

The Global Fellows Series — Bridging the IP Gap Between the US and Europe (Washington, DC Program)

- **Day 1** (Tuesday, September 11)
 - Morning
 - Welcoming remarks
 - Terence Stewart (President, FCBA)
 - Overview of Global Fellows program
 - James Brookshire (Executive Director, FCBA)
 - Nicholas Groombridge (Partner, Paul, Weiss, Rifkind, Wharton & Garrison)
 - Discussion of the Executive branch functions in the US patent system
 - Sharon Barner, Esq. (former Deputy Undersecretary of Commerce for Intellectual Property at the USPTO and now General Counsel of Cummins Inc.)
 - Discussion of the role of the patent system in promoting innovation
 - Daniel McCurdy (CEO, Allied Security Trust)
 - Afternoon
 - Basics of fact pattern
 - Plaintiff (“Braun”) - German medical device company; innovator and market leader; sells system for use in hernia repair surgery; substantial sales in US and Europe.
 - Defendant (“Wiggins”) - US medical device company; newcomer to the market; selling similar but improved product; taking significant market share from Braun.
 - Braun holds patents in the US and Europe; it wishes to develop a transnational patent enforcement strategy.
 - The fact pattern involves issues of claim construction, lack of novelty, remedies (Braun’s main objective is an injunction) and FRAND or standards-essential patents.
 - Discussion of US and European Patent Litigation Systems
 - Essence of civil v common law systems
 - Overview of court hierarchy and jurisdiction
 - US system
 - District courts
 - Federal Circuit
 - Supreme Court
 - German system
 - Landgericht, Oberlandesgericht
 - Bundespatentgericht
 - Bundesgerichtshof
 - Other major European jurisdictions
 - UK
 - Netherlands
 - France, Italy, Belgium, Spain
 - Effect of bifurcating validity and infringement
 - Single European patent court
 - Practical considerations
 - Timing
 - Cost
 - Cost shifting
 - Access to courts, choice of forum, choice of jurisdiction
 - Structure and specialization of profession
 - Pros and cons of each system

- **Day 2** (Wednesday, September 12)
 - Morning
 - Discussion of the Judicial branch functions in the US patent system
 - Visit to Federal Circuit and meeting with Chief Judge Rader
 - Visit to Supreme Court and meeting with Justice Alito
 - Afternoon
 - Evidence preservation and gathering
 - US discovery
 - E-discovery issues
 - Seizure/border seizures
 - Other evidence gathering procedures in Europe
 - Blocking statutes
 - Hague convention issues
 - Protective order issues
 - Privilege issues
 - Practical problems that will confront Braun
 - Discussion of patent enforcement strategy for Braun
 - How can Braun accomplish its worldwide goals?
 - Where should it file?
 - What relief can it obtain?
 - Shall Wiggins be put on notice with a warning letter?
 - How long will it take to reach resolution?
 - How will Wiggins respond?
 - Introduction to mediation

- **Day 3** (Thursday, September 13)
 - Morning
 - Discussion of the Legislative branch functions in the US patent system
 - Herbert Wamsley (Executive Director, Intellectual Property Owners Association)
 - Robert Stoll (former Commissioner of Patents and head of USPTO's legislative staff; currently Partner, DrinkerBiddle)
 - Visit to Rayburn House Office Building for meeting with senior congressional IP staff
 - Afternoon
 - Relief
 - Availability and standards for interim relief
 - The German "protective letter"
 - Permanent relief
 - Standards for injunction
 - Damages
 - Recall and removal from distribution channels
 - Litigation costs; "value under dispute" concept
 - Settlement
 - Mediation
 - Mock mediation in breakouts
 - Appeals
 - Discussion of potential appellate issues
 - Demonstration argument

- **Day 4** (Friday, September 14)
 - Morning

- Discussion on strengths and weaknesses of the US patent system from the standpoint of sophisticated users
 - Natalie Bogdanos (Associate General Counsel, Memorial Sloan Kettering Cancer Center)
 - Meredith Addy (partner, Steptoe & Johnson)
 - Robert Hart (General Counsel, Ultrawave Labs)
 - Bart Newland (Vice President and Chief IP Counsel, BiogenIdec)
- Afternoon
 - Appeals
 - Mock arguments
 - Debrief and preview of issues for Munich session