



LEADERSHIP SERIES

# the evolving role of **GENERAL COUNSEL**

An Increasingly Complex IP Environment

**A Roundtable  
Discussion**

**Keynote Speaker:**

**D. Bruce Sewell**

**Senior Vice President and General Counsel**

**Intel Corporation**

the  
**PANELISTS**



**D. Bruce Sewell**  
*Senior Vice President,  
General Counsel  
Intel Corporation*



**Frank-Erich Hufnagel**  
*Partner,  
Freshfields Bruckhaus Deringer*



**Shirley H. Buccieri**  
*Partner,  
Gibson, Dunn & Crutcher*



**Paul F. Eckstein**  
*Partner,  
Perkins Coie Brown & Bain P.A.*



**Matthew Powers**  
*Co-Chair,  
Weil, Gotshal & Manges*

**To THE READER:**

The Constitution's promotion and protection of innovation through the creation of private property rights for novel and useful inventions is yet another example of the Framers' prescience. But the system they created, so critical to the exponential growth of the nation, its commerce, and its corporate economy, now struggles under the weight of its own enormity and complexity.

According to D. Bruce Sewell, Senior Vice President and General Counsel of Intel Corporation and also our keynote speaker, the judicial system governing patent protection is mired in a growing backlog of patent infringement claims, while the USPTO (United States Patent and Trademark Office) received in excess of 400,000 applications for new patents in 2006 alone. To give that number a bit more perspective, Mr. Sewell noted that this number is "more than the total number of applications filed in the U.K., Japan, China and Russia combined." Astonishingly, that number is also expected to increase each year by 25,000.

Mr. Sewell led off this informative roundtable discussion by expanding on what he sees as two key points in addressing the growing concern over the viability of patent protection in both the U.S. and abroad. The first are the standards for patentability and the second is the patent litigation environment, which he asserts is in dire need of reform both in the U.S. and abroad.

Also joining us were four distinguished panelists who weighed in on Mr. Sewell's topic from their respective area(s) of expertise. First up was Shirley Buccieri, a Partner at Gibson, Dunn & Crutcher. Ms. Buccieri discussed what a director should consider when presented with an M&A opportunity, with particular emphasis on the pitfalls common in transactions that were not properly briefed by general counsel and their outside law firms. Ms. Buccieri succinctly summarized her chosen topic in noting that "textbook diligence" would simply not cut the mustard and could result in the board being subject to claims of bad faith.

Following Ms. Buccieri was Matthew Powers, a Partner at Weil Gotshal & Manges LLP and Co-Chair of its Litigation/Regulatory Department. Mr. Powers, citing the well-known laundry list of recent corporate misdeeds, noted that while the federal government may have successfully prosecuted those responsible, the question on everyone's lips was "Where were the lawyers?" as opposed to "Where were the directors? . ." Mr. Powers recognized the difficult position in which counsel find themselves when it is necessary to inform a board that its corporate officers are acting improperly, but emphasized that the consequences of failing to do so can be disastrous.

Next up was Paul Eckstein, a Partner at Perkins Coie Brown & Bain P.A. Mr. Eckstein focused on the ongoing debate regarding Rule 501 of the Federal Rules of Evidence and the tension between cooperating with Federal investigations and not leaving clients exposed to a waiver of privilege with respect to civil claims i.e. the Plaintiffs' Bar class action suits.

Weighing in last was Frank-Erich Hufnagel, a Partner at Freshfields Bruckhaus Deringer. Mr. Hufnagel focused on the issues facing patent submissions and protections in the EU (European Union) — noting that many of the challenges Mr. Sewell discussed were equally if not more difficult to address in the EU by nature of the fact that often there are competing and sometimes conflicting debates about how to define the rules and limits for an efficient patent system in a multi-jurisdictional environment like the EU. Hufnagel went on to discuss two possible solutions: the hotly debated idea of an EU Community Patent and the more novel EPLA (European Patent Litigation Agreement). The former, an EU government initiative, seems destined to remain mired in semantic arguments, but Hufnagel is more optimistic regarding the latter as it is a project headed by the European Patent Office rather than the EU.

In listening to each of our distinguished panelists it is clear that the issue of patent procedure and enforcement both in the U.S. and abroad is unwieldy and grows more so as non-Western countries compete for IP rights. We were fortunate to have the opportunity to hear from each of our panelists and benefit from their experience and insights. We learned a great deal from them and know you will too.

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From left to right: Frank-Erich Hafnagel, D. Bruce Sewell, Matthew Powers, Shirley H. Buccieri and Paul F. Eckstein

**MR. FRIEDMAN:** Good morning. I'm Jack Friedman Chairman of the Directors Roundtable. For those of you who are not familiar with our organization, we're a civic group that works worldwide with boards of directors and their advisors in roughly 20 countries around the world and 30 cities in the United States. We're very pleased to co-host today's event with the National Law Journal. Our guest of honor today is Bruce Sewell, General Counsel of Intel Corporation. We are delighted that Bruce could join us today and look forward to his insights regarding the challenges faced by General Counsel in an increasingly complicated Patent environment in both the US and abroad. Our distinguished panelist today are Shirley Buccieri, a Partner at Gibson Dunn and Crutcher, Matthew Powers, a Partner at Weil, Gotshal & Manges, Paul Eckstein, a Partner at Perkins Coie, and last, Frank-Erich Hufnagel, a Partner at Freshfields Bruckhaus Deringer. We are fortunate to have each of them with us today. Now, please help me welcome, Bruce Sewell.

**MR. SEWELL:** Good morning ladies and gentlemen, esteemed panelists.

It is wonderful to be up here sharing the stage with such an assembly of legal talent, and to have been asked to kick off this discussion with a topic of my choice. I feel you are truly a captive audience and I appreciate your patience and willingness to endure a few minutes listening to me before we get to the really interesting comments of the panelists.

My topic this morning is the current state of patent law in our country, and what I believe are some related and disturbing implications for US competitiveness in the growing global market.

One of the founders of Intel Corporation, Andy Grove, popularized the concept of a strategic inflection point. Strategic inflection points occur when environmental changes, usually external to the company, render the old ways of doing business less viable than in the past. Because of the changes, corporations that have been behaving in one way, often with great success, must rethink their business model and respond to the new environment or face an inevitable decline.

Now, the environmental changes that precipitate an SIP (Strategic Inflection Point) can often be very subtle, at least early on, and therefore very hard to spot. Moreover, the "new order" is often quite at odds with the conventional wisdom pre-SIP. So, market leaders, the companies most successful under the old model, are often the last ones to recognize that change is needed and the most resistant to that change when it comes.

As you might suspect, I think major US multinational corporations on the cusp of an SIP with respect to our reliance on the current model for IP generation and protection. We stand in the position of a highly successful, entrenched, incumbent player in the global market for intellectual property. But, the environment which brought us here is changing — from within, and

from outside pressures. If we don't recognize the trend of these changes, and adapt accordingly, I fear we will end up going the way of the dinosaurs.

So, let's start with what's changed, then an example of how this plays out in the real world, and finally what we could, or should be doing about it.

We all know the rhetoric, as early as 1790, the drafters of our constitution recognized the importance of a system to encourage innovation by creating a private property right in novel and useful inventions.

Of course this wasn't a unique insight — the British system of "patents" pre-dated the American system by some 350 years. (Henry VI granted the first British patent to John of Utynam in 1449 for his process to manufacture stained glass) Indeed, the fact that in the latter half of the 18th century Britain was the most innovative and most technologically advanced nation on earth substantially reinforced the importance of a patent system for the framers.

The question I want to ask though is — why? Why has the private ownership of intellectual property produced such an economic boom for a few countries in the world? I think the answer lies not so much in the patent system per se as in two more fundamental social traits these nations share. The first is that they have trust for the work of their regulatory agencies. The second has to do with the existence of a court system that is both willing and capable of enforcing the bundle of rights provided by the patent laws.

Stated a different way — in order for a patent sys-



D. Bruce Sewell/Intel Corporation

tem to work well, two basic requirements must be met. First, there must be a reliable way to distinguish between inventions which materially advance society's prior knowledge in a particular field, and those that are essentially no more than fanciful dreams with no real commercial application, or deminimus tweaks to something that came before — providing no novel or useful advance.

In short, you need a way to sort out good ideas from bad ones, and given the societal and commercial interests at work, you need a way to do that in a relatively timely fashion.

Second, in order to make the output of this selection process have any value, in order to provide the financial "gas" to run the engine, you also need a legal system that can and will effectively enforce the patents that are issued. Such a legal system needs all the trappings that we in the more developed Western economies take as almost a given — an independent judiciary, an unbiased process, rationality and predictability of outcomes, and the authority to enforce its own judgments.

Put these two concepts together — an efficient way to administer the issuance of good patents and an effective way to enforce those patents and you have an obvious recipe for success. Success that we have seen played out for almost 200 years in countries such as the U.S., the U.K., some parts of Western Europe, and arguably Japan.

Unfortunately this utopian

world is under attack, at least in the United States, from several different directions.

First, with respect to the issuance of patents, in 2006 our patent and trademark office will receive in excess of 400,000 applications for new patents. This is larger than the total number of applications filed in the U.K., Japan, China, and Russia combined. The number of applications filed continues to increase year after year by about 25,000 applications per year.

The PTO (Patent and Trademark Office) expects to issue more than 170,000 patents in 2006, making it the single largest issuer in the world by at least an order of magnitude. What is particularly troubling though is that the ratio of filed applications to issued patents is substantially greater in the U.S. than anywhere else in the world. Given a through-put time of approximately 30 months (because of the horrific backlog of unprocessed applications) — the 2006 figure of 170,000 issued patents needs to be read against the number of applications filed in 2002-2003. (331,000) Thus, the U.S. grant rate is 52%. This is double the grant rate in the U.K. and triple the grant rate in Japan. Of course, American inventors are prolific but on a patent for patent basis there is no reason to believe that we are any more inventive than our brethren in England or Japan.

Instead the explanation is that we have a lower bar for patentability and we recognize categories of patents that have not gained wide acceptance outside of the U.S. — such as business methods. We are issuing more patents, of lower quality, than any other country. And we have been doing this for many years.

The U.S. is awash in patents that would be considered mediocre to possibly un-patentable elsewhere in the world. And yet as we know everyone of these patents can be litigated and, when litigated, will enjoy a presumption of validity that can only be overcome by clear and convincing evidence.

That brings us to the second issue — the litigation environment. What makes for a good litigation environment? Here are a couple of ideas: consistency and predictability of outcome; cost control; the absence of bias. So, how does the U.S. stack up against these basic criteria in the area of patent litigation? See Figure 1-3.

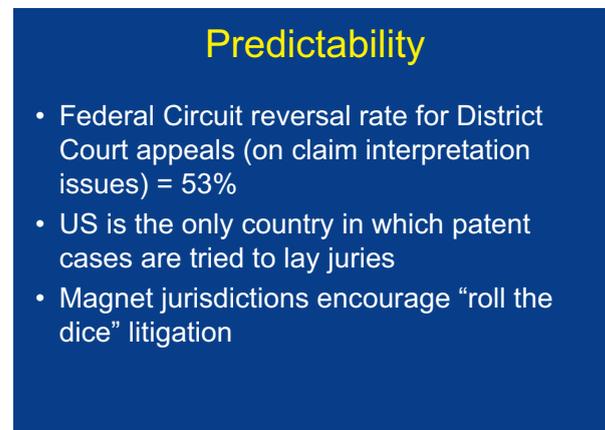


Figure 1

“The U.S. is awash in patents that would be considered mediocre to possibly unpatentable elsewhere in the world. And yet as we know everyone of these patents can be litigated and, when litigated, will enjoy a presumption of validity that can only be overcome by clear and convincing evidence.”

—Bruce Sewell

## Predictability

Plaintiff Patentee	Defendant Infringer	Overall Patentee Win Rate	Patentee Win Rate — Jury	Patentee Win Rate — Judge
Individual	Individual	72%	67%	75%
Individual	Corporation	62%	74%	41%
Corporation	Individual	36%	18%	50%
Corporation	Corporation	59%	64%	53%

Figure 2

## Complexity and Cost

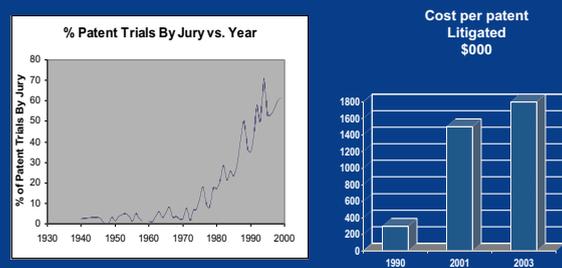


Figure 3

Hopefully by now you are beginning to share my view that the U.S. patent system is in need of some repair. If the problem were really just confined to the U.S. system, then we might leave it there and start talking about patent reform. But there is one other issue that has to be discussed in this context, and that is the issue of globalization. So far I have argued that U.S. patent system worked well for about 200 years and then began to break down. Arguably at just about the same time as what the author Tom Freedman calls the “third wave of globalization” began to gather steam.

The third wave — as distinct from the two early waves — is marked by the emergence of new countries and new economies as actual producers of intellectual property and innovation, as opposed to being merely new markets of sources of cheap labor. We see this today in China, India, and to some extent Russia.

Somewhat disconcerting, however, is that these countries lack the two characteristics that are necessary for a successful IP-based innovation economy — an effective means to identify valuable IP and a reliable system of enforcement. Companies in India and China don't look to local patents or to local courts to protect their innovation — why should they? There is no cultural track record to support a belief that these institutions will be effective. On the other hand, there is abundant evidence that patents can be extremely effective commercial tools at least one place in the world — the United States. And if you happen to be an aggressive young technology company in India or China, where would you expect to find your most likely competition? The United States, of course.

Let me try to illustrate this problem with a practi-

“ [T]hese countries lack the two characteristics that are necessary for a successful IP-based innovation economy — an effective means to identify valuable IP and a reliable system of enforcement. Companies in India and China don't look to local patents or to local courts to protect their innovation — why should they? There is no cultural track record to support a belief that these institutions will be effective . . . And if you happen to be an aggressive young technology company in India or China, where would you expect to find your most likely competition? The United States, of course.”

—Bruce Sewell

## A Tale Of 2 Companies

## Company A (US)

AR: \$100M  
Sales: 80% US; 20% China  
Patents:  
400 US; 100 ROW (20 China)

## RAR

Value of US patents = \$2M  
Value of Chinese patents = \$0M

## Conclusion:

Change the business model or level the playing field.

## Company B (China)

AR: \$10M  
Sales: 80% China; 20% US  
Patents:  
40 US; 10 China

## RAR

Value of US patents = \$80M  
Value of Chinese patents = <\$20M

## Conclusion:

File more US patents and infringe at will.

Figure 4

cal example: See Figure 4.

So that is the crisis in a nut shell. The U.S. patent system has ceased to be an asset to most successful U.S. companies. Instead it is at best a cost of doing business and at worst a lottery in which ruthless plaintiff's lawyers draw stakes for who gets to shake down another corporation for a windfall settlement.

Although no longer an asset to U.S. companies, it is now a very effective tool for foreign competitors to gain leverage over their American counterparts and a virtually useless tool for American companies to influence non-U.S. competitors. In short, the whole system is broken both domestically and internationally.

Now it wouldn't be fair to leave you all on such a negative note. I have to say a few words about solutions to the problem. And I think there are two very fundamental ways that we can try to make this situation better.

The first is domestic patent and patent litigation reform. There is an excellent bill in the Senate today — the Hatch/Leahy bill — that goes a long way to fixing some of the issues with our current system. I would also encourage — in fact I have encouraged efforts to tighten up the standards for patentability. If you ask me whether I think our country would be better served by a system in which virtually anyone can get a patent on any idea or a system in which a much smaller number of patents issue each year but that those patents that do issue are rock solid and represent real contributions/advancements to the prior art — well my answer is obvious — the latter.

The second thing we need to do is push IP rights as a core element in all bilateral or multilateral trade agreements signed by the U.S. While it is unlikely that we will ever convert China to jury trials in patent cases — at least we have a shot at developing competent and unbiased Chinese IP courts if we make this a meaningful requirement for entry into or continued membership in the WTO (World Trade Organization). I think our Trade Representative is starting to get the message and in the recent U.S./Russian discussions, I have seen a much greater focus on IPR's as an important requirement to entry. But we still have a long way to go and at times our political will is weak. Although improvement on IPR was a cornerstone of China's admission into the WTO, it is very difficult to see any real progress on that front.

Fortunately these issues are not co-dependant. Improvements in our patent and litigation system will benefit U.S. companies immediately whether or not we have stronger international IP enforcement laws. Equally, improvements overseas will result in benefits to U.S. competitiveness despite what is a broken domestic patent regime. So, I began by discussing a strategic inflection point. I think we are at that point now in terms of the need to fix our own patent system and the urgency with which we demand that our global trading partners develop systems to respect not only their own IP, but also ours. Thanks.

**MR. FRIEDMAN:** Thank you very much, Bruce. You've raised a number of interesting points that I'm sure everyone here will want to address during our Q&A session. In the meantime, it is my distinct pleasure to welcome Shirley Buccieri, a Partner with

Gibson, Dunn & Crutcher.

**MS. BUCCIERI:** I am going to make a few comments about the issue of what a director should consider when they are presented with an M&A Transaction. When I was general counsel at Transamerica, this required a fair amount of my time and attention. Making sure the board understands the issues and their role in a transaction before you have a transaction is a job the general counsel, along with outside counsel, usually spend time on at least annually. I only want to talk today about negotiated transactions. The hostile deals are also interesting but would require a several-day session instead of the short time allocated today. Also, if you are in the middle of a hostile deal, I daresay you will have one of our firms or another great firm holding your hand at every step. It is the more common negotiated deal where people think they know what they are doing that can often lead to trouble.

The Board is the boss of the transaction. It is the board's ultimate decision as to whether a transaction goes forward. The board has to be well-informed and thoughtful when it makes that decision. Obviously, management has a critical role, but the board has a unique responsibility — they are not negotiating the deals, but they have to stay actively involved.

The checklist for the board process in an M&A transaction starts with assessing independence and determining if any board member has a conflict. The important point is that a company cannot have directors deliberating if they are not 100% independent.

Second on the checklist is getting involved early and at all stages that make sense. Be active — set up a general strategic plan before a specific deal is on the horizon. Be involved when a transaction surfaces and prior to discussions with the other side, be involved when general agreement is reached, etc.

Next, directors must demand that they be thoroughly informed with written materials. Thoroughly informed before the meeting. Document the deliberation process. You are trying to have a record that the board exercised their duty of care. The minutes should reflect more than the matter that was discussed and approved. Using unanimous written consents may subject the board to claims of not acting in good faith because there is no record of a thoughtful process in which directors had time to review the matter. Recent case



Shirley H. Buccieri/Gibson, Dunn & Crutcher

law has language discussing a total lack of deliberation being grounds to find bad faith and that a unanimous written consent raises serious concerns.

Finally, under the basics. To show their duty of care, directors are entitled to rely upon experts. Get the legal and financial experts you need and have them come to the meetings and educate and advise.

So breaking this down into the before, during, and after stages of a deal:

“Using unanimous written consents may subject the board to claims of not acting in good faith because there is no record of a thoughtful process in which directors had time to review the matter. Recent case law has language discussing a total lack of deliberation being grounds to find bad faith and that a unanimous written consent raises serious concerns.”

—Shirley Buccieri

Before the deal starts:

Have an overall game plan with respect to acquisitions. Knowing what the strategy is and looking at it on paper avoids taking each deal as it comes. Sometimes the best deals are the ones you don't do and having a strategy and sticking to it helps highlight those situations. To modify Gen. George S. Patton's famous quotation, “A good plan, well rehearsed, is better than a perfect plan unrehearsed.”

First, be at the ready. Know what social, financial, and deal term issues are important to your company. Have your target list of companies and update it often. Consider whose list your company is on. Test drive your strategy.

Next, understand your options. Know when you should be a buyer and when you should be a seller. Think through with your board when that changes. Develop an M&A committee and work with counsel, bankers, corporate development to review the landscape and understand your options. This helps the board think through what-ifs.

One should also know the current comparables. There is a wealth of information available today. It is fairly easy to know standards and benchmarks not only in price, but in important deal terms.

And last, as I said, have an arsenal of advisors with particular industry focus at the ready. I think it particularly important to have your competition lawyer up to speed and educate your board so that this long lead time item does not become something you start when an attractive deal surfaces.

Moving on to being in the midst of a deal, ask yourself this question: what items, if I am wrong about, would make you not want to do this deal. Make a short list and be sure you plug those holes as best you

can. Don't be so sure an important item could not go south — if it is important even if it is a low probability, think through what you will do if you are wrong. Buddy Hackett used to say that his mother's menu consisted of two choices — take it or leave it. Hopefully, you will have a broader menu of options. It is not as simple as walking away.

Diligence — be at the ready. Again, be sure you are not just doing a textbook diligence. Do not delegate this as a minor task. What is really important about this

company and what hard evidence do you need to see. Do not forget that in-person interviews of key people can be more important than paper due diligence. This is one of the ways you make sure you get what you pay for. It enables the representatives to be tighter and more focused and ultimately, if necessary, insures that the indemnification claims stick.

Now just a word about HR Issues: In a deal where you are a seller, there is usually a time when you can get HR issues — good things for your people — know what would matter and what would be honorable and try to get these.

And last, let's look at realistic models. How will this deal really look after the celebration has ended? It is common to underestimate the cost to integrate people, technology, real estate, as well as not have a realistic time frame. What are the revenue strategies — know your forecast ahead of time. Integration problems now can also be compliance problems if you end up with serious internal control issues.

Have an indemnification point person if you are the buyer and if you are a seller. Assume the other side will have one and it will be a cost center. Sometimes company people pour over definitions and find the ways reps were breached and accumulate enough to make a basket.

Failing to understand the culture of the target in order to retain customers and employees and take into consideration the impact of business run-off. Also, consider the run-off of key management.

There is often a long time between announcement and closing — lots can happen — competitors swarm at these times. Plan for contingencies during this period.

I will leave you all with this quote:

*You only have to do a very few things right in your life so long as you don't do too many things wrong.*  
~Warren Buffett

**MR. FRIEDMAN:** Thank you, Shirley. Joining us now is Matthew Powers, a Partner at Weil, Gotshal & Manges.

**MR. POWERS:** Thanks, Jack, and good morning everyone.

The last few years have seen an extraordinary number of corporate misdeeds, ranging from the mas-



Matthew Powers/Weil, Gotshal & Manges

sive frauds of Enron, Tyco and others, to widespread option backdating, to the allegedly criminal (and certainly ill-advised) tactics employed by HP to get to the bottom of board leaks. One interesting aspect of this sordid chapter in American corporate history is that an oft-repeated question asked by senators, reporters and pundits is, "Where were the lawyers?" They don't ask, "Where were the directors, or auditors, or other officers?" because lawyers are seen as having a special role. That role (whether the lawyer

to come through and play our role, however difficult it may be. As lawyers, let's insist on the role we should have, and play it well. If we succeed in this, we'll transform cries of, "Where were the lawyers?" into, "Thank God for the lawyers!" I look forward to that day.

**MR. FRIEDMAN:** Thank you, Matthew. Next up is Paul Eckstein, a partner at Perkins Coie.

**MR. ECKSTEIN:** I am delighted to be a participant on this panel paying tribute to Bruce Sewell. I have known Bruce since he joined Brown & Bain's then Palo Alto office in the mid-1980's. Two things about Bruce struck me from the outset:

First, he was a lawyer of substance who mastered the details of every case. Second, he had remarkably good judgment even as a very young lawyer.

Bruce received his undergraduate education

I am acutely aware how difficult it is as a general counsel to tell the board that your boss is acting improperly, or as outside counsel to go to the board and say that actions approved by the general counsel are illegal or ill-advised. But that is part of our role, and if we don't do it, often nobody will, and the consequences are terrible indeed.

—Matthew Powers



Paul F. Eckstein/Perkins Coie Brown and Bain P.A.

in England at Lancaster University. Lancaster University is north of Wales and south of the Lake District in Lancashire County, England. Unlike other universities whose mottos are in Latin, Lancaster's motto is in English and is: "Work hard, play hard." Lancaster University looks like a very good place to attend college. I don't know how big Lancaster University is but according to its website it has 11 separate bars on campus, all of which are well appointed. I will leave it to you to determine whether Bruce's good judgment is because of or in spite of going to a university with so many bars.

Bruce has spent his 20 minutes talking about problems with the United States patent system. My topic is different. I am going to talk about a proposed amendment to the Federal Rules of Evidence that would provide more predictability in situations where a waiver of the attorney-client privilege or work product rule has been claimed. The new rule, if adopted, will be known as Federal Rule of Evidence 502. The comment period on Proposed Rule 502 ran through February 15, 2007.

Because the proposed rule effects an evidentiary privilege, it will not go into effect until approved by an Act of Congress which, if it happens at all, will not likely happen until the end of 2008.

As lawyers we want rules that are both predictable and fair. A fair rule is one that treats like situations in a like manner and therefore a rule that is fair should also be predictable.

Much about the law of attorney-client privilege in federal courts is neither predictable nor fair. Like other privileges, the attorney-client privilege is not codified. Rule 501 of the Federal Rules of Evidence provides that all privileges "shall be governed by the principles of the common law as that may be interpreted by the courts of the United States in light of reason and experience," except in actions "with respect to an element of a claim or defense as to which State law supplies the rule of decisions," in which case the privilege "shall be determined in accordance with State law." Rule 26(b)(3) of the Federal Rules of Civil Procedure sets out the ground rules under which attorney work product may

and may not be obtained.

Subject matter waiver — this is where a party knowingly or unknowingly discloses a privileged document or other privileged information that results in the waiver of undisclosed documents or information relating to the same subject matter. This occurs frequently in patent infringement cases where the defendant asserts the defense of reliance on advice of counsel. As noted in the Federal Circuit's recent decision *In re Echostar Communications Corporation*, 448 F.3d 1294 (2006) "when a party announces that it will rely on advice of counsel. . . in response to an assertion of willful infringement, the attorney-client privilege is waived."

The Federal Circuit held in *Echostar* as follows: "[W]hen an alleged infringer asserts its advice-of-counsel defense regarding willful infringement of a particular patent, it waives its immunity for any document or opinion that embodies or discusses a communication to or from it concerning whether that patent is valid, enforceable, and infringed by the accused. This waiver of both the

*attorney-client privilege and the work-product immunity includes not only any letters, memorandum, conversation, or the like between the attorney and his or her client, but also includes, when appropriate, any documents referencing a communication between attorney and client."*

Federal courts have come up with a variety of solutions to the subject matter waiver issue from production of all documents dealing with the same subject matter to disclosure on when fairness demands it.

The possibility that a privileged document will be inadvertently produced during discovery where there are a large number of documents kept electronically asymptotically approaches 100 percent. There is little predictability and certainly not uniformity in how federal courts deal with inadvertent production. Some courts follow a strict rule and hold that inadvertent disclosure always results in a privilege waiver. Other courts try to determine the reasonableness of the precautions taken to prevent disclosure and rectify the error. Agreements between the parties to a civil matter such as a "claw back" agreement (in which parties agree to return inadvertently disclosed materials) and "quick peek" agreements (in which parties select only those documents which they want produced on discovery) are not enforceable against third parties.

When federal investigators insist on a party waiving the attorney-client privilege in an investigation, the party often has a difficult decision to make — cooperate with the federal investigation or stand on its rights. Once the attorney-client privilege is waived to satisfy federal investigators, most courts hold that the privilege cannot be

“The possibility that a privileged document will be inadvertently produced during discovery where there are a large number of documents kept electronically asymptotically approaches 100 percent. There is little predictability and certainly not uniformity in how federal courts deal with inadvertent production.”

—Paul Eckstein

asserted against others in private civil litigation. This forces the company being investigated to a Hobson's choice: cooperate with the government and lose the privilege or refuse to cooperate and incur the wrath of the government.

Under Proposed Rule 502(a), subject matter waiver will be found only when attorney-client privilege or work product material has been already disclosed and further disclosure is required "in fairness" in order to protect against a misrepresentation that might arise from the previous disclosure. This follows the procedure in Federal Rule of Evidence 106 that allows a party to read other parts of the deposition or a document at the time such testimony or document is introduced "which ought in fairness to be considered contemporaneously with it." This proposed rule is actually narrower than the rule announced by the Federal Circuit in the *Echostar* case, where the Federal Circuit held all communications between attorney-client are waived.

Under Proposed Rule 502(b), inadvertent disclosures will not constitute a waiver if the holder of the privilege or work product protection "took reasonable precautions to prevent disclosure" and "through reasonably prompt measures, once the holder knew or should have known of the disclosure, to rectify the error." It remains to be seen what the courts will find to be "reasonable precautions" and "reasonably prompt measures" to rectify any inadvertent disclosure.

Under Proposed Rule 502(c), in a federal or state proceeding, disclosure covered by the attorney-client privilege or work product rule — when made to a federal agency in the exercise of its regulatory, investigative or enforcement authority — does not

“No rule can afford total predictability and fairness and no one should expect that Proposed Rule 502 of Evidence, if adopted, will do that. What Proposed Rule 502 does is minimize the number of circumstances in which similar parties in similar situations will be treated differently and in doing so Proposed Rule 502 provides for considerably greater predictability and fairness than exists in the current federal common law environment.”

—Paul Eckstein

operate as a waiver of the privilege or production in favor of non-governmental persons or entities. An ABA Task Force has gone on record as opposing Proposed Rule 502(c) on the grounds that it will only serve to encourage federal investigators to be more aggressive in forcing persons or entities being investigated to give up all documents and information protected by the privilege or the work product rule. Those in favor of this proposed rule argue that what is needed is protection against third party use of the material produced to a federal agency and that the proposed rule will not, in prac-

tice, cause federal investigatory agencies to be more aggressive.

Under Proposed Rule 502(d) and (e), parties to litigation will be able to protect against the consequences of waiver by seeking a confidentiality order from the court. An agreement that is not reduced to a court order will not be binding on third parties. An agreement that is reduced to a court order will bind non-parties in federal and state court actions.

No rule can afford total predictability and fairness and no one should expect that Proposed Rule 502 of Evidence, if adopted, will do that. What Proposed Rule 502 does is minimize the number of circumstances in which similar parties in similar situations will be treated differently and in doing so Proposed Rule 502 provides for considerably greater predictability and fairness than exists in the current federal common law environment.

**MR. FRIEDMAN:** Thank you very much, Paul. Frank-Erich Hufnagel is a Partner with Freshfields who has come all the way from Germany to join us. Frank, it's a pleasure to have you here with us today.

**MR. HUFNAGEL:** Thank you, Jack. And good morning ladies and gentlemen.

We heard from Bruce that the patent system is currently under challenge. This is true not only in the United States but also in Europe. The challenges facing a patent owner in Europe, more particularly a multi-national corporation owning European patent rights are somewhat different from those highlighted in Bruce's presentation. What are these



Paul F. Eckstein/Perkins Coie Brown and Bain P.A. and Frank-Erich Hufnagel/Freshfields Bruckhaus Deringer

challenges?

First of all, there are political challenges. Listening to some recent debates of the European Parliament on this issue, one may gain the impression that a patent is an evil thing. In particular in the discussions about patent protection for biotechnological inventions or for the so-called “software-implemented inventions”, we experienced a growing suspicion among politicians and the wider public against the monopolies granted by patents. Spectacular cases of trivial patents have further fuelled this feeling.

There also are doubts about the economic value of the patent system. Some raise the question whether the benefits of the patent system are not outweighed by the economic costs of what is perceived as abuses of the patent rights.

And — of course — there are legal challenges. Here, the debate is about how to define rules and limits for an efficient patent system in a multi-jurisdictional environment like the European Union. This being a talk to honor Intel’s General Counsel in front of a lawyer’s audience, you will not be surprised that I will focus on the legal challenges facing the patent system in Europe for the next few minutes. Here I would like to address three areas:

First, there is what I would like to call “the crux with the bundle”. As most of you are aware, the “European patent” is a misnomer. In fact, there is no true European patent. What we have is a centralized prosecution authority in Munich. Once the European Patent Office grants the patent, though, it disintegrates into a “bundle” of parallel national patents in each of the jurisdictions designated by the patent owner. The consequence of this legal oddity is that once the patent is granted, the patent owner must enforce it separately in each jurisdiction. This is a challenging endeavor because not only are the procedural rules fundamentally different between the different states, but even the substantial remedies associated with patent protection are by no means uniform throughout Europe.

This problem is a conceptional one. It is rooted in the very nature of the European Patent Convention and cannot be overcome on the basis of the existing law. This has recently been confirmed in an unambiguous way by the European Court of Justice in its decisions “Roche” and “GAT vs. Luk” of 13 July 2006. In these cases, the European court had to deal with the practice of some courts, in particular the Dutch courts, to use procedural provisions of a European Union Convention on international jurisdiction - the

so-called “Bruxelles Convention” — to assume what has become known as “cross-border” jurisdiction over patent infringement cases and to render judgments



Frank-Erich Hafnagel/Freshfields Bruckhaus Deringer

also with effect in other European countries where a parallel European patent existed. The ECJ in these two decisions did away with this practice. Starting from the observation that the Bruxelles Convention allowed for cross-border judgments only in cases where there was a threat of differing decisions on the same subject matter, the European judges argued that, because of the “bundle” nature of European patents, the infringement of a European patent in two separate jurisdictions could never be the same subject matter, simply because these two patents were part of a “bundle” but just not the same. So there is no hope for creative construction of the laws to overcome the bundle problem.

Therefore, the solution must be a change of the laws for the future. Currently, there are two projects aimed at this goal: The first is the never aging idea of a real European Union Community Patent. Similar to the

existing Community Trademark, a Community Patent would give its owner one single right for all 25 member states of the EU which could be enforced once for all member states. This project is currently stalled, however, because of an apparently insoluble dispute about the languages to be used. The second project is a more recent idea. It is called “EPLA” — European Patent Litigation Agreement. This is a project of the European Patent Office rather than the European Union. The idea is to conclude an inter-governmental treaty between the interested member states of the European Patent Convention which would create a single judiciary in which to enforce existing (and future) European patents. The charm of this proposal is that the European patent can basically stay the same but that the EPLA will give the right owners a forum in which to enforce these patents in one single action with effect in all designated states. The problem with this proposal was that the European Union, until very recently, had fiercely opposed the project. Sheltering its own “baby” - the Community Patent project — the European Commission had tried to prevent the member states from entering into negotiations of a separate EPLA. Impressed by the strong support of the patent community for the EPLA project, the EU Commission has recently given up this opposition. So there is some hope that this project could finally gain momentum.

A second aspect of the struggle with the issue of multiple jurisdictions I would like to present to you very briefly is the “difficult road to harmonization”. The European Union is not only an inter-governmental organization but a real supranational authority with immediate law making power throughout all its member states. This power is being used to harmonize the national laws of the member states in areas in which the European Union has jurisdiction. In the IP field, this power has recently been used to enact the so-called Enforcement Directive intended to harmonize (and thus strengthen) IP owners enforcing their rights. The Directive which was published already in April 2004, provides an impressive common toolbox including a collection of procedural possibilities that have already been available for a long time in some European Union member states but not in all of them, such as the seizure of infringing products (a French concept), the ex-parte injunction (a tool available in Germany), a limited documentary disclosure (inspired by the United Kingdom) and other instruments which will open up entirely new litigation strategies for IP owners. Again, harmonization is a difficult business. The Directive is not directly applicable in the member states. Rather, it must be implemented by the national legislators into the national laws of all member

states. This had to be done by 30 April already. Until now, only some of the member states have enacted laws to implement the directive. Others — such as Germany or the Netherlands — are still dragging their feet. Nevertheless the directive will eventually be enforced in all member states and the courts have started to “indirectly” apply the rules of the Directive already.

This leads me to the third and final issue I would like to discuss with you today — the (not so) new challenge to find a balance between IP and anti-trust law. In Europe — as in the United States — this issue is an “evergreen” which has many aspects. In Europe, two of the hot issues in this debate these days are anti-competitive provisions in patent license agreements and the problem of an abuse of IP rights by dominant corporations. On the license agreements, the debate has been fuelled by a new European Block Exemption Regulation exempting IP license agreements in general terms from the European anti-trust rules if they comply with the provisions of this Regulation. The new regulation has entered into force in 2004. Following the US approach, it introduced a new concept of exemption by providing for a “safe harbor” for certain license agreements and leaving it to the self-assessment of the parties to this agreements whether or not they find themselves within the boundaries of the safe harbor. The difficulty for the practitioner is that these boundaries are primarily defined by market shares and it is — as you will appreciate — one of the most difficult tasks for a corporation, let alone for its legal adviser, to properly define markets and market shares. This makes it necessary to include economic analysis into contract evaluation — a task that is new for many legal departments. The other current hot topic is the question when and under what circumstances the enforcement of IP rights, in particular of patents, may constitute an abuse of a dominant position. Of course, this is an issue only for a limited number of corporations which qualify for the motion of dominance in their respective markets. The European Court of Justice and the European Commission in a number of recent decisions dealt with this issue. The cases “Microsoft”, “IMS” or “Astra Zeneca” are but a few of them. A particularly intriguing question is whether dominant IP owners may be forced, under certain circumstances, to license out their IP to competitors if to enforce these rights would severely harm competition. This question may arise if it concerns certain interface technology needed for the development of products on related markets. Another issue is how aggressive a dominant right owner may be when drafting, protecting and enforcing its rights. The European Commission in December 2005 has issued a discussion paper on this issue. It can be expected that this debate will further pick up speed in the coming months.

What are the conclusion of all this for a multinational active US corporation having an interest in Europe? There are many, but I will highlight only three:

First, you should expect that multi jurisdictional complexity will continue to stay for some time in Europe.

This triggers the need to adjust your enforcement strategy taking into account — and making best use of — the continuing national differences in procedure.

Second, harmonization will progress slowly, but

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—Frank-Erich Hufnagel

surely. This should be taken into account when defining your prosecution strategy. Harmonized enforcement tools may make it more attractive, in the long run, to seek and maintain patent protection in countries where it does not seem worthwhile to do so now.

And finally: competition or anti-trust law will play an increasing role which carries the need to raise awareness for anti-trust aspects within the IP departments of the corporations.

Thank you for your attention.

**MR. FRIEDMAN:** Thank you all very much for taking time to share your thoughts with us today. I have a few follow-up questions for each of you. I’ll begin with Bruce. Could you tell us about the magnitude of Intel’s famous patent portfolio?

**MR. SEWELL:** We have 12,000 issued patents, approximately 14,000 pending applications.

**MR. FRIEDMAN:** Please comment on your legal department and how it works with outside counsel.

**MR. SEWELL:** We are a very hands-on department. From litigation, to IP, to corporate work, we staff a

large part of our activity in these areas with internal folks. As a result we have experts and world class practitioners in the department who work very closely with their peers in our outside law firms.

Inside lawyers are not just matter managers but rather they become very active team members working with outside counsel to provide solutions to Intel’s legal issues.

**MR. FRIEDMAN:** When Intel makes a major investment abroad such as in Israel, what role do you as General Counsel and your department play?

**MR. SEWELL:** Each decision of this magnitude is handled on a case by case basis and each transaction ends up being somewhat different, however, typically the legal department would be involved at several points in this kind of a transaction. For example, early in the process of selecting a site legal might participate in developing in an assessment of the viability of building a new plant in the proposed site. This analysis could include a look at the laws impacting foreign investment, ownership rights, an overview of the legal system (IPR, access to courts, competition laws, and enforcement capabilities), environmental concerns, employment, health and safety regulations, etc. Once a decision is made to move forward and engage in a negotiation with the host government (usually at the country and regional levels), lawyers participate actively in those negotiations and in the drafting of definitive agreements. Legal is one of the internal groups that participate throughout the entire analysis, negotiation, decision, and implementation process.

**MR. FRIEDMAN:** Thanks, Bruce. Shirley, how are the complicated issues of IP rights and evaluation handled in a merger and acquisition deal?

**MS. BUCCIERI:** The complicated issues of IP rights and evaluation are handled in a variety of ways in a transaction. A technology buyer will often have in-house capabilities and dedicate a team to review the diligence items and evaluate what protections are needed to secure the rights that are important. That information will be translated into the purchase documents in the representations and warranties section of the agreement. Other buyers have asked the law firm representing them to provide that level of review. We have IP attorneys at our firm that are in high demand for this type of assistance.

**MR. FRIEDMAN:** Thanks, Shirley. Matthew, a couple of questions for you. Several General Counsel have lost their positions because of options backdating and other problems. What impact may this have on how General Counsel conduct themselves in the future?

**MR. POWERS:** The backdating phenomenon has caused General Counsel (even those with no prob-



Frank-Erich Hafnagel/Freshfields Bruckhaus Deringer, Matthew Powers/Weil, Gotshal & Manges and Shirley H. Buccieri/Gibson, Dunn & Crutcher

lems in this area) to be more sensitive to the need to think and act more as independent legal advisors to their companies, and not simply to find the best legal support for the expressed desires of others within the management structure.

**MR. FRIEDMAN:** You spend a lot of time litigating IP matters. What are the challenges in litigating before a jury that can have so much trouble understanding the technical issues.

**MR. POWERS:** Most jurors genuinely want to do a good job, but our system does not give them much of a chance to understand highly technical issues at the level those issues demand for substantive resolution. The result is that, in the 6-7 hours that the jury will typically see testimony and evidence on the validity of a patent, for example, they will try to “do the right thing” with inadequate information presented in highly simplistic terms, often voting for the party they’ve decided should win rather than truly resolving the technical issues at a deep technical level. This isn’t their fault, it’s the way our system is set up. This puts a premium on clear, simple explanations of deep technical issues and good witnesses.

**MR. FRIEDMAN:** I’d like now to ask a question of Paul Eckstein. Paul, US Deputy Attorney General McNulty has modified the prior Thompson Memo regarding the corporate attorney-client privilege in an enforcement action. What do you think may be the practical effect of this change?

**MR. ECKSTEIN:** Late last year then Deputy U.S. Attorney Paul McNulty issued a 19 page memoran-

dum setting forth guidelines that replaced the guidelines issued in 2003 by Deputy U.S. Attorney General Larry Thompson. Under the McNulty guidelines: (1) there must be a “legitimate need” for attorney-client privileged material when the Justice Department is conducting corporate investigations; (2) prosecutors must receive approval from several layers in the Justice Department before asking a target company for a waiver to the attorney-client privilege or work product protection; and (3) a company will be given credit for waiving the privilege, but waiver is not absolutely required to avoid prosecution. Under the Thompson memo federal prosecu-

**MR. FRIEDMAN:** You mean that if there is an internal document that says “We will use every tactic, legal or not, to destroy our competitors,” you cannot get it unless you already know it exists?”

**MR. HUFNAGEL:** That’s right. However, you might file a related lawsuit in the United States. I think that there even is a - somewhat hidden - procedure available under US law to request discovery in relation to foreign proceedings. If you discover a document in America, the German’s courts will let you introduce it in the German proceeding.

“ [T]he Enforcement Directive [is] intended to harmonize IP owners enforcing their rights . . . Harmonization will progress slowly, but surely. This should be taken into account when defining your prosecution strategy. Harmonized enforcement tools may make it more attractive, in the long run, to seek and maintain patent protection in countries where it does not seem worthwhile to do so now.”

—Frank-Erich Hufnagel

tors were explicitly told to consider whether the organization from which waiver was sought had cooperated in the investigation before charging the organization.

While the new policy is a baby step in the right direction, it is only a baby step. The Justice Department should have eliminated its improper practice of seeking waivers in return for cooperation credit all together. There is still much room for mischief under the McNulty policy; the proof of whether things have really changed will be evident from implementation of that policy.

The long and short of it is that the proposed new Federal Rule of Evidence 502 is still very much needed.

**MR. FRIEDMAN:** This question is for Frank-Erich. You are a litigator. How does discovery work in Germany?

**MR. HUFNAGEL:** There is no document discovery as there is in US civil proceedings. Only if you can point to a specific document, the court may order the other party to produce it. Even this rather modest “discovery” was introduced only fairly recently into the rules of civil procedure.



**D. BRUCE SEWELL**

Senior Vice President, General Counsel  
Intel Corporation



Bruce Sewell is senior vice president and general counsel of Intel Corporation. As general counsel, he is responsible for legal and government affairs worldwide for Intel. Sewell also represents Intel on several professional, legislative and policy boards.

Previously, Sewell served as Intel's director of litigation and as assistant general counsel. Sewell joined Intel in 1995 as a senior attorney advising various business groups on such wide-ranging topics as antitrust compliance, licensing and intellectual property. Sewell was also a frequent contributor on complex transactions, including in the areas of corporate alliances and acquisitions.

Prior to joining Intel, Sewell was a litigation partner at Brown and Bain PC and, earlier, an associate attorney at the firm of Schnader, Harrison, Segal & Lewis.

Sewell was admitted to the California Bar in 1986 and to the Washington, D.C. Bar in 1987. He is also admitted to practice before the United States Court of Appeals for the Federal Circuit.

Sewell received a J.D. from George Washington University in 1986 and a bachelor's degree from the University of Lancaster in the United Kingdom in 1979.

**COMPANY OVERVIEW**

At Intel, we constantly push the boundaries of innovation in order to make people's lives more exciting, more fulfilling, and easier to manage. Our unwavering commitment to moving technology forward has transformed the world by leaps and bounds.

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These principles define a minimum set of ethical standards for all employees of Intel Corporation and its subsidiaries worldwide and are meant to reflect cultural differences in international locations. Intel adheres to strict standards of honesty and conducts business with uncompromising integrity and professionalism.



**FRANK-ERICH HUFNAGEL**

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**FRESHFIELDS BRUCKHAUS DERINGER**

Frank-Erich Hufnagel is a partner in the Düsseldorf office of Freshfields Bruckhaus Deringer. Within the IP/IT group, he is the responsible partner for patent litigation. He has built up the patent litigation team in Düsseldorf and is representing a wide range of national and international clients before the specialised patent courts in Germany. While his patent practice includes a significant number of complex engineering matters, his particular focus recently has been on litigating pharmaceutical and IT related patents. Among his current clients in these fields are Intel, Pfizer, Hewlett Packard, Purdue Pharma, Terex and Hendrickson International. On the non-contentious side, his specialisation includes technology transfer and licensing.

**FIRM OVERVIEW**

We provide our clients with vital support in making their business decisions. We have not only excellent legal knowledge and a willingness to provide the best possible service but also an understanding of the sectors in which our clients operate, accurate powers of judgement and the ability to develop innovative solutions. Our work methods are characterised by team spirit, personal involvement and, not least, enjoyment of our work and of our mutual success.

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Part of the IP/IT practice group, our international patent team brings a focused and integrated approach to dealing with infringements, finding commercial solutions and litigating where necessary. We also help clients in dealing with third party patent assertions, analysing whether claims have any merit, preparing patent defences and, where possible, investigating counter-assertions and other commercial levers to prompt constructive settlements of disputes.

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**SHIRLEY H. BUCCIERI**

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**GIBSON, DUNN & CRUTCHER LLP**

Shirley H. Buccieri is a partner in Gibson, Dunn & Crutcher's Palo Alto office and a member of the firm's Corporate Transactions Practice Group. Her practice focuses on merger and acquisition transactions and corporate and securities matters.

Prior to returning to the firm Ms. Buccieri was General Counsel of Transamerica Corporation. In this role, Ms. Buccieri was responsible for legal affairs worldwide, as well as Transamerica's public affairs. She also headed the Transamerica Foundation, overseeing grants to deserving non-profit organizations nationwide. Ms. Buccieri was a critical part of the team that negotiated the multi-billion dollar sale of Transamerica to Aegon, N.V.

**FIRM OVERVIEW**

Gibson, Dunn & Crutcher has more than 800 lawyers in 13 offices located in major cities throughout the United States and Europe, including the Los Angeles area, New York, Washington, D.C., San Francisco, Palo Alto, Orange County, Dallas and Denver as well as London, Paris, Munich and Brussels. We are committed to providing the highest quality legal services to our clients in a personal, responsive manner.

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**PAUL F. ECKSTEIN**

Partner  
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Legal Counsel to Great Companies

Paul F. Eckstein is a partner with Perkins Coie Brown & Bain P.A. located in Phoenix, where he has practiced since his admission to the Arizona Bar in 1965. While earlier in his career, Mr. Eckstein spent significant time litigating intellectual property and antitrust cases, his practice currently is focused on commercial, professional negligence, constitutional, Indian law, and political law issues. He frequently serves as a mediator and arbitrator. He is listed in The International Who's Who of Business Lawyers, Chambers USA "America's Leading Business Lawyers," and The Best Lawyers in America. Mr. Eckstein received his B.A. from Pomona College in 1962 and his LL.B from Harvard Law School in 1965.

**FIRM OVERVIEW**

Perkins Coie is a leading, full-service international law firm. With more than 600 lawyers in 15 offices across the United States and in China, the firm represents clients that range in size from FORTUNE 100 companies to start-ups, and has historically represented market leaders in traditional and cutting-edge technology industries.

The firm was founded in 1912 and is well known for having incorporated The Boeing Company in 1916. Today, Boeing remains one of the firm's largest clients.

While the firm offers a broad range of services, it focuses intensively on litigation, corporate finance, intellectual property, real estate, and labor and employment. The firm has a strong international capability through its offices in Beijing and Shanghai, the ongoing experience of many of its attorneys in the United States and its network of relationships with law firms around the world.

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Brown & Bain, P.A. was founded by Jack E. Brown in Phoenix in 1960 and became part of Perkins Coie on July 1, 2004. The Phoenix office of Perkins Coie is known as Perkins Coie Brown & Bain P.A.



**MATTHEW POWERS**

Co-Chair  
Weil, Gotshal & Manges



WEIL, GOTSHAL & MANGES LLP

Matt Powers is Co-Chair of Weil Gotshal's 500-attorney Litigation/Regulatory Department. He tries patent, trade secret, fraud, fiduciary duty and contract cases. Mr. Powers is consistently ranked in the top tier in *Chambers Global* and *Chambers USA*, as well as *PLC Which lawyer?* and similar ranking services. Mr. Powers is an Editor-in-Chief of the *Intellectual Property & Technology Law Journal*, and has published extensively on various aspects of intellectual property law and litigation. He is a frequent lecturer on intellectual property litigation issues and teaches a patent litigation course at Boalt Hall School of Law.

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**JACK FRIEDMAN**

Chair, Moderator  
Director's Roundtable



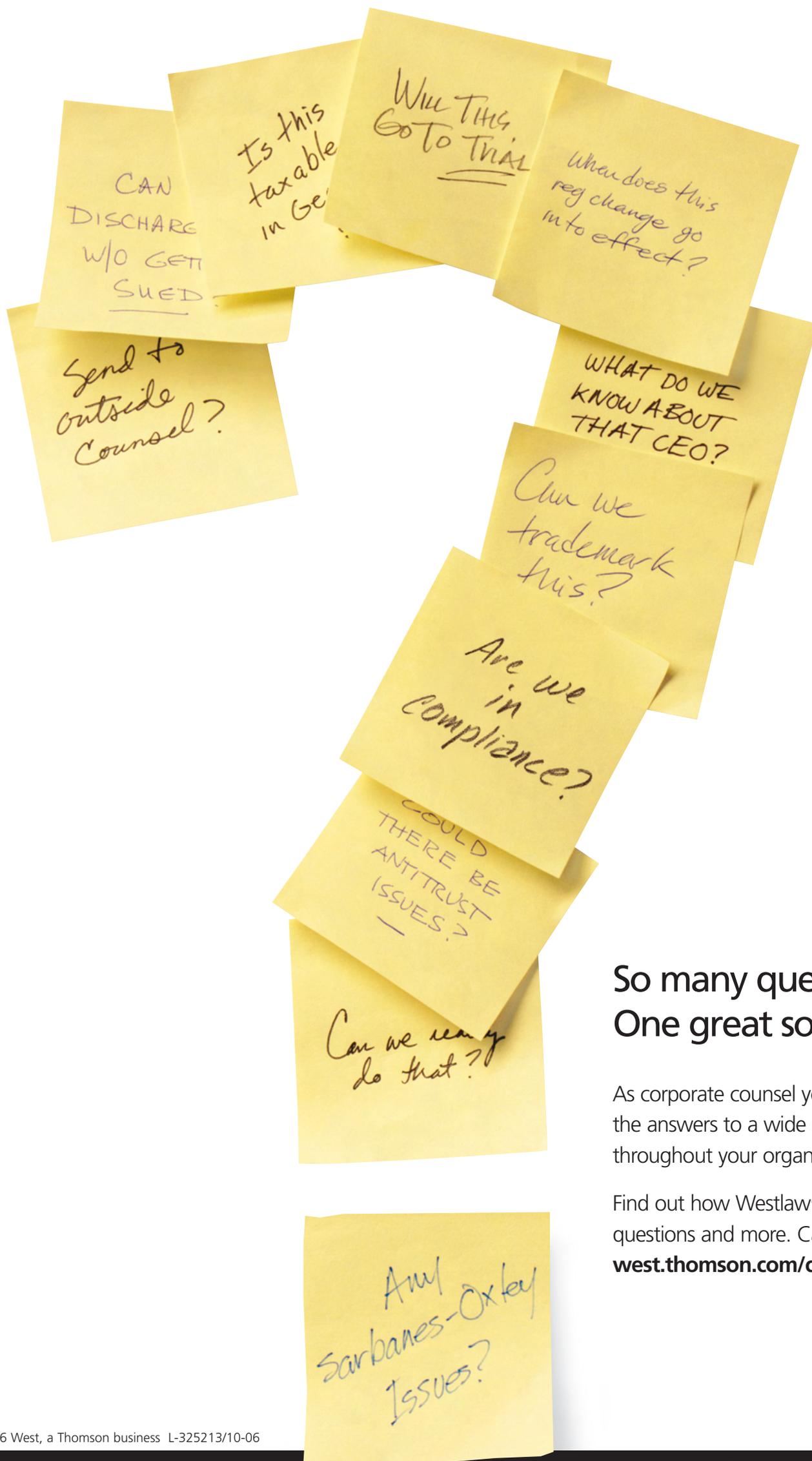
Jack Friedman, Chair of the Director's Roundtable, is an executive and attorney active in diverse business and financial matters. He has appeared on ABC, CBS, NBC, CNN and PBS, and has authored numerous business articles in the *Wall Street Journal*, *Barron's*, and the *New York Times*.

Mr. Friedman has served as an adjunct faculty member of Finance at Columbia University, NYU, UC (Berkeley), and UCLA. He received his MBA in Finance and Economics from Harvard Business School and a J.D. from the UCLA School of Law.

**COMPANY OVERVIEW**

The Directors Roundtable organizes the preeminent worldwide programming for directors and their advisors. We have created the leading forum for corporate directors to discuss their issues and concerns with peers and distinguished experts. The challenging topics focus on key developments, regulations, and pragmatic solutions directly impacting their company and their roles. Since 1991, it has organized more than 600 events worldwide. The Directors Roundtable is a civic group whose activities are co-hosted, so no fee to attend has ever been charged.

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