

# 2020 WIPO Intellectual Property Judges Forum

Promoting transnational dialogue among judiciaries

November 18–20, 2020

Program

## Forum Rules

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In order to promote open judge-to-judge dialogue, the WIPO Intellectual Property Judges Forum will apply the Chatham House Rule. Participants will be free to use information shared during discussions at the Forum, but neither the identity nor the affiliation of the speakers, nor that of any other participant, may be revealed. The speakers will speak in their personal capacity, expressing their own opinions and views and not necessarily those of the Secretariat or of the Member States of WIPO. There will be no public webcasting of the Forum.

## Acknowledgments

The work of the WIPO Judicial Institute is guided by the WIPO Advisory Board of Judges comprising:

Annabelle BENNETT, Former Judge, Federal Court of Australia, Sydney, Australia (Chair); Colin BIRSS, Justice, High Court of England and Wales, London, United Kingdom; Souad EL FARHAOUI, Judge and Counsellor, Court of Cassation, Rabat, Morocco; Klaus GRABINSKI, Judge, Federal Court of Justice, Karlsruhe, Germany; LI Jian, Deputy Chief Judge, IPR Division, Supreme People's Court of China, Beijing, China; Tati MAKGOKA, Justice, Supreme Court of Appeal, Bloemfontein, South Africa; Max Lambert NDÉMA ELONGUÉ, President, Court of First Instance, Yaoundé Ekounou, Cameroon; Lyudmila NOVOSELOVA, President, Intellectual Property Court, Moscow, Russian Federation; Kathleen M. O'MALLEY, Judge, Court of Appeals for the Federal Circuit, Washington D.C., United States of America; SHITARA Ryuichi, Former Chief Judge, Intellectual Property High Court, Tokyo, Japan; Maitree SUTAPAKUL, President, Court of Appeal for Specialized Cases, Bangkok, Thailand; and Ricardo Guillermo VINATEA MEDINA, Judge, Third Chamber of Constitutional and Social Law, Supreme Court, Lima, Peru.

# Wednesday November 18

13.00 – 13.10

## **Opening**

Daren TANG, Director General, World Intellectual Property Organization (WIPO)

*Master of Ceremonies*

Nahal ZEBARJADI, Legal Officer, WIPO Judicial Institute

13.10 – 14.15

## **Session 1: Patentability Assessment in the Pharmaceutical Sector**

The fundamental threshold question of patentability in the pharmaceutical sector throws into sharp relief some of the challenging determinations faced by courts in adjudicating patent disputes. Judges are called upon to steer through technically complex subject matter and to answer questions that may have few legal precedents. At the same time, the constellation of policy considerations that surround the research, development and commercialization of, and consumer access to, human therapeutic drugs, raise heightened expectations and scrutiny of judicial adjudication and its significant impacts to society. In some cases, these impacts extend beyond national borders, with some questions the subject of worldwide judicial consideration.

This session will explore how courts have considered the elements of patentability as they apply to the context of pharmaceutical patents, such as: characterization of a claim as a method of medical treatment (in some jurisdictions rendering the subject matter patent ineligible); and comparative approaches to assessing the patentability of follow-on pharmaceutical innovation (e.g., claims covering incremental changes to existing drugs). The divergences among legal systems will be noted, including different approaches to addressing pharma-specific questions under the rubric of patentability assessment.

*Moderator*

Annabelle BENNETT, Former Judge, Federal Court of Australia, Sydney, Australia



### Speakers

James O'REILLY, Justice, Federal Court of Canada, Ottawa, Canada

Prathiba M. SINGH, Justice, Delhi High Court, New Delhi, India

Marina TAVASSI, Former President, Court of Appeal, Milan, Italy

Ricardo Guillermo VINATEA MEDINA, Judge, Third Chamber of Constitutional and Social Law, Supreme Court, Lima, Peru

### Reference judgments

- Federal Court of Appeal, Canada [2020]: *Hospira Healthcare Corporation v. Kennedy Trust for Rheumatology Research*, 2020 FCA 30
- Supreme Court of India [2013]: *Novartis AG v. Union of India and Ors*, (2013) 6 SCC 1
- Delhi High Court, India [2015]: *Merck Sharp and Dohme Corporation and Anr v. Glenmark Pharmaceuticals Ltd*, CS (OS) No. 586/2013
- Delhi High Court, India [2020]: *Astrazeneca AB & Anr v. Intas Pharmaceuticals Ltd*, CS(COMM) 410/2020
- Court of Milan, Italy [2019]: *Actavis Group PTC EHF v. Astra Zeneca*, Judgment No. 7427/2019
- Court of Milan, Italy [2020]: *Innovet Italia and Epitech v. Pharmasuisse Laboratories*
- Chamber of Constitutional and Social Law of the Supreme Court, Peru [2014]: *F. Hoffmann La Roche AG v. National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOP)*, Cassation Number 1112-2011
- Court of Justice of the Andean Community [2013]: *Proceso 33-IP-2013*, Gaceta Oficial del Acuerdo de Cartagena No. 2209, 14.68
- Enlarged Board of Appeal, European Patent Office [2010]: *Dosage regime/ABBOTT RESPIRATORY*, G0002/08

14.15 – 15.20

## Session 2: Copyright Exceptions and Limitations in the Context of Information Technology and Digital Products

Limitations and exceptions form part of the earliest legal foundations of copyright law, originally conceived in an analog world. The WIPO Internet Treaties make clear, however, that countries have reasonable flexibility to respond to these shifts by extending established limitations and exceptions into the digital space, and by determining new limitations and exceptions, as appropriate. How have courts understood and assessed limitations and exceptions as they arise in the ever-shifting technological landscape that provides such dynamic ground for content creators, users and third parties to engage in new ways of creating and using content, as well as generating revenue, and with such dramatic societal and economic impacts?

In this session, speakers will share recent cases from their jurisdictions as snapshots of the approaches taken by different courts in assessing copyright limitations and exceptions in the digital environment, including: operation of the doctrine of exhaustion in relation to digital copies of works; balancing of interests such as freedom of expression online; and application of existing limitations and exceptions to new technologies and their uses.

*Moderator*

Tati MAKGOKA, Justice, Supreme Court of Appeal, Bloemfontein, South Africa

*Speakers*

Worrawong ATCHARAWONGCHAI, Judge, Central Intellectual Property and International Trade Court, Bangkok, Thailand

Souad EI FARHAOUI, Judge and Counsellor, Court of Cassation, Rabat, Morocco

Agnieszka GOŁASZEWSKA, Head, IP Division, Regional Court of Warsaw, Poland

*Reference judgments*

- Court of Justice of the European Union [2019]: *Nederlands Uitgeversverbond and Groep Algemene Uitgevers v. Tom Kabinet Internet BV and Others*, Case No. C-263/18
- Court of Cassation, Morocco [2019]: Case No. 1649-3-1-2019
- Supreme Court of Appeal, South Africa [2019]: *Tellytrack v. Marshalls World Sport (Pty) Ltd and Others* [2019] ZASCA 153
- Supreme Court of Thailand [2019]: *InfoQuest v. Bisnews AFE (Thailand) Co Ltd*, Case No. 8313/2561

15.20

**Closing Day 1**

# Thursday November 19

13.00 – 13.30 **Reflections on Day 1: Lead Discussants in Conversation with Session Moderators**

*Lead discussant for Session 1*

Wolfgang SEKRETARUK, Chairman, Legal Board of Appeal and Deputy of the President, Boards of Appeal of the European Patent Office, European Patent Organization, Munich, Germany

*Lead discussant for Session 2*

Elise MELLIER, Judge, Tribunal de Grande Instance, Paris, France

*In conversation with the moderator*

Annabelle BENNETT

13.30 – 14.30 **Session 3: Influence of Technology in Judicial Case Management**

Amidst the global pandemic, courts around the world are embracing technology in a variety of ways in seeking to continue to deliver justice. Online hearings, electronic filings and virtual deliberations are rapidly becoming the new normal.

With these technological developments, judges are starting to face similar practical issues in the management of IP cases, such as dealing with samples online, conducting online cross-examination of experts and witnesses, and common legal issues such as ensuring confidentiality, providing appropriate access to the public, and safeguarding the efficiency and quality of justice.

In this session, speakers will share recent technological developments in their respective courts, and the implications for the judicial management of IP cases. They will discuss the advantages and disadvantages of virtual formats; whether online hearings require different case management; the specific challenges of access to the public and confidentiality that arise in online hearings; and electronic filing and access to dockets.

*Moderator*

Rian KALDEN, Senior Judge, Court of Appeal, The Hague, Netherlands

*Speakers*

Stephen BURLEY, Justice, Federal Court of Australia, Sydney, Australia

LI Jian, Deputy Chief Judge, IPR Division, Supreme People's Court of China, Beijing, China

Lyudmila NOVOSELOVA, President, Intellectual Property Court, Moscow, Russian Federation

Peter TOCHTERMANN, Presiding Judge, Patent Chamber, Regional Court Mannheim, Germany

14.30 – 15.30

**Session 4: Non-Traditional Trademarks**

Enterprises have been increasingly interested in developing non-conventional or non-traditional marks to identify the source of their products and services in their markets. Sounds, colors, smells, video clips, holograms and three-dimensional marks are amongst the contemporary forms of trademarks that are being submitted for registration in different parts of the world.

Applications for non-traditional marks have given rise to some debate and a number of judicial decisions across the globe. Following Article 6quinquies B(ii) of the Paris Convention and Article 15(1) of the Agreement on Trade-Related Aspects of Intellectual Property Rights, national laws require that marks should be distinctive of the products and services of one trader from those of another. Varying approaches may be taken to the requirements that signs be visually perceptible or that the sign not be exclusively necessary to achieve a technical result. Each of these requirements presents particular challenges for the consideration of the registrability of non-traditional trademarks.

This session, with reference to administrative and judicial decisions from different jurisdictions, will explore how IP offices and courts have dealt with the interesting questions that arise when deciding to approve or deny the registration of non-traditional trademarks.

*Moderator*

Sharon MARSH, Deputy Commissioner, Trademark Examination Policy, United States Patent and Trademark Office, United States of America

*Speakers*

Dedar Singh GILL, Justice, High Court of Singapore, Singapore

Max Lambert NDÉMA ELONGUÉ, President, Court of First Instance, Yaoundé Ekounou, Cameroon

Humberto René OTAZÚ FERNÁNDEZ, Judge, Criminal Court of Economic Crimes, Asunción, Paraguay

Francis TUIYOTT, Justice, Commercial and Tax Division, High Court of Kenya, Nairobi, Kenya

*Reference judgments*

- Civil and Commercial Court of Asunción, 12° Turno, Paraguay [pending]: *Minerías Orienpar S.A. v. Crocs, Inc.*, Interlocutory order No. 1836 of December 23, 2015
- Court of Appeal, Singapore [2017]: *Société des Produits Nestlé SA and another v. Petra Foods Ltd and another* [2017] 1 SLR 35
- Supreme Court of Appeal, South Africa [2002]: *Beecham Group PLC and another v. Triomed (Pty) Ltd* [2002] 4 All SA 193 (SCA)
- Supreme Court of Appeal, South Africa [2014]: *Société des Produits Nestlé SA v. International Foodstuffs* [2014] ZASCA 187
- African Intellectual Property Organization [2020]: *Société APPLE Inc. v. Société COVIFED Sarl*, Decision No. 0876/OAPI/DG/DGA/DAJ/SCG

15.30

**Closing Day 2**



# Friday November 20

13.00 – 13.30 **Reflections on Day 2: Lead Discussants in Conversation with Session Moderators**

*Lead discussant for Session 3*

Jeremy FOGEL, Executive Director, Berkeley Judicial Institute; Former Director, Federal Judicial Center, United States of America

*Lead discussant for Session 4*

Ángel GALGO PECO, President, Chamber No. 28, Court of Appeal of Madrid, Spain

*In conversation with the moderators*

Rian KALDEN

Sharon MARSH

13.30 – 13.40 **WIPO's Work in the area of the Judicial Administration of IP**

*Speaker*

Eun-Joo MIN, Director, WIPO Judicial Institute

13.40 – 14.50 **Session 5: Forum Shopping in Multi-Jurisdictional IP Disputes: Example of FRAND Disputes**

Today's technology products often require compliance with global interoperability standards, such as Wi-Fi, Bluetooth or 3G/4G/5G connectivity. These industry standards are often covered by hundreds or thousands of patents (so called "standard essential patents" (SEP)) that are licensed on fair, reasonable and non-discriminatory (FRAND) license terms.

The global nature and size of the markets for these technology products have resulted in multi-jurisdictional patent litigation that stem from disagreement over the FRAND license rate. While these patent disputes

were concentrated in the telecommunications industry, they are also now observed in other industries employing Internet of Things, such as home appliances and automobiles.

Taking the example of the multi-jurisdictional disputes arising in the SEP space, the speakers in this session will examine the availability of global relief when the dispute relates to a global patent portfolio, and the relationship between parallel proceedings in foreign jurisdictions, including the availability of anti-suit injunctions. In these reflections, the speakers will consider the drivers in parties' choice of jurisdictions and the respective courts' specificities in addressing the dispute resolution needs in global patent disputes.

#### *Moderator*

Colin BIRSS, Justice, High Court of England and Wales, London, United Kingdom

#### *Speakers*

Klaus GRABINSKI, Judge, Federal Court of Justice, Karlsruhe, Germany

Kathleen M. O'MALLEY, Judge, Court of Appeals for the Federal Circuit, Washington D.C., United States of America

SHITARA Ryuichi, Former Chief Judge, Intellectual Property High Court, Tokyo, Japan

#### *Reference judgments*

- Federal Court of Justice of Germany [2020]: *Sisvel v. Haier*, Case No. KZR 36/17
- Higher Regional Court of Munich, Germany [2019]: *Nokia v. Continental*, Case No. 6 U 5042/19
- Intellectual Property High Court of Japan [2014]: *Samsung Elecs. Co. v. Apple Japan LLC*, Case No. 2013 (Ra) 10007
- Supreme Court of the United Kingdom [2020]: *Unwired Planet International Ltd & Anor v. Huawei Technologies (UK) Co Ltd & Anor* [2020] UKSC 37
- U.S. Court of Appeals for the Federal Circuit [2014]: *Ericsson, Inc. v. D-Link Sys.*, 773 F.3d 1201
- U.S. Court of Appeals for the Federal Circuit [2019]: *TCL Commc'n Tech. Holdings Ltd. v. Telefonaktiebolaget LM Ericsson*, 943 F.3d 1360
- U.S. District Court for the Northern District of Illinois [2013]: *In re Innovatio IP Ventures, LLC Pat. Litig.*, No. 11 C 9308, 2013 WL 5593609
- U.S. District Court for the Western District of Washington [2012]: *Microsoft Corp. v. Motorola, Inc.*, 871 F. Supp. 2d 1089

14.50 – 15.00

#### **Closing**

Annabelle BENNETT, Former Judge, Federal Court of Australia, Sydney, Australia; Chair of the WIPO Advisory Board of Judges

Frits BONTEKOE, Legal Counsel, WIPO

## Speakers



**Worrawong  
ATCHARAWONGCHAI**

**Judge, Central  
Intellectual Property  
and International Trade  
Court, Bangkok,  
Thailand**

Judge Atcharawongchai has served as a judge for over ten years, and has a wide range of expertise ranging from intellectual property law to information and technology law, criminal law, and economic analysis of law.

Judge Atcharawongchai has taught legal subjects at a number of institutions including the Thai Bar Association, Naresuan University, Kasetsart University, and Ramkhamhaeng University. He has published articles in both Thai and English, including on topics such as “Monetary Damages in Trademark cases: Comparative Study on the Evaluation of Trademark Damages in Thailand and the US” and “Copyright and Sport Broadcasting: Does Copyright Law Prohibit the Personal Live Streaming of Sporting Events?”. The topic of his PhD. dissertation is related to the hotly debated question of “The Criminal Enforcement of Copyright in Thailand”.

Judge Atcharawongchai holds educational degrees from five jurisdictions, having obtained his LLB at Thammasat University, Thailand; three LLM degrees at Durham University, the National University of Singapore and the Chicago-Kent College of Law; and received a PhD degree from the University of Hong Kong. He has received a number of awards.



**Annabelle BENNETT**

**Former Judge, Federal  
Court of Australia,  
Sydney, Australia**

Until March 2016, Justice  
Annabelle Bennett AC SC

served as a judge of the Federal Court of Australia, sitting in many intellectual property

cases at first instance and on appeal, and as an additional judge of the Supreme Court of the Australian Capital Territory. Prior to her appointment to the Federal Court of Australia, she practiced as a Senior Counsel specializing in intellectual property.

Justice Bennett has also served as President of the Copyright Tribunal of Australia, Chair of the National Health and Medical Research Council and a Presidential Member of the Administrative Appeals Tribunal. Her current appointments include: Chancellor of Bond University; President of the New South Wales Anti-Discrimination Board; Arbitrator of the Court of Arbitration for Sport; Chair of Land Services SA; Chair of the Australian Nuclear Science and Technology Organisation; member of the Garvan Institute for Medical Research; member of Chief Executive Women; and member of the Advisory Board of the Faculty of Law at the Chinese University of Hong Kong.

Justice Bennett has a PhD in Biochemistry as well as a degree in Law, and Honorary Doctorates from the University of New South Wales and the Australian National University.



**Colin BIRSS**

**Justice, High Court of  
England and Wales,  
London, United  
Kingdom**

Justice Colin Birss is a judge of the High Court of England and Wales. He sits in the Business and Property Courts, and is one of the judges nominated to sit in the Patents Court. In 2020 his forthcoming appointment to the Court of Appeal was announced. It will take place in 2021.

Justice Birss was called to the English Bar in 1990 and practiced in intellectual property law. He took silk in 2008. In 2010, he became the judge of what is now the Intellectual Property Enterprise Court, and Chairman of the United Kingdom Copyright Tribunal. In 2013, Justice Birss was appointed to the High Court.

Justice Birss earned a degree in metallurgy and materials sciences from Downing College, Cambridge, and was legally trained at City University London.



**Stephen BURLEY**

**Justice, Federal Court of Australia, Sydney, Australia**

Justice Burley has served as a judge of the Federal Court of Australia since 2016. As a judge in the Intellectual Property National Practice Area, he hears many intellectual property cases at first instance and on appeal. He is also often a facilitator, researcher and speaker at conferences and seminars in the intellectual property space.

Prior to his appointment to the Court, Justice Burley practiced at the Bar from 5 Wentworth Chambers, Sydney, from 1993 until 2016. He was appointed Senior Counsel in 2007. Whilst at the Bar, Justice Burley practiced in intellectual property, specializing in patent, copyright, trademark, designs and confidential information cases. He also appeared in cases involving trade practices, competition and consumer law, and administrative law. Many of his patent cases involved pharmaceutical, telecommunications or other high technology subject matter.

Justice Burley graduated from the University of Sydney in Arts and Law in 1987, and was subsequently awarded a Master of Laws from the London School of Economics and Political Science. He was awarded an Associate in Music, Australia (AMusA) by the Australian Music Examinations Board in 1982.



**Souad EL FARHAOUI**

**Judge and Counsellor, Court of Cassation, Rabat, Morocco**

Judge El Farhaoui serves as a Counsellor in the Commercial Chamber of the First Division of the Court of Cassation of Morocco. Prior to this role, Judge El Farhaoui held a number of different judicial posts. She

was first appointed to the bench in 1999, as a judge of the first instance tribunal of Kenitra, where she presided in both civil and criminal matters. She was later appointed as a Counsellor of the Administrative Appeal Court of Rabat.

In 2012, Judge El Farhaoui took on a number of administrative roles, including as President of a commercial and trade law register, and as a Vice Director of the Ministry of Justice and Liberties with responsibility for civil matters. During this period, she also sat on several committees specializing in the revision of legal texts.

She has taken part in a number of international meetings on topics such as human rights, and the efficiency of justice, in France, Republic of South Korea, Tunisia and the United Kingdom.

Judge El Farhaoui began her career as a lawyer, and holds degrees in private law, civil law and business law.



**Jeremy FOGEL**

**Executive Director, Berkeley Judicial Institute; Former Director, Federal Judicial Center, United States of America**

Judge Fogel is the first Executive Director of the Berkeley Judicial Institute. Prior to this appointment, he served as Director of the Federal Judicial Center in Washington, DC (2011-2018), as a United States District Judge for the Northern District of California (1998-2011), and as a judge of the Santa Clara County Superior (1986-1998) and Municipal (1981-1986) Courts.

Judge Fogel has served as a faculty member for the Federal Judicial Center; as a lecturer at Stanford Law School; taught for the California Continuing Judicial Studies Program and California Judicial College; and has served as a faculty member for legal exchanges in more than a dozen foreign countries. He received his B.A. from Stanford University in 1971 and his Juris Doctor from Harvard Law School in 1974.

Judge Fogel has received numerous accolades, including the President's Award for Outstanding Service to the California Judiciary from the California Judges Association and the Vanguard

Award for notable contributions to intellectual property law from the State Bar of California. In 2002, he received special recognition from the Santa Clara County Bar Association for exemplifying the highest standards of professionalism in the judiciary.



### **Ángel GALGO PECO**

**President, Chamber No. 28, Court of Appeal of Madrid, Spain**

Judge Galgo Peco assumed the office of the President of Chamber No. 28, specialized in commercial matters, at the Court of Appeal of Madrid, in 2008. Since 2018, he has also served as a legally qualified member of the Enlarged Board of Appeal of the European Patent Office (EPO). He has served as a member of the judiciary since 1989.

Judge Galgo Peco regularly participates as a lecturer in activities organized by the EPO, European Union Intellectual Property Office (EUIPO), Center for International Intellectual Property Studies (CEIPI) and the Spanish Patents and Trademarks Office. He also frequently serves as a European Union expert in the European Commission's IPkey Project (China, Latin America and South East Asia). In 2018, he participated as an international trainer in the WIPO Judicial Training Institutions Project. Judge Galgo Peco is a Member of IPJA (Intellectual Property Judges Association) and AECLJ (Association of European Competition Law Judges).



### **Dedar Singh GILL**

**Justice, High Court of Singapore, Singapore**

Justice Dedar Singh Gill was appointed Judicial Commissioner of the

Supreme Court on August 1, 2018 and High Court Judge on August 1, 2020.

Prior to his judicial appointment, Justice Gill held the position of Managing Director of the Intellectual Property Department of Messrs. Drew & Napier LLC. Harry Elias. He had

appeared as counsel before the High Court and Court of Appeal for major corporate clients and had established a considerable reputation for his expertise and experience in intellectual property law.

Justice Gill was appointed by Chief Justice of Singapore to manage the Intellectual Property (IP) list of the High Court, and to implement the recommendations submitted by the IP Dispute Resolution Framework Review Committee to review the intellectual property dispute resolution system in Singapore.



### **Agnieszka GOŁASZEWSKA**

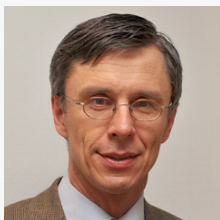
**Head, IP Division, Regional Court of Warsaw, Poland**

Judge Gołaszewska was appointed as Head of the IP Division of the Regional Court of Warsaw on its creation in 2020. She previously served as a judge of the District Court for the Capital City of Warsaw (Commercial Department), since March 2012. Between 2017 and 2020, she was posted to the Ministry of Justice, Civil Legislation Department. As Deputy Director of the Department, she was involved in developing legislation to establish Intellectual Property Courts in Poland. She has also been responsible for implementation of the EU Trade Secrets Directive (2016/943) in Polish law.

Prior to her judicial career, Judge Gołaszewska was a solicitor and member of the Warsaw Bar dealing, inter alia, with cases in intellectual property law (2007–2012).

Judge Gołaszewska studied law at the University of Warsaw and University of Copenhagen. In 2015, she completed her post-graduate studies in Intellectual Property Law at the Jagiellonian University, Krakow. She obtained her Ph.D. from the University of Warsaw with a doctoral dissertation on copyright exhaustion. Judge Gołaszewska is co-author of a commentary on Polish Copyright and Neighbouring Rights Law (2019) and a commentary on Polish Civil Procedure Law (2019).





**Klaus GRABINSKI**

**Judge, Federal Court of Justice, Karlsruhe, Germany**

Judge Grabinski has served as a judge of the German

Federal Court of Justice (Bundesgerichtshof) since 2009. He is a member of the 10th Civil Division (X. Zivilsenat), which has, inter alia, jurisdiction on patent dispute matters. Prior to this appointment, he was Presiding Judge at the District Court in Duesseldorf from 2001 to 2009, where he chaired a Civil Division that dealt mainly with patent disputes. Judge Grabinski served as a judge at the Court of Appeal in Duesseldorf from 2000 to 2001 and as a legal researcher at the Federal Court of Justice in Bundesgerichtshof from 1997 to 2000. From 1992 to 1997, he was a judge at the District Court in Duesseldorf.

Judge Grabinski studied law at the Universities of Trier, Geneva and Cologne and was university assistant at the University of Trier. He is co-author of a commentary on the European Patent Convention (Benkard, Europäisches Patentübereinkommen) and a commentary on the German Patent Law (Benkard, Patentgesetz, 10th ed.). He is author of a multitude of articles concerning patent law, civil procedure and international private law and is a frequent speaker at national and international conferences on intellectual property law.



**Rian KALDEN**

**Senior Judge, Court of Appeal, The Hague, Netherlands**

Judge Kalden was appointed to the Court of Appeal of The Hague in September 2013, and for five years headed the Division that, among other areas, covers all IP cases, including patent cases. As a Senior Judge, she now primarily deals with patent cases. In July 2018 she was appointed Judge at the Benelux Court of Justice, where appeals from decisions of the Benelux trademark offices are heard.

Judge Kalden first joined the Bench in 2002, when she became a judge at the District Court of The Hague, where she joined the Patent

Chamber. From 2005 to mid 2008, she was a judge (and in 2007, appointed vice president) of the District Court of Haarlem, in the Criminal Division. She then returned to the Intellectual Property Division of the District Court of The Hague (and, from 2009, headed that Division), where she dealt with all kinds of IP cases, but mostly patent cases.

Prior to her judicial appointments, Judge Kalden practiced at the Amsterdam Bar with the law firm Stibbe, where she first joined the intellectual property department and also practiced in company law.

Judge Kalden graduated from Leiden University in 1989 and received a Master's degree from the University of London in 1990. She regularly speaks at national and international conferences on patent law and related issues.



**LI Jian**

**Deputy Chief Judge, IPR Division, Supreme People's Court of China, Beijing, China**

Judge Li was appointed as Deputy Chief Judge of the IPR Division of the Supreme People's Court in 2019 (as a Senior Judge). Prior to this role, he was the Deputy Chief Judge of the Intellectual Property Court of the Supreme People's Court. Judge Li has significant experience in the IPR Division of the Court, having also served as a Clerk, Assistant Judge, and Presiding Judge of that Division between 2000 and 2018.

Judge Li has been a visiting scholar at the Max Planck Institute for Intellectual Property as well as at Georgetown University, and is a part-time Professor at the East China University for Political Science and Law. He has published numerous academic papers in publications such as Jurist and Intellectual Property and Technology Law Journal, among others.

Judge Li holds a Bachelor and Master degree in Law from the International Law Department of East China University for Political Science and Law, as well as a PhD in civil law from Remin University.

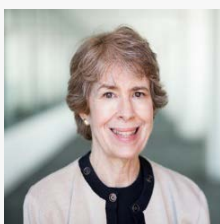


**Tati Moffat  
MAKGOKA**

**Judge, Supreme Court  
of Appeal,  
Bloemfontein, South  
Africa**

Judge Makgoka has served on the Supreme Court of Appeals of South Africa since 2018. Prior to this role, he served in a number of judicial roles including as a Judge of the Gauteng Division of the High Court (2009-2018), where he was appointed as a Commissioner of Patents; and as an Acting Judge in the Lesotho High Court Constitutional Division and the Labour Appeal Court. Judge Makgoka began his professional career as a practicing attorney in Pretoria.

Judge Makgoka holds a B. Proc. degree from the University of the North in South Africa.



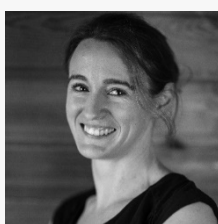
**Sharon MARSH**

**Deputy Commissioner,  
Trademark Examination  
Policy, United States  
Patent and Trademark  
Office, United States of  
America**

Ms. Marsh is the Deputy Commissioner for Trademark Examination Policy at the U.S. Patent and Trademark Office (USPTO). She manages the Offices of Trademark Policy, Petitions, and Identification and Classification, as well as the Trademark Assistance Center and the Office of Quality Review and Training.

Ms. Marsh joined the USPTO as a Trademark Examining Attorney, and then served as a Senior Attorney, a Managing Attorney, and as the Administrator for Trademark Examination Policy before assuming her current position.

Ms. Marsh is a graduate of Duke University and the Emory University School of Law.



**Elise MELLIER**

**Judge, Tribunal de  
Grande Instance, Paris,  
France**

Judge Mellier is a Judge at the High Court of Paris in a chamber specialized in Intellectual Property Law. Prior to this role, she worked for twelve years as an in-house legal counsel and head of legal in various companies in the entertainment, publishing and IT industries.

Judge Mellier regularly attends European Judges Seminars organized by the European Patent Office, the EUIPO, and the European Judicial Training Network. Judge Mellier is also a lecturer at the Paris French Bar School (EFB Paris), and lectures at conferences targeted at attorneys and in-house lawyers.

Judge Mellier holds a Master's Degree in Intellectual Property Rights from Paris Assas University, and an MBA from the Paris Sorbonne University.

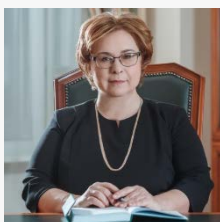


**Max Lambert NDÉMA  
ELONGUÉ**

**President, Court of First  
Instance, Yaoundé  
Ekounou, Cameroon**

Judge Ndéma Elongué is President of the Court of First Instance of Yaoundé-Ekounou, Cameroon. He is also a lecturer at the Intellectual Property Academy Denis Ekani (APIDE) of the African Intellectual Property Organization (OAPI), with several years of experience in capacity building for judges, prosecutors and law enforcement officials in the field of intellectual property enforcement throughout Central and West Africa.

Judge Ndéma Elongué is a co-writer of the Guide du Magistrat, an intellectual property resource tool for the judiciary published by the African Intellectual Property Organization. He has attended several training courses organized by WIPO, the United States Patent and Trademark Office (USPTO), as well as the European Union Intellectual Property Office (EUIPO).



**Lyudmila  
NOVOSELOVA**

**President, Intellectual  
Property Court,  
Moscow, Russian  
Federation**

Judge Novoselova has served as President of the Intellectual Property Court, the first specialized court in the Russian Federation, since 2013.

She began her judicial career as a judge of the Supreme Court of Arbitration of Russia, to which she was appointed in 1992. Prior to that role, she worked in the State Arbitration of the then-Russian Soviet Federative Socialist Republic (RSFSR).

Judge Novoselova also actively conducts scientific and teaching activities. She is a Professor and Head of the Intellectual Property Department at the Kutafin Moscow State Law University (MSAL).

Judge Novoselova graduated from the Faculty of Law of Moscow State University in 1984, and also holds a Doctor of Juridical Science. She has been recognized as Honored Lawyer of the Russian Federation.



**Kathleen M.  
O'MALLEY**

**Judge, Court of  
Appeals for the Federal  
Circuit, Washington  
D.C., United States of  
America**

Judge O'Malley was appointed to the United States Court of Appeals for the Federal Circuit in 2010. Prior to this appointment, she served as a judge for the United States District Court for the Northern District of Ohio. Judge O'Malley served as First Assistant Attorney General and Chief of Staff for Ohio Attorney General Lee Fisher from 1992 to 1994, and as Chief Counsel to Attorney General Fisher from 1991 to 1992. From 1982 to 1991, she was a trial lawyer practicing in complex litigation matters. In 2019, Judge O'Malley was inducted into the IP Hall of Fame.

During her sixteen years on the district court bench, Judge O'Malley presided over in excess of 100 patent and trademark cases and sat by designation on the United States Circuit Court for the Federal Circuit. As an educator, Judge O'Malley has regularly taught a course on Patent Litigation at Case Western Reserve University Law School. She is a member of the faculty of the Berkeley Center for Law & Technology's program designed to educate Federal Judges regarding the handling of intellectual property cases. Judge O'Malley serves as a board member of the Sedona Conference, as the judicial liaison to the Local Patent Rules Committee for the Northern District of Ohio, and as an advisor to national organizations publishing treatises on patent litigation.

Judge O'Malley received her J.D. degree from Case Western Reserve University School of Law, Order of the Coif, where she served on Law Review.



**James O'REILLY**

**Justice, Federal Court  
of Canada, Ottawa,  
Canada**

Justice O'Reilly was appointed to the Federal Court in 2002 and to the Court Martial Appeal Court in 2003.

Prior to his judicial appointment, Justice O'Reilly had a varied legal career, including serving as Consultant to the Law Reform Commission of Canada; Legal Advisor in the Department of Justice; as a sole practitioner specializing in legal policy and law reform; Executive Legal Officer at the Supreme Court of Canada; Associate Executive Director at the National Judicial Institute; and Counsel to the Collusion Investigation in London, England.

Justice O'Reilly has served as co-chair of the Canadian Institute for the Administration of Justice (CIAJ) Judgment Writing Seminar since 2010. He is the author of many reports and publications, and has taught law at Carleton University, the University of Ottawa, McGill University, Western University, and the Law Society of Upper Canada. He is also a Fellow of McLaughlin College, York University.

Justice O'Reilly holds a BA (Hons) from the University of Western Ontario, a LLB from Osgoode Hall Law School and an LLM from the University of Ottawa.



**Humberto René  
OTAZÚ FERNÁNDEZ**

**Judge, Criminal Court of  
Economic Crimes,  
Asunción, Paraguay**

Judge Otazú Fernández is a judge of the Criminal Court of Economic Crimes of Asunción. This court deals with violations of intellectual property rights, money laundering, and counterfeiting, amongst other criminal offenses at the national level. Prior to his judicial appointment, he held the position of prosecutor for more than 8 years, being in charge of various prosecution units such as those specialized in drug trafficking, criminal IP offences, economic crimes and anti-corruption, among others.

Judge Otazú Fernández has participated as a representative of the Public Ministry of Paraguay in the Ordinary Meeting of the Group of Experts for the Control of Money Laundering, organized by the Inter-American Drug Abuse Control Commission, held in Santiago de Chile in November 2007. He has also participated in numerous national and international seminars and conferences, including as a representative for the Judiciary of Paraguay as a speaker at a seminar on "Actions against Fraud in Pay TV", held in Uruguay in April 2015.

Judge Otazú Fernández has been a professor since 1998 at the National University of Asunción, and has also taught at different private universities in Paraguay. He graduated in Law in 1997 and as a Notary Public in 1999, from the Faculty of Legal and Social Sciences of the National University of Asunción,



**Wolfgang  
SEKRETARUK**

**Chairman, Legal Board  
of Appeal and Deputy of  
the President, Boards  
of Appeal of the  
European Patent Office,  
European Patent  
Organization, Munich,  
Germany**

Judge Sekretaruk is Chairman of the Legal Board of Appeal and Deputy of the President of the Boards of Appeal. He has been a Legal Member of the Boards of Appeal of the European Patent Office since 2005 and was Chairman of Technical Board of Appeal 3.5.06 (Computer Technology) in the period 2014 to 2018.

Judge Sekretaruk is a former German judge who served, among others, at the Federal Patent Court and the Munich Regional Court, where he heard IP cases. He has many years of experience as a lecturer in areas including German and European procedural law.

He graduated from the University of Munich School of Law and also holds a PhD in law and a Master's degree in mediation.



**SHITARA Ryuichi**

**Former Chief Judge,  
Intellectual Property  
High Court, Tokyo,  
Japan**

Judge Shitara served as Chief Judge of the Intellectual Property High Court of Japan until his retirement in January 2017. Following his retirement, he joined the firm of Mori Hamada & Matsumoto as Special Counsel. He was appointed Vice Chairman of Soei Patent & Law Firm in April 2018 and is the sitting Chairman as of July 2018.

Judge Shitara began his judicial career in 1979 as an Assistant Judge of the Tokyo District Court, where he served in the Intellectual Property Division for almost 15 years. He further served on the Intellectual Property High Court, as well as its predecessor (the Tokyo High Court Intellectual Property Division) for nearly 8 years. Judge Shitara's experience also includes adjudication of



general civil matters at the Tokyo High Court and Osaka District Court for over 13 years.

Judge Shitara has participated in many international conferences in his former capacity as Chief Judge of the Intellectual Property High Court, interacting with judges, lawyers, patent attorneys, and other stakeholders both nationally and internationally. He has therefore been active in sharing information about IP law in Japan and learning about the latest trends and developments in other parts of the world.

Judge Shitara received his undergraduate degree in law from Tokyo University in 1975.



**Prathiba M. SINGH**

**Justice, Delhi High Court, New Delhi, India**

Justice Singh was elevated as a Permanent Judge of the High Court of Delhi in

2017. Before being appointed to the Bench, she was one of India's leading intellectual property lawyers. She was designated as 'Senior Advocate' by the High Court of Delhi in 2013.

Justice Singh joined the Bar in 1991. During her legal career, she handled landmark matters in all areas of IP, and was Managing Partner of Singh & Singh. She regularly appeared before the Supreme Court of India, the High Court of Delhi, the Telecom Disputes Settlement and Appellate Tribunal (TDSAT), the IP Appellate Board (IPAB), and at the Indian Patent Office. She was appointed to a number of further roles, including Amicus Curiae by the High Court of Delhi to streamline the working of the Copyright Office, and to a High Level Committee for streamlining of patent examinations. She also advised several Parliamentary Committees on legislative amendments in the area of IP, including in relation to legislation governing patents, copyright and geographical indications.

Justice Singh's legal career was recognized with numerous awards, including several annual awards for best IP lawyer, Managing IP's Asia Women in Business Law Award, and the 30 Most Powerful Business Women in India in 2018. Her articles have been published in leading international and national publications.

She was actively involved in various professional bodies, including: President of the Asian Patent Attorneys Association (APAA) Indian Group; member of the Confederation of Indian Industry (CII) National Steering Committee on IPRs; and member of the IPR Think Tank responsible for drafting India's first National IPR Policy in 2015.

Justice Singh holds a LLB from the University Law College, Bangalore, where she graduated at the top of her class. She also holds a LLM (ODASSS scholarship) from the University of Cambridge, where the Prathiba M. Singh Scholarship for LLM students was created in 2013, and where she is part of a Circle of Advisors for India.



**Marina TAVASSI**

**Former President, Court of Appeal, Milan, Italy**

Justice Tavassi was appointed as President of the Court of Appeal of Milan

in July 2016 and retired at end of August 2020. As President of the biggest Court of Appeal of Italy, heading a District that includes 9 courts and 850 judges, she has also overseen the judiciary's response to the Covid-19 pandemic throughout the District since February 2020.

Justice Tavassi further holds a number of other judicial roles, including: co-President of the Specialized Court of Enterprise; Italian member of the Enlarged Board of Appeal of the European Patent Office; and member of the European expert panel for the drafting of the Rules of Procedure of the Unitary Patent Court.

Justice Tavassi joined the judiciary in 1978, and since then has served both as a judge of first instance, as well as Counsellor of the Court of Appeals and Supreme Court. She has always been involved in commercial law, European law, antitrust law and intellectual property.

Since 2018, she has also taught patents and competition law as a Professor at the University of Pavia.

Justice Tavassi is active in the judicial community, serving as president of the Association of European Competition Law Judges (AECLJ), and vice president of the Intellectual Property Judges Association (IPJA). She is a frequent speaker in



the field of competition law, arbitration, company law, and IP, and has published numerous articles and monographs.



**Peter  
TOCHTERMANN**

**Presiding Judge, Patent  
Chamber, Regional  
Court Mannheim,  
Germany**

Judge Tochtermann has served on the Regional Court of Mannheim as a judge in IP law since 2010, including as Presiding Judge of the Patent Chamber, and as a Mediator Judge in IP disputes. Prior to this role, he also sat as a member of the Patent Senate of the Higher Regional Court of Karlsruhe, served as a clerk of the Federal Supreme Court of Germany in its Patent Senate, and as a judge of the Local Court of Rastatt.

Judge Tochtermann's career has also encompassed a broad range of legal and research roles. He has worked as a Research Fellow and Visiting Scholar at a number of institutions including the University of Heidelberg, the Program on Negotiation at Harvard Law School, and the ICC International Court of Arbitration; and as a criminal prosecutor at the Criminal Prosecutor's Office of Mannheim.

Judge Tochtermann holds a PhD in law from the University of Heidelberg, where he serves as a Lecturer for IP law and is the recipient of a number of academic achievement awards.



**Francis TUIYOTT**

**Justice, Commercial  
and Tax Division, High  
Court of Kenya, Nairobi,  
Kenya**

Justice Tuiyott has served as a Judge at the Commercial and Tax Division of the High Court of Kenya since 2011. Prior to this role, he was admitted to the High Court as an Advocate (1991-2011). His practice included commercial law, property law and constitutional law.

Justice Tuiyott has recently been nominated to serve at the Court of Appeal in Kenya. His nomination awaits the approval of the President of the Republic of Kenya.

Justice Tuiyott holds a Bachelor in Law from the University of Nairobi, a Post-Graduate Diploma in Law from the Kenya School of Law, and a Masters of Law from the University of London.



**Ricardo Guillermo  
VINATEA MEDINA**

**Judge, Third Chamber  
of Constitutional and  
Social Law, Supreme  
Justice Court, Lima,  
Peru**

Judge Vinatea is a Judge of the Third Chamber of Constitutional and Social Law of the Supreme Court of Justice. During his 37 years of experience, he has held several judicial positions. Judge Vinatea also represents the judiciary on the Commission for Combating Customs Crimes and Piracy; coordinates a cooperation agreement between the Peruvian judiciary and the United Nations Conference on Trade and Development (UNCTAD); and coordinates a Working Group for the training of judges in IP, competition and consumer law.

Judge Vinatea teaches as professor of constitutional law, litigation, and IP at the Judicial Academy of Peru. He is the author of a number of books, including Proposals for the Legal Protection of Traditional Knowledge within the Framework of the Peru-U.S. Free Trade Agreement, and of several articles.

Judge Vinatea holds a Doctorate in public law from the University of Jaén, Spain; Master's degrees in civil and commercial law (National University of the Peruvian Amazon) and in the judicial protection of rights (University of Jaén); and was trained as a lawyer at the National University of San Marcos, Peru. He has also been awarded Honorary Doctorate degrees by the National University of the Peruvian Amazon, the Scientific University of Peru, and the European School of Management of Tenerife, Spain.



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