

**USC LAW**

**THE BEVERLY HILLS HOTEL**  
BEVERLY HILLS, CALIFORNIA

**THURSDAY**  
**MARCH 15, 2012**

USC GOULD SCHOOL OF LAW

# 2012 INTELLECTUAL PROPERTY INSTITUTE

**FEDERAL JUDGES:** Hon. Randall Rader (Fed. Cir.), Hon. Alex Kozinski (9th Cir.),  
Hon. David Folsom (E.D. Tex.), Hon. Dean Pregerson (C.D. Cal.),  
Hon. Christina Snyder (C.D. Cal.), Hon. Margaret Morrow (C.D. Cal.)  
and Hon. Andrew Guilford (C.D. Cal.)

**PROMINENT ACADEMICS:** Professors Lemley, McCarthy, Nimmer and Schultz

**the latest IP updates**



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## Sophisticated

USC Law IP Institutes are renowned both for their practicality and for their high-level academic discussion. The 2012 Institute continues this dedication to keeping decision-makers and their advisors at the forefront of emerging issues and best practices in patent, copyright, trademark, and related fields.

## Unique

No other IP conference features such spectacular speakers and panels, including:

- Federal Circuit Chief Judge Randall R. Rader, Eastern District of Texas Judge David Folsom and Central District of California Judge Andrew J. Guilford on patent issues.
- Ninth Circuit Chief Judge Alex Kozinski and Central District of California Judges Dean D. Pregerson and Christina A. Snyder on copyright and trademark issues.
- Central District of California Judge Margaret M. Morrow on the management of complex cases.
- The IP year in review with Professors Lemley, McCarthy and Nimmer.
- A panel of expert speakers (including a former U.S. Solicitor General and a former Deputy Solicitor General) on the Supreme Court's impact on intellectual property law and the Federal Circuit.

## Can't-Miss Networking

Five networking breaks, including a hosted cocktail reception, allow you to mix and mingle informally with the speakers and your peers. This is your opportunity to get creative ideas, real-world proven solutions and up-to-the-minute information on crucial IP challenges from the experts.

## Limited Enrollment

Don't miss *the* event for IP professionals: past Institutes sold out, so register early.



## testimonial

Of all the dozens of IP conferences I participated in during 22 years on the Federal Circuit, none exceeded the quality, camaraderie, or convenience of the USC Law IP Institute. In short, it is a "do not miss" event. Although forward looking and policy oriented, it is still intensely practical. In the language of patent law, the content of this conference, year in and year out, is "new, useful, and nonobvious."

Paul R. Michel  
Federal Circuit Chief Judge (ret.)

## quick program guide

THURSDAY, MARCH 15, 2012

TAILORED TO YOUR NEEDS

CHOOSE BETWEEN THE FOLLOWING AFTERNOON TRACKS:

**TRACK A – Copyright Track**

**TRACK B – Patent Track**

**TRACK C – Trademark Track**

- 7:30 AM Registration and Continental Breakfast  
The Beverly Hills Hotel, Beverly Hills, California
- 8:30 AM Welcome and Introductions
- 8:35 AM Changes Are A Coming? For patent litigation, where have we been?  
Where are we going?
- 9:30 AM Networking Break
- 9:45 AM The IP Year in Review: Patent Law, Trademark Law and Right of  
Publicity, and Copyright Law
- 12:00 PM Luncheon and Keynote Address:  
Hon. Randall R. Rader, Chief Judge  
United States Court of Appeals (Fed. Cir.)
- 1:30 PM **Breakout Session 1A – Copyright Track**  
First Sale Doctrine: Are Courts Being Fooled by a Wolf in  
Sheep's Clothing?
- Breakout Session 1B – Patent Track**  
Recent Developments for Patent Damages in the Wake of  
*Uniloc* and *ResQNet*
- Breakout Session 1C – Trademark Track**  
Social Media and the Entertainment Industry
- 2:40 PM Networking Dessert Break
- 3:00 PM **Breakout Session 2A – Copyright Track**  
The Law of Ideas and Submission of Ideas
- Breakout Session 2B – Patent Track**  
The Supreme Court's Impact on Intellectual Property Law  
and the Federal Circuit
- Breakout Session 2C – Trademark Track**  
Trademarks in a New Internet Age
- 4:10 PM Passing Period
- 4:15 PM **Breakout Session 3A – Copyright & Trademark Track**  
Copyright and Trademark Issues: The View from the Bench
- Breakout Session 3B – Patent Track**  
Can the Cost and Complexity of Patent Cases be Controlled?
- 5:25 PM Networking Reception – Meet the Speakers at our Hosted Reception!  
Sponsored in part by Wilmer Cutler Pickering Hale and Dorr LLP.



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## syllabus

A Syllabus of up-to-date analyses and practical materials prepared by our speakers will be distributed to registrants at the Institute in electronic format. Subject to availability, additional copies of the Syllabus may be purchased after the Institute for \$150 each. To purchase a Syllabus, order online at <http://law.usc.edu/cle/ip>.

Special thanks to Catalyst Repository Systems, Inc., the Institute's Digital Data Sponsor, for their sponsorship of the Syllabus.



# luncheon keynote speaker

**HON. RANDALL R. RADER**

Chief Judge

United States Court of Appeals for the Federal Circuit



**RANDALL R. RADER** was appointed to the United States Court of Appeals for the Federal Circuit by President George H. W. Bush in 1990 and assumed the duties of Chief Circuit Judge on June 1, 2010. He was appointed to the United States Claims Court (now the U. S. Court of Federal Claims) by President Ronald W. Reagan in 1988.

Before appointment to the Court of Federal Claims, Chief Judge Rader served as Minority and Majority Chief Counsel to Subcommittees of the U.S. Senate Committee on the Judiciary. From 1975 to 1980, he served as Counsel in the House of Representatives for members serving on the Interior, Appropriations, and Ways and Means Committees.

Chief Judge Rader's most prized title may well be "Professor Rader." As a professor, Chief Judge Rader has taught courses on patent law and other advanced intellectual property courses at university programs in the United States, Germany, Tokyo, Taipei, New Delhi, and Beijing. Chief Judge Rader has also co-authored several texts, including the most widely used textbook on U.S. patent law, *Cases and Materials on Patent Law* (St. Paul, Minn.: Thomson/West 3d ed. 2009), and *Patent Law in a Nutshell* (St. Paul, Minn.: Thomson/West 2007) (translated into Chinese and Japanese).

Chief Judge Rader has won acclaim for leading dozens of governmental and educational delegations to every continent except Antarctica, teaching rule of law and intellectual property law principles. He has received many awards for his achievements, service and teaching.

He received a B.A. in English from Brigham Young University in 1974 and a J.D. from George Washington University Law School in 1978.

## contact information

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Our office hours are 9:00 AM to 5:00 PM Pacific time.

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USC GOULD SCHOOL OF LAW

# Program

## 2012 INTELLECTUAL PROPERTY INSTITUTE

**8:30 AM**

### **Welcome and Introductions**

**Charles S. Barquist**

INSTITUTE CHAIR

Morrison & Foerster LLP

**Leeanna Izuel**

INSTITUTE EXECUTIVE DIRECTOR

Assistant Dean

Continuing Legal Education

USC Gould School of Law

**8:35 AM**

**Changes Are A Coming?** For patent litigation, where have we been? Where are we going?

Views from the Chief Judge of the Federal Circuit and highly experienced judges of the Central District of California and Eastern District of Texas.

*Questions for the judges?*

*Email your questions to [cle@law.usc.edu](mailto:cle@law.usc.edu) and we will share them with the judges prior to the Institute.*

### **MODERATOR**

**Morgan Chu**

Irell & Manella LLP

### **SPEAKERS**

**Hon. David Folsom**

United States District Court

(E.D. Tex.)

Texarkana, TX

**Hon. Andrew J. Guilford**

United States District Court

(C.D. Cal.)

**Hon. Randall R. Rader**

Chief Judge

United States Court of Appeals

(Fed. Cir.)

Washington, D.C.

**9:30 AM Networking Break**

upcoming **USC Law programs**

### **REAL ESTATE LAW AND BUSINESS**

March 8, 2012 – Jonathan Town Club – Los Angeles, California

### **ENTERTAINMENT LAW AND BUSINESS**

October 2012 – USC University Park Campus – Los Angeles, California

**9:45 AM**

**The IP Year in Review:** Patent Law, Trademark Law and Right of Publicity, and Copyright Law

In this popular session, the top scholars in patent, trademark and right of publicity, and copyright return to highlight and explain the most significant developments in IP law of the past year.

**MODERATOR**

**Jeremy N. Williams**  
Senior Vice President  
Deputy General Counsel  
Warner Bros. Entertainment Inc.

**SPEAKERS**

**Mark A. Lemley**  
William H. Neukom Professor of Law  
Director, Stanford Program in  
Law, Science and Technology  
Stanford Law School  
Durie Tangri LLP  
Stanford, CA

**J. Thomas McCarthy**  
Senior Professor of Law  
Founding Director, McCarthy  
Institute for IP & Technology Law  
University of San Francisco  
School of Law  
Of Counsel, Morrison & Foerster LLP  
San Francisco, CA

**David Nimmer**  
Professor from Practice  
UCLA School of Law  
Of Counsel, Irell & Manella LLP

**12:00 PM**

**Luncheon and Keynote Address**

Join the Federal Circuit's Chief Judge Randall R. Rader for a thirty minute discussion of his perspective on the relationship between the Supreme Court and the Federal Circuit.

**KEYNOTE SPEAKER**

**Hon. Randall R. Rader**  
Chief Judge  
United States Court of Appeals  
(Fed. Cir.)  
Washington, D.C.

**continued>>>**

## continuing education credits

**Lawyers.** Minimum Continuing Legal Education (MCLE): USC Gould School of Law certifies that this activity qualifies for minimum continuing legal education credit in the amount of 7.5 hours. The USC Gould School of Law is a State of California approved MCLE provider. This event may meet the requirements for continuing legal education credits in other states. Please check with the State Bar Association or Supreme Court in the state in which you are seeking continuing legal education credits to see if this program is eligible.

**Accountants.** Continuing Professional Education (CPE): This program meets the guidelines set by the California State Board of Accountancy in the amount of 7 hours.

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CHOOSE BETWEEN THE FOLLOWING AFTERNOON TRACKS:

TRACK A – Copyright Track

TRACK B – Patent Track

TRACK C – Trademark Track

1:30 PM

BREAKOUT SESSION 1A

COPYRIGHT TRACK

**First Sale Doctrine:** Are Courts Being Fooled by a Wolf in Sheep's Clothing?

The Courts in *Vernor v. Autodesk*, *Costco v. Omega*, and *UMG v. Augusto* grappled with various issues concerning the first sale doctrine, including what constitutes a sale versus a license of a copyrighted work. Copyright owners take great measures to ensure that their copyrighted works are deemed to be licensed to prevent them from being resold. This panel will discuss various legal and practical business aspects concerning the first sale doctrine, including: 1) when a sale has occurred, the history and current state of the law, and analyses of its consequences, 2) the role of the first sale doctrine in the digital world, and 3) the practical side of the first sale doctrine, including how it affects business practices and practical strategies to limit the effects of the doctrine by contract and technology.

**MODERATOR**

**Russell G. Weiss**  
Morrison & Foerster LLP

**SPEAKERS**

**Richard M. Foehr**  
Vice President  
Assistant General Counsel  
Autodesk, Inc.  
San Rafael, CA

**Jason M. Schultz**

Assistant Clinical Professor of Law  
Director, Samuelson Law,  
Technology & Public Policy Clinic  
UC Berkeley School of Law  
Berkeley, CA

**David M. Simon**

Associate General Counsel,  
IP Policy  
Intel Corporation  
Santa Clara, CA

BREAKOUT SESSION 1B

PATENT TRACK

**Recent Developments for Patent Damages in the Wake of *Uniloc* and *ResQNet***

The Federal Circuit and District Courts continue to review patent damages cases in light of the perceived increase in runaway damages verdicts.

Learn answers to questions such as: How are plaintiffs estimating reasonable royalty rates after the demise of the 25% Rule of Thumb? How have plaintiffs and defendants wrestled with proving the importance of the patented invention to the overall accused product (or lack thereof) and the proper apportionment of damages under the Entire Market Value rule since *Lucent* and *i4i*? What is the role of licenses in royalty calculations and the role of litigation-based licenses since *ResQNet*? The panel will also address other practical issues related to presentation and management of damages in patent trials.

**MODERATOR**

**Rachel M. Capoccia**  
Alston & Bird LLP

**SPEAKERS**

**Russell W. Mangum III**  
Nathan Associates Inc.

**James E. Pampinella**  
Navigant Consulting, Inc.  
San Francisco, CA

**Joseph R. Re**  
Knobbe Martens Olson & Bear LLP

**William C. Rooklidge**  
Jones Day

**BREAKOUT SESSION 1C****TRADEMARK TRACK****Social Media and the Entertainment Industry**

Social media have excelled at instantly delivering information to a vast, networked audience; the entertainment industry provides an endless stream of personalities and content that draws a vast audience. The pairing of the two has been obvious and effective from day one, and social media have created the opportunity – and even the need – for the entertainment industry to maintain a multi-platform presence. With this opportunity, myriad intellectual property issues, both positive and negative, have arisen. The panel will discuss a spectrum of trademark issues inherent to the social media boom, from the increased opportunities for advertising and brand integration to the greater difficulties in policing and enforcing a company's own intellectual property rights. The panel will also address measures to stimulate public interaction through social media outlets while avoiding or mitigating the company's exposure to potential infringement liability.

**MODERATOR**

**Perry J. Viscounty**  
Latham & Watkins LLP

**SPEAKERS**

**Charles J. Steinberg**  
Vice President, Intellectual Property & New Media – Legal ABC, Inc.

**Zachary P. St. Martin**

Vice President,  
Business & Legal Affairs  
MySpace LLC  
Specific Media LLC

**2:40 PM Networking Dessert Break****3:00 PM****BREAKOUT SESSION 2A****COPYRIGHT TRACK****The Law of Ideas and Submission of Ideas**

Issues concerning the ownership of ideas cross over a number of intellectual property areas, including copyright and trade secrets. Claims of ownership of ideas raise tricky questions concerning the boundaries between state implied contract, trade secret and tort laws, on the one hand, and federal copyright preemption, on the other. This panel will discuss the relevant case law and address best practices with respect to the receipt of unsolicited ideas and the control of ideas generated by departing employees, as well as practical advice in prosecuting and defending claims involving the misappropriation of ideas.

**MODERATOR**

**Yakub Hazzard**  
Robins, Kaplan, Miller & Ciresi L.L.P.

**SPEAKERS**

**Glen L. Kulik**  
Kulik Gottesman & Siegel LLP

**Louis P. Petrich**  
Leopold, Petrich & Smith

**John A. Scott**  
Vice President  
Legal Counsel  
QUALCOMM Incorporated  
San Diego, CA

**continued>>>**



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**TRACK A – Copyright Track**

**TRACK B – Patent Track**

**TRACK C – Trademark Track**

**BREAKOUT SESSION 2B**

**PATENT TRACK**

**The Supreme Court’s Impact  
on Intellectual Property Law  
and the Federal Circuit**

Three renowned appellate specialists, who have over 125 Supreme Court arguments among them, will expound on the approach of the Supreme Court on intellectual property issues, practice before the Court of Appeals for the Federal Circuit, and current trends in patent law. The Supreme Court is taking more patent and other IP cases, and our panel members are in the thick of those battles. They offer a uniquely informed perspective of what the Court is doing, where it is going, and how it affects everyone who practices in our field.

*As the Supreme Court will be in session, not all confirmed speakers may be able to attend.*

**MODERATOR**

**Robert G. Krupka**  
Krupka Law Group, P.C.

**SPEAKERS**

**Gregory G. Garre**  
Latham & Watkins LLP  
Washington, D.C.

**Thomas G. Hungar**  
Gibson, Dunn & Crutcher LLP  
Washington, D.C.

**Carter G. Phillips**  
Sidley Austin LLP  
Washington, D.C.

**BREAKOUT SESSION 2C**

**TRADEMARK TRACK**

**Trademarks in a New Internet Age**

Every trademark holder must re-consider its trademark strategy as a new Internet naming infrastructure takes hold in early 2012. According to ICANN, the new naming system “will usher in a new Internet age,” which will “change the way people find information on the Internet and how businesses plan and structure their online presence.” The new infrastructure creates new infringement issues and new mechanisms for protecting trademark rights. These infrastructure changes will directly affect registration practices, standards of liability, potential defendants, dispute resolution mechanisms, civil remedies, potential parallel proceedings, and numerous other issues associated with the protection of trademarks. Learn about these issues – and more.

**MODERATOR**

**Ronald L. Johnston**  
Arnold & Porter LLP

**SPEAKERS**

**David W. Maher**  
Senior Vice President, Law & Policy  
Public Interest Registry  
Chicago, IL

**Mark V.B. Partridge**  
Partridge IP Law P.C.  
Chicago, IL

**4:10 PM Passing Period**

4:15 PM

**BREAKOUT SESSION 3A**

**COPYRIGHT & TRADEMARK TRACK**

**Copyright and Trademark Issues:**

The View from the Bench

A panel of distinguished judges consisting of two District Court judges and one chief judge of the Court of Appeals brings decades of collective judicial experience to a discussion of emerging substantive issues and trends in copyright and trademark law, as well as practical advice to practitioners as seen from the bench. The discussion will be followed by a question and answer period.

*Questions for the judges?*

*Email your questions to [cle@law.usc.edu](mailto:cle@law.usc.edu) and we will share them with the judges prior to the Institute.*

**MODERATOR**

**Russell J. Frackman**

Mitchell Silberberg & Knupp LLP

**SPEAKERS**

**Hon. Alex Kozinski**

Chief Judge

United States Court of Appeals  
(9th Cir.)

**Hon. Dean D. Pregerson**

United States District Court  
(C.D. Cal.)

**Hon. Christina A. Snyder**

United States District Court  
(C.D. Cal.)

**BREAKOUT SESSION 3B**

**PATENT TRACK**

**Can the Cost and Complexity of Patent Cases be Controlled?**

Learn about emerging developments, tactics and trends in managing complex patent litigation. This knowledgeable panel will discuss the Patent Pilot Program, e-discovery and Judge Rader's Model Order for e-discovery in patent cases, multi-party, multi-jurisdiction litigation and the use of MDL, the Central District's interest in adopting local patent rules, and the emerging use of ITC proceedings by NPEs. The panel will also explain what tactics have actually worked – including resisting discovery as to non-accused products, early claim constructions or MSJs before *Markman*, Rule 11 motions, and *Twombly* motions.

**MODERATOR**

**Michael A. Tomasulo**

Dickstein Shapiro LLP

**SPEAKERS**

**Isabella E. Fu**

Associate General Counsel  
Microsoft Corporation  
Redmond, WA

**William F. Lee**

Wilmer Cutler Pickering Hale and  
Dorr LLP  
Boston, MA

**Hon. Margaret M. Morrow**

United States District Court  
(C.D. Cal.)

5:25 PM

**Networking Reception**

Meet the Institute speakers at our hosted cocktail reception, sponsored in part by Wilmer Cutler Pickering Hale and Dorr LLP.



**5:25 PM adjournment>>>**

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Faegre Baker Daniels LLP

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Linde Law Firm

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Loyola Law School

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Berkeley Research Group, LLC

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Warner Bros. Entertainment Inc.

**Mark P. Wine**  
Orrick, Herrington & Sutcliffe LLP

**Stephen A. Yamaguchi**  
University of Southern California

**Mike Young**  
Judicate West



## frequently asked questions

### Registration

The registration fees are outlined on the inside back cover of this brochure. Your fee includes all Institute sessions, the Institute luncheon, all refreshment breaks, the cocktail reception and a copy of the Institute Syllabus (a volume of outlines, articles, forms and practical information prepared by our speakers) in electronic format.

### Badge Pick-Up

All badges will be held at Will Call, which opens at 7:30 AM on the morning of the Institute and is located downstairs in the Crystal Foyer of the Hotel. No badges will be mailed.

### Refunds

Any request for refunds must be in writing and postmarked, emailed, or faxed no later than **March 2, 2012**. All requests will be processed following the Institute. Refund requests may be submitted by:

#### Mail:

USC Gould School of Law  
CLE – IPI Refunds  
1149 South Hill Street, Suite 340  
Los Angeles, CA 90015

**Fax:** (213) 743-1830

**Email:** [cle@law.usc.edu](mailto:cle@law.usc.edu)

All refund requests must be accompanied by the registrant's Social Security number (or Federal Tax Identification number for a firm or corporation). A processing fee of \$100 (\$25 for student registrations) will be deducted from all refunds.

### Dress Code

The dress code for the Institute is business attire.

### Dietary/Access Requirements

Please contact the USC Gould School of Law Continuing Legal Education Office at **(213) 743-1772** or [cle@law.usc.edu](mailto:cle@law.usc.edu) for assistance with any dietary or access needs.

### Location, Hotel and Parking

The Institute will be held at:  
**The Beverly Hills Hotel**  
9641 Sunset Boulevard  
Beverly Hills, California 90210  
Information: (310) 276-2251  
[www.beverlyhillshotel.com](http://www.beverlyhillshotel.com)

**We have reserved a limited number of rooms at the Hotel at a discounted rate. To take advantage of the discounted rate, contact Wendy Wiley at the USC Law Continuing Legal Education Office at (213) 743-1772 or email us at [cle@law.usc.edu](mailto:cle@law.usc.edu) by February 14, 2012.**

Discounted parking for the Institute is available at the Hotel valet at a rate of \$14 per day. Your valet ticket will be color-coded to reflect this discounted rate. No stamp is necessary.

### Exhibitors

Market your business to an informed and interested audience. Availability is limited, so sign up early. Visit our website at <http://law.usc.edu/cle/ip> for more information or to sign up.

### Questions?

Please contact the USC Gould School of Law Continuing Legal Education Office at **(213) 743-1772** or email us at [cle@law.usc.edu](mailto:cle@law.usc.edu).

# registration form

## USC GOULD SCHOOL OF LAW 2012 INTELLECTUAL PROPERTY INSTITUTE THURSDAY, MARCH 15, 2012 – THE BEVERLY HILLS HOTEL

### THREE WAYS TO REGISTER!

- **Register online** at <http://law.usc.edu/cle/ip>
- **Fax** this completed form with credit card information to **(213) 743-1830**
- **Mail** this completed form with check or credit card information to:  
USC Gould School of Law  
CLE – IPI Registration  
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### SELECT REGISTRATION TYPE: *(please photocopy this form for additional registrations)*

- \$450 Early-Bird Registration (postmarked or faxed on or before **March 2, 2012**)
- \$495 Standard Registration (postmarked or faxed after **March 2, 2012**)

#### SPECIAL REGISTRATION CATEGORIES:

- \$395 Groups of Three or More from a Single Company or Firm *(submit registration forms together)*
- \$325 Recent Law School Graduates (Classes of 2009-11) *(submit proof of graduation year)*
- \$100 Full-Time Law Student Registration *(submit copy of student ID)*
- Check here if you do not want your contact information shared with Institute sponsors, supporters or partners.**

Name of Registrant: \_\_\_\_\_

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**PAYMENT BY CHECK:** *Please make checks payable to USC Gould School of Law.*

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- Visa       MasterCard       American Express

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USC GOULD SCHOOL OF LAW

## 2012 INTELLECTUAL PROPERTY INSTITUTE

### NEW FOR 2012:

Chief Judge **Randall Rader** (Fed. Cir.), Judge David **Folsom** (E.D. Tex.) and Judge Andrew **Guilford** (C.D. Cal.).

Chief Judge Alex **Kozinski** (9th Cir.), Judge Dean **Pregerson** (C.D. Cal.) and Judge Christina **Snyder** (C.D. Cal.) on trademark and copyright issues.

Judge Margaret **Morrow** (C.D. Cal.) on the management of complex cases.

### RETURNING FAVORITES:

Professors **Lemley** (Patent), **McCarthy** (Trademark) and **Nimmer** (Copyright) on the IP Year in Review.

Register online now at <http://law.usc.edu/cle/ip>

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