Host: <b>John Ritsick</b>	<b>TRACK E-1</b> <b>EXPERIENTIAL TRAINING: TRANSACTIONAL</b> Game Show Host: <b>Victoria L. Donovan</b>
<p>1:30 - 2:20 PM  <b>Reexams and Reissues: Sharpening the Issues and the Next Wave of IPRs</b></p> <ul style="list-style-type: none"> <li>• Timing considerations</li> <li>• Impact on damages</li> </ul> <p><b>Robert Greene Sterne</b>, <i>Sterne Kessler Goldstein &amp; Fox, P.L.L.C., Washington, D.C.</i>  <b>Peter P. Chen</b>, <i>Covington, Palo Alto, CA</i>                      Moderator: <b>Michael Dulin</b>, <i>Polsinelli, Denver, CO</i></p>	<p>1:30 - 2:20 PM  <b>Trademark 2020 Year in Review</b></p> <ul style="list-style-type: none"> <li>• Everything you need to know about the last year</li> </ul> <p><b>David H. Bernstein</b>, <i>Debevoise &amp; Plimpton, New York, NY</i></p>	<p>1:30 - 2:20 PM <b>(.25 ETHICS CREDIT)</b>  <b>Regulating Legal Tech: Bionic Law Firms or Robolawyers?</b></p> <ul style="list-style-type: none"> <li>• A short history of efforts to ban legal service-enhancing tech</li> <li>• Tech-enhanced legal service models, past, present and future</li> <li>• Ethical challenges posed by lawyer-technology company integration</li> <li>• Antitrust exposure from over-regulating legal services and products</li> </ul> <p><b>Peter D. Kennedy</b>, <i>Graves Dougherty Hearon &amp; Moody, Austin TX</i></p>	<p>1:30 - 2:20 PM  <b>The Future of Antitrust and IP Law After Recent Case Law</b></p> <ul style="list-style-type: none"> <li>• The First Sale Doctrine after <i>Kirtsaeng</i> and <i>Lexmark</i></li> <li>• Review of other major case law developments</li> <li>• What's likely to come next</li> </ul> <p><b>Todd R. Seelman</b> and <b>William W. Mauke</b>, <i>Lewis Brisbois Bisgaard &amp; Smith, Denver, CO</i></p>	<p>1:30 - 2:20 PM  <b>Topic 2: Data Mapping Inside Your Organization:</b></p> <ul style="list-style-type: none"> <li>• How to do it practically</li> <li>• Ensuring companies are obtaining informed consents</li> <li>• Do you need outside consultants</li> </ul> <p><b>Victoria L. Donovan</b>, <i>Kutak Rock LLP, Denver, CO</i></p>
<p>2:20 - 2:40 PM <b>Networking Break – Ice Cream Sundae and Dessert Bar – Sponsored by <i>WILMERHALE</i></b></p>				
<p>2:40 - 3:30 PM  <b>Getting It Fast, Getting It Right: Best Practices for Accelerated Prosecution in the USA, Europe and China</b></p> <ul style="list-style-type: none"> <li>• Overview of the options, including benefits and drawbacks</li> <li>• Practical realities of accelerated prosecution</li> <li>• Best practices</li> </ul> <p><b>Lee Osman</b> and <b>Gina Cornelio</b>, <i>Dorsey &amp; Whitney, LLP, Denver, CO</i></p>	<p>2:40 - 3:30 PM  <b>The Best Offense is Defense</b></p> <ul style="list-style-type: none"> <li>• Pleading and proving affirmative defenses</li> <li>• Striking affirmative defenses</li> <li>• Beware of TTAB audibles</li> </ul> <p><b>Charlene Krogh</b>, <i>Dorsey &amp; Whitney LLP, Denver, CO</i>  <b>Marc C. Levy</b>, <i>Seed IP Law Group LLC, Seattle, WA/Denver, CO</i></p>	<p>2:40 - 3:30 PM  <b>2020 Licensing Update</b></p> <ul style="list-style-type: none"> <li>• Everything you need to know about the last year</li> </ul> <p><b>Jeff C. Dodd</b>, <i>Hunton Andrews Kurth, Houston/Austin, TX</i></p>	<p>2:40 - 3:30 PM  <b>The “State” of Blockchain and its IP Impact</b></p> <ul style="list-style-type: none"> <li>• Current legislative initiatives in the blockchain arena</li> <li>• Representative industry use cases for blockchain technology</li> </ul> <p><b>Michael R. Henson</b>, <i>Perkins Coie LLP, Denver, CO</i>  <b>Dave Rodman</b>, <i>The Rodman Law Group, Denver, CO</i></p>	<p>2:40 - 3:30 PM  <b>Topic 3: Litigator’s Perspective to Contracting: Ever Wonder How Your Contracts Will Play out in Court?</b></p> <ul style="list-style-type: none"> <li>• How litigators will try to take down what you’ve written</li> <li>• A litigator’s guide to major no-nos</li> <li>• Landmines that lawyers trigger</li> <li>• Tips for creating the best defense or offense in your contracts</li> <li>• Integrating best contracting practices into business groups</li> </ul> <p><b>Stafford Matthews</b>, <i>Dentons, Palo Alto, CA</i>  <b>Victoria L. Donovan</b>  <b>Chuck Schwab</b>  <b>Kelsey Velemirovich</b></p>

this track continues at 3:35 PM >

<b>TRACK A</b> <b>PATENTS/PATENT LITIGATION</b> Game Show Host: <b>Orion Armon</b>	<b>TRACK B</b> <b>TRADEMARKS/COPYRIGHTS</b> Game Show Hosts: <b>Hope Hamilton &amp; Mike Drumm</b>	<b>TRACK C</b> <b>LICENSING</b> Game Show Host: <b>Ryan Arney</b>	<b>TRACK D-1</b> <b>TRANSACTIONAL/E-COMMERCE</b> Game Show Host: <b>John Ritsick</b>	<b>TRACK E-1</b> <b>EXPERIENTIAL TRAINING: TRANSACTIONAL</b> Game Show Host: <b>Victoria L. Donovan</b>
<p>3:35 - 4:25 PM  <b>Working with Foreign Counsel to Develop IP Portfolios</b></p> <ul style="list-style-type: none"> <li>• Different trends and strategies for international portfolio development</li> <li>• How to select and evaluate foreign counsel</li> <li>• Best practices for collaboration between in house and outside counsel for international prosecution</li> </ul> <p><b>Michael Drapkin</b>, <i>Holland &amp; Hart, Boulder, CO</i>  <b>Sylvia Chen</b>, <i>Patent Counsel, Head of Patent Operations, Google, Chicago, IL</i></p>	<p>3:35 - 4:25 PM  <b>FTC Enforcement and False Advertising Law Updates</b></p> <ul style="list-style-type: none"> <li>• Pre-release to do's to ensure FTC and truthful advertising compliance</li> <li>• Online and mobile pitfalls</li> <li>• This ad is endorsed by ... disclosure best practices for endorsers and influencers</li> </ul> <p><b>Lesley Fair</b>, <i>Federal Trade Commission, Washington, DC</i>  <b>Patchen Haggerty</b>, <i>Perkins Coie LLP, Seattle, WA</i></p>	<p>3:35 - 4:25 PM  <b>2020 Data Privacy Update</b></p> <ul style="list-style-type: none"> <li>• CCPA and other state law updates</li> <li>• Prospect of a federal law</li> <li>• Significant litigation, enforcement actions and guidance</li> <li>• International developments</li> </ul> <p><b>Beth M. Magnuson</b>, <i>CIPP/E, CIPP/US, Senior Legal Editor, Privacy &amp; Data Security, Practical Law-Thomson Reuters, Denver, CO</i>  <b>Camila Tobón</b>, <i>CIPP/E, CIPP/US, CIPM, FIP, PLS, Davis Graham &amp;</i></p>	<p>3:35 - 4:25 PM  <b>How Did My License Become a Franchise?</b></p> <ul style="list-style-type: none"> <li>• Unintentional and intentional franchises</li> <li>• Trademark licenses and franchises</li> <li>• IP license agreements</li> <li>• What happens if it is a franchise?</li> <li>• Franchise and business opportunity states</li> </ul> <p><b>David Gusewelle</b>, <i>Drumm Law LLC, St. Louis, MO</i></p>	<p>3:35 - 4:25 PM  <b>Topic 3 (continued)</b>  <b>Litigator's Perspective to Contracting: Ever Wonder How Your Contracts Will Play out in Court?</b></p> <p><b>Stafford Matthews</b>  <b>Victoria L. Donovan</b>  <b>Chuck Schwab</b>  <b>Kelsey Velemirovich</b></p>



4:25 - 5:25 PM

**IP SOCIAL HOUR**

Sponsored by **COOLEY LLP**

Take this time to spin the wheel, and sip wine and mixed drinks with distinguished faculty and colleagues.

(Included in your registration. Please indicate if you plan to attend.)



5:30 - 7:30 PM

**IP AFTER-HOURS**

Sponsored by **KING & SPALDING LLP**

Meet Mike and Molly in the Westin lobby at 5:25 PM for a short walk to Rock Bottom Brewery.



**DID YOU KNOW?**

For **SCRABBLE'S** 50th Anniversary, a giant game was played in Wembley Stadium. Each tile was 6' across.

8:00 - 9:00 AM **ChIPs Breakfast** (Chiefs in Intellectual Property: [www.chipsnetwork.org](http://www.chipsnetwork.org)) – *Sponsored by KING & SPALDING LLP*  
Attend and further the ChIPs mission of advancing and connecting women in technology, law and government.

**Solo/Small Firm Breakfast** – Attend and discuss common problems and solutions with your solo, small firm colleagues

NEW  
THIS  
YEAR

8:00 - 10:00 AM **Inventor Breakfast** – Know an inventor or entrepreneur? Invite them to this breakfast for guided conversations with industry experts on the law and business of inventions. Call CBA-CLE at (303) 860-0608 to register (\$35).

8:00 AM **Registration Open**

8:00 AM **Continental Breakfast** – *Sponsored by BAKER BOTTS L.L.P.*

9:10 AM **Welcome Back Remarks**  
*Nathaniel T. Trelease, Program Chair, WebCredenza, Inc., Denver, CO*

9:20 - 10:30 AM **A Conversation with Waymo on Driverless Cars and Artificial Intelligence**  
*Amar K. Mehta, Deputy General Counsel, Waymo, San Francisco, CA*  
With Host: *Orion Armon, Cooley LLP, Denver, CO*

10:30 - 10:45 AM **Networking and Refreshment Break** – *Sponsored by DORSEY & WHITNEY LLP*

**TRACK A**  
**PATENTS/PATENT LITIGATION**  
Game Show Host: **James Brogan**

10:45 - 11:35 AM  
**Drafting Claims in Light of Section 101 Court Rulings and PTO Guidance**

- PTO Guidance on examination practices
- Factors in early court decisions
- Creating fact issues for the jury

*Thomas D. Franklin, Kilpatrick Townsend & Stockton LLP, Denver, CO*  
*Hogene L. Choi, Baker Botts LLP, San Francisco, CA*

**TRACK B**  
**TRADEMARKS/COPYRIGHTS**  
Game Show Hosts: **Hope Hamilton & Mike Drumm**

10:45 - 11:35 AM  
**Copyright 2020 Year in Review**

- Everything you need to know about the last year

*Evan M. Rothstein, Arnold & Porter, Denver, CO*  
*Molly Van Houweling, Berkeley Law, University of California, and Co-Director, Berkeley Center for Law & Technology, Berkeley, CA*

**TRACK C**  
**LICENSING**  
Game Show Host: **Ryan Arney**

10:45 - 11:35 AM  
**Cloud Atlas: Red Flags, Offramps and Indemnification in Contracting**

- Most important issues in cloud contracts
- How contracts go wrong – spotting red flags
- Essential drafting issues in indemnification agreements

*Peter J. Kinsella, and Elizabeth M. Banzhoff, Perkins Coie LLP, Denver, CO*

**TRACK D-2**  
**IN-HOUSE & THE PROFESSION**  
Game Show Host: **John Ritsick**

10:45 - 11:35 AM  
**Patent or Trade Secret?**

- Key Differences
- How should a company decide which to use for its IP?
- Strategic considerations for startups, maturing companies, large corporations

*Jared B. Briant, and Brian D. LeFort, Faegre Baker Daniels LLP, Denver and Boulder, CO*

**TRACK E-2**  
**EXPERIENTIAL TRAINING: ADVANCED PATENT PROSECUTION**  
Game Show Hosts: **Molly Kocialski & Matthew Avery**

10:45 AM - 11:35 PM  
**Topic 1: Patent Portfolio Management**

- Strategies for mining IP and creating an IP value chain
- Tips for hardening patent portfolios from PTAB vulnerabilities
- Practical Guidance for handling non-core assets and pruning your patent portfolio

*Aaron Brodsky, Chief IP Counsel, Trimble Inc.*  
*Dr. Michael Sartori, Baker Botts LLP, Washington, DC*  
*Mollybeth (Molly) R. Kocialski, Director, USPTO Denver Regional Office, Denver, CO*  
*Matthew Avery, Baker Botts LLP, San Francisco, CA*

*this track continues at 11:40 AM >*



**TRACK A**  
**PATENTS/PATENT LITIGATION**  
 Game Show Host: **James Brogan**

11:40 AM - 12:30 PM

**Diversity and Inclusion in the Patent World: Creating a Fair System That Allows for Equal Access to Inventors, Lawyers, and Others**

- Bias, as discussed during the testimony to the USPTO, regarding the SUCCESS Act
- Recent studies show women only comprise 12% of all inventors in US patents
- Tracking and interrupting bias in inventorship contributions

**Calvin E. Wingfield**, *Goodwin Proctor LLP, New York, NY*  
**Charu Kurani**, *Assistant General Counsel, Patents, Facebook, San Francisco, CA*  
 Moderator: **Caren Ulrich Stacy**, *Founder and Chief Experimentation Officer, Diversity Lab, San Francisco, CA*

**TRACK B**  
**TRADEMARKS/COPYRIGHTS**  
 Game Show Hosts: **Hope Hamilton & Mike Drumm**

11:40 AM - 12:30 PM

**How Gaming Gobbled Up Entertainment – Emerging Legal Issues**

- Rise of video gaming and displacement of scripted entertainment
- Key legal issues in the gaming space
- IP and privacy law issues
- What the future holds for gaming

**Ian C. Ballon**, *Greenberg Traurig, LLP, Palo Alto and Los Angeles, CA*

**TRACK C**  
**LICENSING**  
 Game Show Host: **Ryan Arney**

11:40 AM - 12:30 PM

**Open Source Software 201: Myths and Realities of OSS Licenses**

- How OSS licenses work
- OSS in SaaS and other cloud computing services
- Debunking myths surrounding OSS
- Addressing OSS in software contracts

**David W. Tollen**, *Sycamore Legal, San Francisco, CA*

**TRACK D-2**  
**IN-HOUSE & THE PROFESSION**  
 Game Show Host: **John Ritsick**

11:40 AM - 12:30 PM

**How to Choose a Trademark and Brand Strategy**

- Key advice for selecting brand names and trademarks
- International considerations
- Developing strategy for enforcement and defense

**Pamela N. Hirschman**, *Sheridan Ross P.C., Denver, CO*  
**Kara Zioba**, *Senior Paralegal, Intellectual Property, The Hershey Company, Denver, CO*

**TRACK E-2**  
**EXPERIENTIAL TRAINING: ADVANCED PATENT PROSECUTION**  
 Game Show Hosts: **Molly Kocialski & Matthew Avery**

11:40 AM - 12:30 PM

**Topic 2: Petitions**

- Learn the ins and outs of petitions
- Types of petitions available and what's worth filing
- Practical guidance for drafting petitions

**Charles Kim**, *Director, Office of Petitions, USPTO, Washington, DC*  
**Mollybeth (Molly) R. Kocialski**  
**Matthew Avery**

12:30 - 12:50 PM **Networking Luncheon – Sponsored by HOLLAND & HART LLP**  
 (Lunch is included in your registration. Please indicate if you plan to attend.)

12:50 - 1:40 PM **Ethical Issues from Using (or Not) AI and Big Data (1 ETHICS CREDIT)**

- Ethical issues arising in the short and medium term from AI and machine learning innovations
- Ensuring you are competently using these technologies
- Using AI while complying with duties of confidentiality
- Avoiding unethical bias and other potential forms of discipline or malpractice

**David Hricik**, *Mercer University Walter F. George School of Law*



**DID YOU KNOW?**

**YAHTZEE** was invented by a wealthy Canadian couple who liked to play the game on their yacht.

**TRACK A**  
**PATENTS/PATENT LITIGATION**  
Game Show Host: James Brogan

1:45 - 2:35 PM

**Section 112: How Much is Enough?**

- Written description versus enablement
- PTO guidance
- Court and jury realities

**Scott M. Alter**, *Michael Best & Freidrich LLP, Denver, CO*  
**Andrew L. Jagenow**, *Merchant & Gould P.C., Denver, CO*

**TRACK B**  
**TRADEMARKS/COPYRIGHTS**  
Game Show Hosts: Hope Hamilton & Mike Drumm

1:45 - 2:35 PM

**Fashion Law Look Book: Copycats, Popups, Designs and Culture in the Age of Search**

- How the landscape of Fashion Law has changed with the demise of traditional retail and the onslaught of social media
- Recent hurdles to achieve design protection and protect against suddenly overbroad rights
- Hyperreality: wearable technology, AI, augmented reality, and virtual fashion
- The protection of designs with deep historical or cultural significance

**Megan K. Bannigan**, *Debevoise & Plimpton, New York, NY*  
**Lisa Keith**, *General Counsel, Steve Madden, New York, NY*

**TRACK C**  
**LICENSING**  
Game Show Host: Ryan Arney

1:45 - 2:35 PM

**2020 Trade Secret Update**

- Everything you need to know about last year

**James Pooley**, *James Pooley PLC, Menlo Park, CA*

**TRACK D-2**  
**IN-HOUSE & THE PROFESSION**  
Game Show Host: John Ritsick

1:45 - 2:35 PM

**#MeToo in the Workplace**

- Workplace issues with heightened awareness of sex-based harassment
- Revising workplace policies and practices in response
- #MeToo clauses in business and commercial contracts

**Marianne Wolf**, *Senior Vice President, Deputy General Counsel, Flex, San Jose, CA*  
**William J. Kelly III**, *Kelly & Walker LLC, Denver, CO*

**TRACK E-2**  
**EXPERIENTIAL TRAINING: ADVANCED PATENT PROSECUTION**  
Game Show Hosts: Molly Kocialski & Matthew Avery

1:45 - 2:35 PM

**Topic 3: The PTAB: Appeals**

- Practical guidance for considering if and when to appeal
- Best practices for preparing appeal briefs
- Tips for oral arguments at the PTAB

**Melissa Haapala**, *Lead Administrative Patent Judge, USPTO, Denver CO*  
**Nicoletta M. Kennedy**, *Kilpatrick Townsend & Stockton LLP, Denver, CO*  
**Mollybeth (Molly) R. Kocialski**, **Matthew Avery**

**DID YOU KNOW?**

**TRIVIAL PURSUIT** was created when two Canadian news editors found pieces of their Scrabble game missing and decided to make their own game after being shocked at the price of a Scrabble set.



this track continues at 2:40 PM >

<p><b>TRACK A</b> PATENTS/PATENT LITIGATION Game Show Host: <b>James Brogan</b></p> <p>2:40 - 3:30 PM <b>Artificial Intelligence and Patent Prosecution</b></p> <ul style="list-style-type: none"> <li>• Issues of obviousness</li> <li>• Can a machine be an inventor?</li> <li>• Issues of patent eligibility</li> </ul> <p><b>Aaron S. Oakley</b>, Hogan Lovells, Denver, CO <b>David St. John-Larkin</b>, Perkins Coie LLP, Denver, CO</p>	<p><b>TRACK B</b> TRADEMARKS/COPYRIGHTS Game Show Hosts: <b>Hope Hamilton &amp; Mike Drumm</b></p> <p>2:40 - 3:30 PM <b>Protection of Consumer Products: Design Patents Versus Copyrights Versus Trademark Versus Trade Dress</b></p> <ul style="list-style-type: none"> <li>• Structuring IP protection strategies for different types of consumer goods</li> <li>• Takeaways from recent IP disputes over the design of consumer goods</li> <li>• Filing strong patents for product design to leverage brand recognition, value, and market share</li> <li>• Protection for non-traditional trademarks, such as product packaging and trade dress</li> </ul> <p><b>Ryan Levy</b>, Patterson Intellectual Property Law, Nashville, TN <b>Sarah W. Matthews</b>, Durham Jones &amp; Pinegar P.C. Salt Lake City, UT</p>	<p><b>TRACK C</b> LICENSING Game Show Host: <b>Ryan Arney</b></p> <p>2:40 - 3:30 PM <b>Asset Protection Strategies for IP</b></p> <ul style="list-style-type: none"> <li>• Protecting IP from potential creditors of a company</li> <li>• Protecting an equity holder's interest in the IP or an entity that owns the IP</li> <li>• Mixing high quality income tax planning with IP structuring in a manner that also makes sense for asset protection planning</li> <li>• Utilizing estate planning strategies that also make sense when planning with IP</li> </ul> <p><b>Jonathan E. Gopman</b>, Akerman LLP, Naples, FL</p>	<p><b>TRACK D-2</b> IN-HOUSE &amp; THE PROFESSION Game Show Host: <b>John Ritsick</b></p> <p>2:40 - 3:30 PM <b>Data Analytics for IP Practice</b></p> <ul style="list-style-type: none"> <li>• What is Big Data and how is it collected</li> <li>• How is it refined to predict behavior</li> <li>• How can it be used in law departments and practice?</li> </ul> <p><b>Warren Agin</b>, Analytic Law LLC, Boston, MA <b>W. Ross Moncrief</b>, Solutions Architect, Dennemeyer &amp; Co., LLC, Denver, CO</p>	<p><b>TRACK E-2</b> EXPERIENTIAL TRAINING: ADVANCED PATENT PROSECUTION Game Show Hosts: <b>Molly Kocialski &amp; Matthew Avery</b></p> <p>2:40 - 3:30 PM <b>Topic 4: The PTAB: Post-grant Practice (ex parte reexam and reissue)</b></p> <ul style="list-style-type: none"> <li>• Reviewing when exparte reexam and reissue are allowed, and which is better</li> <li>• Tips for requesting reexam and narrowing claims</li> <li>• Using reissue to correct the scope of a patent</li> </ul> <p><b>John Cottingham</b>, Director, Central Reexamination Unit, USPTO, Washington, DC <b>Mindy Sooter</b>, WilmerHale, Denver, CO <b>Justin Krieger</b>, Kilpatrick Townsend &amp; Stockton LLP, Denver, CO <b>Mollybeth (Molly) R. Kocialski</b></p>
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3:30 - 3:50 PM **BEER TASTING** – Sponsored by **MERCHANT & GOULD P.C.**

- Voir Dire Beer®
- Infringement IPA®
- Attorney Ale®
- Lawyer's Lager®



3:50 - 4:40 PM **PLENARY SESSION (1 ETHICS CREDIT)**  
**Double Jeopardy – An Ethics Game Show**

- **Thomas Spahn**, McGuireWoods LLP, Tysons, VA
- **Mike Drumm**, Drumm Law LLC, Denver, CO
- **Mollybeth (Molly) R. Kocialski**, Director, Rocky Mountain Regional Office, USPTO, Denver, CO

4:40 PM **Institute Adjourns – Thank You for Attending the 2020 Institute!**  
**Mark Your Calendar for Next Year's Institute, June 3-4, 2021**



**DID YOU KNOW?**

*Deep Blue*, developed by IBM, was the first computer to win a **CHESS** match against a reigning world champion.

## 2020 PLANNING COMMITTEE

**Nathaniel Trelease**  
**Program Chair**  
WebCredenza, Inc.  
Denver, CO

**Mollybeth (Molly) R. Kocalski**  
Director  
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US Patent and Trademark Office  
Denver, CO

**Wayne Stacy**  
Baker Botts LLP  
San Francisco, CA

**James Brogan**  
King & Spalding LLP  
Denver, CO

**John Ritsick**  
Flex  
San Jose, CA, and Denver, CO

**Ryan Arney**  
Nodal Law, LLC  
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**Hope Hamilton**  
Holland & Hart LLP  
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**Michael Drumm**  
Drumm Law LLC  
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**Orion Armon**  
Cooley LLP  
Denver, CO

**Victoria L. Donovan**  
Kutak Rock LLP  
Denver, CO



### RMIPi Headquarters Information

The Institute is being held at the **Westin Westminster Hotel**  
10600 Westminster Blvd., Westminster, CO

CBA-CLE has reserved a small block of rooms at a group rate, **starting at \$199 plus applicable taxes**, until August 5, 2020, when rates and availability are subject to change. Please do not wait, as the hotel fills up quickly.

**To make your reservation, please call central reservations at 1-888-627-8448, or contact the Westin directly at (303) 410-5000, and indicate that you are an attendee of the Colorado Bar Association Intellectual Property & Technology Law Institute.**

**Online reservations can be made by clicking on LOCATION at [cle.cobar.org/ip](http://cle.cobar.org/ip)**

**HOTEL WILL FILL UP QUICKLY**

### FOLLOW THE INSTITUTE ONLINE



The Rocky Mountain Intellectual Property and Technology Law Institute is proud to recognize the National Inventors Hall of Fame (NIHF), the nation's foremost nonprofit inspiring innovation in America. NIHF operates the NIHF Museum in Alexandria, VA, Collegiate Inventors Competition, and national PreK-12 education programs, including Camp Invention, the country's largest summer program inspiring innovation and creativity in children. NIHF's programs recognize our nation's most impactful inventors and use their inspirational stories to educate young people. Camp Invention is an exciting, weeklong summer adventure with activities that explore connections between science, technology, engineering, and innovation where children seek solutions to real-world problems and sharpen critical 21st Century skills. In partnership with the United States Patent and Trademark Office, Camp Invention also instills Intellectual Property Literacy™ as participants create patents and trademarks for their new innovations. To learn more, call **800.968.4332**, or visit **[www.campinvention.org](http://www.campinvention.org)**.



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# NETWORKING OPPORTUNITIES

## 5TH ANNUAL PTO DAY

4:00 - 6:00 PM, Wednesday, August 19, 2020 • USPTO Regional Office • 1961 Stout Street, Denver

Arrive early for the Institute, and meet USPTO officials, including **Director Andrei Iancu**, **Lead Administrative Patent Judge Melissa Haapala**, **Regional Director Molly Kocialski**, and **Supervisory Patent Examiners**. Network with colleagues and enjoy appetizers and drinks with IP's champions.

*Special thanks to the **INTELLECTUAL PROPERTY LAW SECTION OF THE COLORADO BAR ASSOCIATION** for sponsoring this event!*

## DENVER BREWERY WALKING TOUR

**Spin the Wheel and Land in RiNo for a Tour of Craft Breweries (New Breweries This Year!)**

5:30 - 8:00 PM, Wednesday, August 19, 2020

In the spirit of tradition, we are once again offering a custom, private, guided brewery walking tour – in a new area. On our short walk through the RiNo neighborhood and its unique graffiti art scene, you'll taste amazing craft beer samples from four breweries, learn scandalous Denver tidbits, and build relationships with your fellow IP colleagues.

*Cost is \$44/person and includes a souvenir tasting glass. Spots are limited, so sign up early!*

## 5TH ANNUAL IP AFTER-HOURS – YOUR DEAL!

5:30 - 7:30 PM, Thursday, August 20, 2020

Are you interested in meeting IP colleagues and networking in a small, informal FUN group setting? IP After Hours with **Colorado's Beer Attorney Mike Drumm**, and **USPTO Regional Director Molly Kocialski** is always a big hit at the Institute! Join us for cold brews and good food at one of the nation's first brewery restaurants, Rock Bottom Restaurant & Brewery.

*Sponsored by **KING & SPALDING LLP***

## PLUS:

- IP Social Hour – 4:25 - 5:25 PM, Thursday, August 20, 2020 – *Sponsored by **COOLEY LLP***
- ChIPs Breakfast – 8:00 - 9:00 AM, Friday, August 21, 2020 – *Sponsored by **KING & SPALDING LLP***
- Small Firm Breakfast – 8:00 - 9:00 AM, Friday, August 21, 2020
- Inventor Breakfast – 8:00 - 10:00 AM, Friday, August 21, 2020
- Beer Tasting – 3:30 - 3:50 PM, Friday, August 21, 2020 – *Sponsored by **MERCHANT & GOULD P.C.***





# IP Institute Fundamentals

Wednesday, August 19, 2020

9:30 AM - 3:45 PM

United States Patent and Trademark Office  
1961 Stout Street, Denver, CO

## MODERATOR

**Mollybeth (Molly) R. Kocialski**, Director,  
Rocky Mountain Regional Office, U.S. Patent and Trademark Office,  
Denver, CO

Are you new to the practice of intellectual property law or do you simply want to polish your basic IP skills and knowledge? If so, the August 19, 2020 IP Institute Fundamentals is for you! Attend and gain the knowledge and insights from experts on practice essentials of patent, trademark and copyright law, and licensing. And receive practical, foundational basics for your day-to-day practice of IP law to better represent your clients.

**PLUS,**  
following  
IP Fundamentals, walk  
down the hall and join  
your colleagues at  
USPTO Day

Receive the **BEST VALUE** for your registration dollars  
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[www.RMIPI.org](http://www.RMIPI.org)



## 9:30 AM Registration and Refreshments

### 9:50 AM Basics of Claims Drafting and Prosecution, and Patent Application Drafting

- Increased importance of performing good “prior art” searches
- Patentable subject matter (*In Re Bilski* and 2019 Patent Eligibility Guidance)
- Drafting the specification and claims
- Overview of the patent prosecution process
- Disclosure obligations and IDS management
- Examiner interview
- Accelerated prosecution
- Related applications and genealogy issues

Presented by **Mollybeth R. Kocialski**, Director, Rocky Mountain Regional Office, U.S. Patent and Trademark Office, Denver, CO, and **Matthew Avery**, Baker Botts LLP, San Francisco, CA

### 11:05 AM Basics of Trademark Protection and Policing

- Trademark function and types of marks
- Trademark clearance obligations, methods and strategies
- Acquisition of trademark rights through use and registration
- Overview of the trademark registration process
- Maintaining registration rights
- Enforcing trademark rights

Presented by **Mike Drumm**, Drumm Law LLC, Denver, CO, and **Dana P. Jozefczyk**, Associate General Counsel, US Olympic & Paralympic Committee, Colorado Springs, CO

### 12:20 PM Lunch (included in your registration fee)

### 1:10 PM Anatomy of Technology Licenses

- Defining the scope of the license – usage, territory, time and updates
- Royalties – different structures and audits
- Warranties in licensing – implied and express
- Protecting the exchange of confidential information – employee issues and trade secrets
- Remedies on breach – financial liability and specific performance
- Indemnity – scope of obligation, exclusions, mechanics, remedies/triggers
- Limitation of liability – forms liability and failure of essential purpose

Presented by **Matt McKinney**, Koenig, Oelsner, Taylor, Schoenfeld & Gaddis PC, Denver, CO, and **Victoria L. Donovan**, Kutak Rock LLP, Denver, CO

### 2:40 PM Networking and Refreshment Break

### 2:55 PM Copyright Law

- Understand what copyright is and its important benefits
- Discuss defenses to copyright infringement

Presented by **Leigh Augustine**, EIP, Denver, CO, and **Dave Ratner**, Creative Law Network, Denver, CO

### 3:45 PM Adjourn to USPTO Day!

# 18TH ANNUAL ROCKY MOUNTAIN INTELLECTUAL PROPERTY AND TECHNOLOGY LAW INSTITUTE

## IP & TECHNOLOGY LAW INSTITUTE ONLY

- CLE Elite Pass: .....\$304
- CLE Basic Pass: .....\$324
- New Lawyer Edge Member.....\$307
- CBA Intellectual Property Section Member .....\$564
- ABA Intellectual Property Section Member .....\$564
- Copyright Society of the USA Member.....\$564
- CBA Member .....\$614
- Non-Member .....\$654
- I would like hard copy course materials .....\$50

## IP FUNDAMENTALS TRAINING ONLY

- CLE Elite Pass: .....\$124
- CLE Basic Pass: .....\$174
- New Lawyer Edge Member.....\$122
- CBA Intellectual Property Section Member .....\$204
- ABA Intellectual Property Section Member .....\$204
- Copyright Society of the USA Member.....\$204
- CBA Member .....\$244
- Non-Member .....\$294
- I would like hard copy course materials .....\$50

## IP FUNDAMENTALS TRAINING AND IP & TECHNOLOGY LAW INSTITUTE

- CLE Elite Pass: .....\$404
- CLE Basic Pass: .....\$424
- New Lawyer Edge Member.....\$357
- CBA Intellectual Property Section Member .....\$664
- ABA Intellectual Property Section Member .....\$664
- Copyright Society of the USA Member.....\$664
- CBA Member .....\$714
- Non-Member .....\$754
- I would like hard copy course materials .....\$50

**LIVE PROGRAM SUBTOTAL \$** \_\_\_\_\_

**COURSE TUITION INCLUDES** digital course materials, an MP3 download of all associated programming tracks, light refreshments, lunch and admission to affiliated receptions. All paid registrants will receive a link to the course materials 24-48 hours prior to the Institute.

**INSTITUTE CANCELLATIONS:** Cancellations by **August 14, 2020** will receive a full refund of tuition paid. After August 14, 2020 no refunds will be issued, but substitutions are welcome. This program is not eligible for transfer to homestudy.

## TRACKS

- I am a Registered Patent Agent

Please select one track. We kindly ask that Track E registrants stay with Track E programming for the day.

### Thursday, August 20

- TRACK A     TRACK B     TRACK C     TRACK D-1     TRACK E-1

### Friday, August 21

- TRACK A     TRACK B     TRACK C     TRACK D-2     TRACK E-2

## INCLUDED LUNCHES AND RECEPTIONS

If you do not RSVP for lunch, one will NOT be ordered for you.

### Wednesday, August 19

IP Fundamentals Lunch: 12:20 - 1:10 PM

- YES, I will attend -  Vegetarian     Gluten-Free     NO, I will not attend

USPTO Day: 4:00 - 6:00 PM

- YES, I will attend     NO, I will not attend

### Thursday, August 20

IP Luncheon: 11:50 AM - 1:35 PM

- YES, I will attend -  Vegetarian     Gluten-Free     NO, I will not attend

IP Social Hour: 4:25 - 5:25 PM

- YES, I will attend     NO, I will not attend

IP After Hours: 5:30 - 7:30 PM

- YES, I will attend     NO, I will not attend

### Friday, August 21

IP Luncheon: 12:30 AM - 1:00 PM

- YES, I will attend -  Vegetarian     Gluten-Free     NO, I will not attend

Beer Tasting: 3:30 - 3:50 PM

- YES, I will attend     NO, I will not attend

## ADDITIONAL NETWORKING OPPORTUNITIES

- Denver Brewery Walking Tour:** 5:30 - 8:00 PM, Wednesday, August 19.....\$44
- ChIPs Breakfast:** 8:00 - 9:00 AM, Friday, August 21 .....\$35
- Solo, Small Firm Practitioner Breakfast:** 8:00 - 9:00 AM, Friday, August 21.....\$35
- Inventors-Only Breakfast:** 8:00 - 10:00 AM, Friday, August 21 .....\$35

**NETWORKING OPPORTUNITIES SUBTOTAL \$** \_\_\_\_\_

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All registrations must include a check or charge card information.

## HOME STUDY

Please order the home study online at [www.cba-cle.org](http://www.cba-cle.org) or call CBA-CLE to order or for additional information.

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