



# NJIPLA

NEW JERSEY INTELLECTUAL  
PROPERTY LAW ASSOCIATION  
P.O. Box 693 Westfield, NJ 07091  
(908) 533-3188 [www.njipla.org](http://www.njipla.org)

## Patent Litigation Seminar

March 13, 2013

The Woodbridge Hilton

Iselin, NJ 08830



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## 2013 NJIPLA Patent Litigation Seminar

Wednesday, March 13, 2013

### PROGRAM

12:45 – 12:50 p.m.

#### **Introduction**

*Robert Rudnick - President, NJIPLA  
Gibbons, P.C. (Newark, NJ)*

12:50 – 1:00 p.m.

#### **Opening Remarks by the Chair**

*Immac J. Thampoe  
Merck & Co., Inc. (Rahway, NJ)*

1:00 – 1:30 p.m.

#### **Keynote Address**

##### ***The Federal Circuit v. The U.S. Supreme Court***

*Hon. Arthur J. Gajarsa  
Wilmer Cutler Pickering Hale and Dorr, LLP (Boston, MA)*

1:30 – 2:10 p.m.

#### **The Divided Court on Divided Infringement: What Comes Next?**

*Daryl L. Joseffer  
King & Spalding, LLP (Washington, DC)*

2:10 – 3:10 p.m.

#### **Willful Infringement: The Federal Circuit is Listening**

*Laura P. Masurovsky  
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington, DC)*

3:10 – 3:30 p.m.

**BREAK**

- 3:30 – 4:10 p.m.      **The Clear Line Blurs – Where is the "Safe Harbor" of 271(e)(1) after  
*Classen v. GSK & Momenta v. Amphastar?***  
*Jeffrey P. Kushan*  
*Sidley Austin, LLP (Washington, DC)*
- 4:10 – 4:50 p.m.      ***FTC v. Actavis*: Supreme Court Showdown on "Reverse Payment"  
Settlements**  
*Eric Grannon*  
*White & Case LLP (Washington, DC)*
- 4:50 – 5:30 p.m.      **Observations on the Gene Patenting Debate**  
*Hans Sauer*  
*Biotechnology Industry Organization (Washington, DC)*
- 5:30 - 6:30 p.m.      **Post-Conference Networking Event**

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## **Keynote Speaker: The Honorable Arthur J. Gajarsa**

**Arthur J. Gajarsa** joined WilmerHale as Senior Counsel in 2013. Judge Gajarsa was appointed to the U.S. Court of Appeals for the Federal Circuit by President William J. Clinton in 1997. Prior to his appointment, Judge Gajarsa was a partner in the Washington, DC law firm of Joseph, Gajarsa, McDermott and Reiner, P.C. from 1987 to 1997. From 2003 to 2012, Judge Gajarsa was an Adjunct Professor of Law at the Georgetown University Law Center. In June 2012, Judge Gajarsa was appointed the Jurist in Residence at the University of New Hampshire School of Law. Judge Gajarsa served as Law Clerk to Honorable Joseph McGarraghy, United States District Court for the District of Columbia from 1967 to 1968. Judge Gajarsa received a B.S.E.E. from Rensselaer Polytechnic Institute in 1962, an M.A. from Catholic University of America in 1968, and a J.D. from Georgetown University Law Center in 1967. Judge Gajarsa retired from the U.S. Court of Appeals for the Federal Circuit on July 31, 2012.



## **Daryl L. Joseffer**

**Daryl Joseffer** is the head of King & Spalding’s national appellate practice. *Chambers* 2012 reported that Mr. Joseffer “impresses with his ‘great instincts’ and his ‘strong ability in oral arguments.’” “‘When he is ‘on stage’ in court he is simply amazing, he is very persuasive, smooth and comfortable,’ clients enthuse.”

Mr. Joseffer has argued 11 cases and filed well over 100 briefs in the Supreme Court. His successful Supreme Court litigation record includes major patent, pharmaceutical, civil rights, environmental, and criminal cases. His current Supreme Court matters include *University of Texas v. Nassar*, an employment discrimination case he will argue later this Term.

Mr. Joseffer has also handled a wide variety of appeals in every United States Court of Appeals. He now devotes about half of his time to patent appeals in the Federal Circuit and the Supreme Court. Among other patent cases, he recently represented McKesson in *McKesson v. Epic*, which concerns combined infringement of patented methods. The Federal Circuit granted rehearing *en banc*, overruled its recent precedents, and ruled in McKesson’s favor.

Mr. Joseffer is nationally ranked or recommended in *Chambers* and *Legal 500*. He joined King & Spalding in 2009 after serving as the Principal Deputy Solicitor General and, previously, an Assistant to the Solicitor General. Before joining the Office of the Solicitor General, Mr. Joseffer was Deputy General Counsel of the White House Office of Management and Budget, a partner at Kirkland & Ellis, and a law clerk to Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit. He graduated from Harvard Law School (*magna cum laude*) and Stanford University.



## **Laura P. Masurovsky**

**Laura Masurovsky** is an experienced intellectual property litigator with more than 25 years of practice in federal and state courts. Ms. Masurovsky concentrates on complex patent and trade secrets litigation involving a wide range of technologies including pharmaceuticals, medical devices, wireless communication, computer hardware and software, e-commerce, and consumer electronics.

Prior to joining Finnegan, Ms. Masurovsky represented clients in complex commercial cases and white collar criminal investigations in private practice. Additionally, she served as a special assistant U.S. attorney in the District of Columbia and a legal advisor at the U.S. State Department.

Ms. Masurovsky currently serves as head of the firm's litigation section. She previously served as chair of the IP specialties practice group and member of the firm's coordinating committee.



**Jeffrey P Kushan**

**JEFFREY P. KUSHAN** is a partner with Sidley Austin LLP, in Washington, D.C. He serves as the Practice Group Chair for the DC patent group and co-coordinator of Sidley's national patent litigation practice.

Jeff specializes in patent litigation, appeals, and contested patent office proceedings such as *inter partes* review/reexamination and interferences. He conducts patent portfolio reviews to help clients prepare for litigation or for other purposes. He also represents clients on patent and trade policy issues.

Jeff has earned a number of recognitions. He was named one of the top 45 lawyers in the United States under the age of 45 by American Lawyer magazine in 2003. He is recognized by Chambers USA as being one of the top intellectual property lawyers in the United States, as a leading lawyer in the PLC Life Sciences Cross-Border Handbook and as a leader in the field of life sciences IP law by The International Who's Who of Life Sciences Lawyers. Sidley Austin's national IP practice also was recognized in 2011 by Chambers as having the IP practice of the year.

Jeff received his undergraduate degree in chemistry from the College of William and Mary, his masters in protein chemistry from UNC Chapel Hill, and his law degree from the George Washington University Law School, with honors.



## **Eric Grannon**

**Eric Grannon** helps clients with antitrust matters, including civil and criminal defense as well as counseling for mergers and acquisitions and settlements of pharmaceutical patent litigation. Since 2001, he also has helped clients with concerns under the Foreign Corrupt Practices Act (FCPA) and other anti-corruption issues.

*Law360* named Mr. Grannon an antitrust “MVP” for 2012, one of eight in the United States. In 2012, the *Am Law Litigation Daily* named him a “Litigator of the Week” for successfully arguing an antitrust appeal against the Federal Trade Commission (FTC). In 2010, *Competition Law360* named him one of the top ten antitrust lawyers in the United States under the age of 40. That ranking observed: “Eric Grannon has a reputation for taking on the U.S. government in high-profile antitrust cases . . . .” Previously, the *Global Competition Review* named him one of the top “25 competition experts from 10 jurisdictions” to have passed through the “revolving door” between competition enforcement and private practice. The global competition group at White & Case LLP is ranked among the top in the world.

A former prosecutor, Mr. Grannon returned to White & Case after serving as Counsel to the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice (DOJ), where he helped formulate US antitrust enforcement policy and manage the civil and criminal investigations and court cases brought by the Antitrust Division. He ended his DOJ service with a detail as a Special Assistant US Attorney in the District of Columbia, trying twenty bench and jury trials as lead counsel.



## **Hans Sauer**

**Hans Sauer** is Deputy General Counsel for Intellectual Property for the Biotechnology Industry Organization, a major trade association representing over 1,100 biotechnology companies from the medical, agricultural, environmental and industrial sectors in the United States and 31 other countries. At BIO, Mr. Sauer advises the organization's board of directors, amicus committee, and various staff committees on patent and other intellectual property-related matters. Prior to taking his current position at BIO in 2006, he was Chief Patent Counsel for MGI Pharma, Inc. in Bloomington MN, and Senior Patent Counsel for Guilford Pharmaceuticals Inc. in Baltimore, MD. Mr. Sauer has more than 15 years of professional in-house experience in the biotechnology industry, where he worked on several drug development programs, being responsible for patent prosecution and portfolio oversight, clinical trial health information privacy, and sales and marketing legal compliance. He did his postdoc at Genentech in South San Francisco, and holds a M.S. degree from the University of Ulm, Germany; a Ph.D. in Neuroscience from the University of Lund, Sweden; and a J.D. degree from Georgetown University, where he serves as adjunct professor.